

THE COMMONWEALTH OF SYMMETRICA

INCOME TAX ACT 20**

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THE COMMONWEALTH OF SYMMETRICA

INCOME TAX ACT 20**

PART I: IMPOSITION OF INCOME TAX

Division I: Income Tax Payable

Section 1. Income Tax Payable

(1) Subject to this Act, income tax is payable for each tax year in accordance with the procedure in Part V by every person-

- (a) who has taxable income for the year;
- (b) who is a foreigner's Symmetrigan branch and has repatriated income for the year;
- (c) who receives a final withholding payment during the year; or
- (d) who ceases to be an approved retirement fund during the year.

(2) The amount of income tax payable by a person for a tax year under subsection (1) is equal to the sum of the income tax payable under subsection (1)(a) to (d).

(3) Subject to subsection (4), the income tax payable by a person under subsection (1)(a) is calculated by-

- (a) applying the relevant rates of income tax determined under section 5 or 6 to the person's taxable income for the tax year, and
- (b) subtracting from the resulting amount any offsets that the person may claim for the year.

(4) The income tax payable under subsection (1)(a) by a resident individual who is not required to file a return of income for the tax year by reason of section 236(b) is equal to the sum of the amounts to be withheld under section 210 by the individual's employer or employers, as the case requires, from payments made to the individual during the year.

(5) The income tax payable by a foreigner's Symmetrigan branch under subsection (1)(b) is calculated by applying the rate of income tax mentioned in section 6(3) to the branch's repatriated income for the tax year.

(6) The income tax payable by a person under subsection (1)(c) is the sum of the amounts calculated by applying the relevant rates of income tax determined under section 7 to the amount of each final withholding payment received by the person during the tax year.

(7) The income tax payable by a person under subsection (1)(d) is calculated in accordance with section 192(4).

Division II: Rates of Income Tax

Section 5. Rates of Income Tax for Individuals

(1) Subject to subsections (2), (4), and (5), the taxable income of a resident individual for a tax year is taxed at the following rates:

- (a) taxable income not exceeding SY 10,000 - 20 percent of the taxable income;
- (b) taxable income in excess of SY 10,000 but not exceeding SY 40,000 - SY 2,000 plus 30 percent of taxable income in excess of SY 10,000; and
- (c) taxable income in excess of SY 40,000 - SY 11,000 plus 35 percent of taxable income in excess of SY 40,000.

(2) Subject to subsections (3) and (4), an individual may claim that the income tax rate applicable to any part of an individual's taxable income under subsection (1) shall not exceed the highest rate that would apply if the individual's taxable income for the tax year and the previous four tax years were averaged over those years.

(3) For the purposes of a calculation under subsection (2), any tax year during which the individual-

- (a) is a non-resident at any time during the year; or
- (b) engages in full-time education for more than six months during the year,

is excluded and the individual's taxable income is averaged over the lesser number of tax years within the four year limit that are not excluded.

(4) The taxable investment income of a resident minor for a tax year is taxed at the rate of 35 percent.

(5) If a resident minor has taxable income for a tax year other than taxable investment income, that other income is taxed at the rates specified in subsection (1), having regard to subsection (2), but without regard to the taxable investment income of the minor for the year or any previous tax year.

(6) The taxable income of a non-resident individual for a tax year is taxed at the rate of 20 percent.

(7) Where section 109(3) or (4) treats an individual as resident during one part of a tax year and not resident during the remaining part-

(a) the individual's taxable income up to the amount of the individual's assessable income referred to in section 15(1)(b) is taxed at the rate mentioned in subsection (6); and

(b) the remainder of the individual's taxable income is taxed at the rates determined under subsection (1) as amended to reduce the thresholds referred to in proportion to the part of the year for which the individual is resident.

Section 6. Rates of Income Tax for Entities

(1) The taxable income of a trust for a tax year is taxed at the rate of 35 percent.

(2) The taxable income of a company, foreigner's Symmetrigan branch, or an unapproved retirement fund for a tax year is taxed at the rate of 30 percent.

(3) The repatriated income of a foreigner's Symmetrigan branch for a tax year is taxed at the rate of 10 percent.

Section 7. Rates of Withholding Tax

(1) Subject to subsection (2), income tax to be withheld from payments under Division II of Part V shall be withheld at the following rates:

(a) payments to which section 210 applies-

(i) in the case of a resident withholdtee - at the rates prescribed in regulations; or

(ii) in the case of a non-resident withholdtee - 20 percent;

(b) payments to which section 211 applies-

(i) in the case of dividends, gains from investment insurance, and gains from an interest in an unapproved retirement fund - 10 percent; or

(ii) in the case of other payments - 20 percent; and

- (c) payments to which section 212 applies-
 - (i) in the case of payments to which section 212(1) applies - 20 percent;
and
 - (ii) in the case of payments to which section 212(2) applies - at the rate prescribed by the Commissioner in the notice.

- (2) Income tax to be withheld under Division II of Part V from an investment final withholding payment shall be withheld at the rate of 10 percent to the extent to which the person incurring the payment is denied a deduction for the payment under section 27.

PART II: INCOME TAX BASE

Division I: Calculating the Income Tax Base

Subdivision A: Taxable Income

Section 10. Taxable Income

- (1) The taxable income of a person for a tax year is the total of the person's assessable income for the year from each employment, business, and investment less any reduction allowed for the year under section 191(2) (retirement contributions to approved retirement funds).
- (2) The taxable income of each person is determined separately.

Subdivision B: Assessable Income

Section 15. Assessable Income

- (1) Subject to this Act, the assessable income of a person for a tax year from any employment, business, or investment is-
 - (a) in the case of a resident person, the person's income from the employment, business, or investment for the year; and
 - (b) in the case of a non-resident person, the person's income from the employment, business, or investment for the year, but only to the extent that the income has a source in Symmetrica.
- (2) Where section 109(3) or (4) treats an individual as resident during one part of a tax year and not resident during the remaining part, the individual's assessable income for the tax year from any employment, business, or investment is calculated as the sum of-
 - (a) with respect to the part during which the individual is resident, the amount calculated under subsection (1)(a) as though the part were a tax year; and
 - (b) with respect to the part during which the individual is not resident, the amount calculated under subsection (1)(b) as though the part were a tax year.

Section 16. Income from an Employment

- (1) An individual's income from an employment for a tax year is the individual's remuneration from the employment of the individual for the year.

(2) Subject to subsection (3), there shall be included in calculating an individual's remuneration from an employment of the individual for a tax year the following payments made to the individual by the employer during the year:

- (a) payments of salary, wages, leave pay, overtime pay, fees, commissions, gratuities, and bonuses;
- (b) payments of any personal allowance, including any cost of living, subsistence, rent, entertainment, or travel allowance;
- (c) payments providing any discharge or reimbursement of costs incurred by the individual or an associate of the individual;
- (d) payments for the individual's agreement to any conditions of the employment;
- (e) payments for redundancy or loss or termination of the employment;
- (f) retirement contributions and retirement payments;
- (g) other payments made in respect of the employment; and
- (h) other amounts required to be included under Division II of this Part, Part III, Part IV, or section 223.

(3) The following are excluded in calculating an individual's remuneration from an employment:

- (a) exempt amounts and final withholding payments;
- (b) meals or refreshments provided in premises operated by or on behalf of an employer to the employer's employees that are available to all the employees on similar terms;
- (c) any discharge or reimbursement of costs incurred by the individual-
 - (i) that serve the proper business purposes of the employer; or
 - (ii) that are or would otherwise be deductible in calculating the individual's income from any business or investment;
- (d) payments providing any passage of the individual to or from Symmetrica in respect of the individual's first employment by the employer or termination of the employment; and

(e) payments that, by reason of their size, type, and frequency with which the employer makes similar payments to employees, are unreasonable or administratively impracticable for the employer to account for or to allocate to the individual.

Section 17. Income from a Business

(1) A person's income from a business for a tax year is the person's gains and profits from conducting the business for the year.

(2) Subject to subsection (3), there shall be included in calculating a person's gains and profits from conducting a business for a tax year the following amounts derived by the person from conducting the business during the year:

(a) service fees;

(b) incomings for trading stock;

(c) gains from the realisation of business assets or liabilities of the business as calculated under Division III;

(d) amounts required to be included under section 87 on the realisation of the person's depreciable assets of the business;

(e) amounts derived as consideration for accepting a restriction on the capacity to conduct the business;

(f) gifts and other ex gratia payments received by the person in respect of the business from a person who is not an associate of the person;

(g) amounts derived that are effectively connected with the business and that would otherwise be included in calculating the person's income from an investment; and

(h) other amounts required to be included under Division II of this Part, Part III, Part IV, or section 223.

(3) The following are excluded in calculating a person's gains and profits from conducting a business:

(a) exempt amounts and final withholding payments; and

(b) amounts that are included in calculating the person's income from any employment.

Section 18. Income from an Investment

- (1) A person's income from an investment for a tax year is the person's gains and profits from conducting the investment for the year.
- (2) Subject to subsection (3), there shall be included in calculating a person's gains and profits from conducting an investment for a tax year the following amounts derived by the person from conducting the investment during the year:
 - (a) any dividend, gain from investment insurance, gain from an interest in an unapproved retirement fund, interest, natural resource payment, rent, retirement payment made by an approved retirement fund, and royalty derived in respect of the investment;
 - (b) gains from the realisation of investment assets or liabilities of the investment as calculated under Division III;
 - (c) amounts required to be included under section 87 on the realisation of the person's depreciable assets of the investment;
 - (d) amounts derived as consideration for accepting a restriction on the capacity to conduct the investment;
 - (e) gifts and other ex gratia payments received by the person in respect of the investment from a person who is not an associate of the person; and
 - (f) other amounts required to be included under Division II of this Part, Part III, Part IV, or section 223.
- (3) The following are excluded in calculating a person's gains and profits from conducting an investment:
 - (a) exempt amounts and final withholding payments; and
 - (b) amounts that are included in calculating the person's income from any employment or business.

Subdivision C: Exempt Amounts

Section 20. Exempt Amounts

- (1) The following amounts are exempt from income tax:

- (a) amounts derived by any person entitled to privileges under the Diplomatic Privileges Act to the extent provided in that Act or in regulations made under that Act;
 - (b) amounts derived by an individual from employment in the public service of the government of a foreign country provided-
 - (i) the individual is a resident person solely by reason of performing the employment or is a non-resident person; and
 - (ii) the amounts are payable from the public funds of the country;
 - (c) foreign source amounts derived by-
 - (i) an individual who is not a citizen of Symmetrica and who is referred to in paragraph (b); or
 - (ii) a member of the immediate family of an individual referred to in subparagraph (i);
 - (d) a scholarship payable in respect of tuition or fees for full-time instruction at an educational institution;
 - (e) amounts derived by way of alimony, maintenance, or child support under a judicial order or written agreement;
 - (f) amounts derived by way of gift, bequest, or inheritance, except as required to be included in calculating income under sections 16, 17, and 18;
 - (g) amounts derived in respect of
 - (i) an asset that is not a business asset, depreciable asset, investment asset, or trading stock; or
 - (ii) a liability that is not a liability of a business or investment; and
 - (h) amounts derived by an exempt organisation, except to the extent derived in conducting a business that is not related to the functions referred to in subsection (2)(a).
- (2) For the purposes of this section, “exempt organisation” means an entity that satisfies the following conditions:
- (a) the entity is and functions as-

- (i) a religious or charitable organisation of a public character;
 - (ii) an amateur sporting association formed for the purposes of promoting social or sporting amenities not involving the acquisition of gain by the association or by its members; or
 - (iii) a trade union;
- (b) the entity has been issued with a ruling by the Commissioner under section 313 currently in force stating that it is an exempt organisation; and
- (c) the assets of and amounts derived by the entity do not and may not provide a benefit to any person, except for-
- (i) a reasonable benefit to a person in pursuit of the entity's functions referred to in paragraph (a); or
 - (ii) a reasonable payment to a person for assets or services rendered to the entity by the person.

Subdivision D: Deductions

Section 25. General Principles of Deductions

- (1) Notwithstanding anything in this Act to the contrary, for the purposes of calculating a person's income for a tax year from any business, employment, or investment, no deduction is allowed-
- (a) for consumption costs or excluded costs incurred by the person; or
 - (b) to the extent to which a deduction is not denied by paragraph (a), except as provided for by this Act.
- (2) Subject to-
- (a) subsection (3);
 - (b) the remainder of this Subdivision; and
 - (c) Division II of this Part , Part III, and Part IV,

for the purposes of calculating a person's income for a tax year from any business or investment, there shall be deducted all costs to the extent incurred-

- (d) during the year;
 - (e) by the person; and
 - (f) in the production of income from the business or investment.
- (3) Subject to-
- (a) the remainder of this Subdivision; and
 - (b) Division II of this Part, Part III, and Part IV,

no deduction is allowed for-

- (c) costs of a capital nature;
 - (d) costs incurred on the realisation of a liability; or
 - (e) foreign income tax.
- (4) For the purposes of this section-

“consumption costs” means-

- (a) costs of an individual to the extent to which they are incurred, including interest incurred with respect to money borrowed to the extent to which it is used-
 - (i) in maintaining the individual, including in providing shelter as well as meals, refreshment, entertainment, or other leisure activities;
 - (ii) with respect to the individual commuting, other than commuting in the course of conducting a business or investment that does not involve commuting between the individual's home and a place at which the business or investment is conducted;
 - (iii) in acquiring clothing for the individual, other than clothing that is not suitable for wearing outside of work; and
 - (iv) in educating the individual, other than education that is directly relevant to a business or investment conducted by the individual and that does not lead to a degree or diploma; and
- (b) where a person makes a payment to an individual, costs incurred in making the payment, including costs incurred in favour of a third person, unless and to the extent that-

- (i) the payment is included in calculating the income of the individual;
- (ii) the individual makes a return payment of an equal market value to the person as consideration for the first-mentioned payment; or
- (iii) the amount of the costs is so small as to make it unreasonable to require or administratively impracticable for the person to account for them;

"costs of a capital nature" -

- (a) means-
 - (i) costs incurred in respect of natural resource prospecting, exploration, and development; and
 - (ii) costs incurred in the acquisition of an asset with a useful life exceeding 12 months; and
- (b) excludes consumption costs and excluded costs;

“excluded costs” means-

- (a) tax payable under this Act;
- (b) bribes;
- (c) fines and similar penalties payable to a government or a political subdivision of a government of any country for breach of any law or subsidiary legislation; and
- (d) costs to the extent to which they are incurred by a person in deriving exempt amounts (other than amounts exempt by reason of section 142 only) or final withholding payments of the type referred to in section 222(1)(c).

Section 26. Interest

For the purposes of section 25(2), interest incurred by a person during a tax year under a debt obligation of the person is incurred by the person in the production of income from a business or investment to the extent that-

- (a) where the debt obligation was incurred in borrowing money, the money is used during the year or was used to acquire an asset that is used during the year; or
- (b) in any other case, the debt obligation was incurred,

in the production of income from the business or investment.

Section 27. Investment Final Withholding Payments

(1) For the purposes of calculating a person's income for a tax year from any business or investment, a deduction is not allowed for an investment final withholding payment incurred by the person during the year to the extent to which-

- (a) it and other investment final withholding payments incurred previously during the year for which a deduction is available; exceed
- (b) the amount calculated using the following formula:

$$A \times B \times C/365$$

where-

A is the gross domestic value of the business or investment-

- (i) subject to subparagraph (ii), at the start of the year or, where the person begins to conduct the business or investment during the year, the time at which the person so begins; or
- (ii) where the Commissioner serves the person with a notice in writing under this provision, on average over the year;

B is the statutory rate; and

C is the number of days during the year on which the person conducts the business or investment.

(2) For the purposes of this section, the "gross domestic value" of a person's business or investment means the total book value of domestic assets (gross of liabilities) of the business or investment calculated in accordance with generally accepted accounting principles.

Section 28. Trading Stock

(1) For the purposes of calculating a person's income for a tax year from any business-

- (a) there shall be deducted in respect of the realisation by the person of trading stock of the business during the year the allowance determined under subsection (2); and

- (b) no deduction is otherwise allowed for costs incurred that are outgoings for trading stock.
- (2) The allowance referred to in subsection (1) is calculated as-
- (a) the opening value of trading stock of the business for the year; plus
 - (b) outgoings for trading stock of the business acquired or owned by the person during the year (ignoring section 80(3)); less
 - (c) the closing value of trading stock of the business for the year.
- (3) The opening value of trading stock of a business for a tax year is the closing value of trading stock of the business at the end of the previous tax year.
- (4) The closing value of trading stock of a business for a tax year is the lower of-
- (a) outgoings for the trading stock of the business at the end of the year;
 - (b) the market value of the trading stock of the business at the end of the year; or
 - (c) the total of the amounts referred to in subsection (2)(a) and (b).

Section 29. Repair and Improvement Costs

- (1) Subject to the limitation in subsection (2), for the purposes of calculating a person's income for a tax year from any business or investment, there shall be deducted all costs to the extent incurred-
- (a) during the year;
 - (b) by the person; and
 - (c) in respect of the repair or improvement of depreciable assets owned and used by the person during the year in the production of income from the business or investment.
- (2) Deductions allowed under subsection (1) with respect to all depreciable assets in a particular pool of depreciable assets of the person shall not exceed 5 percent of the written down value of the pool at the end of the tax year and deductions shall be allowed with respect to costs in the order in which they are incurred.
- (3) Any excess cost, or part thereof, for which a deduction is not allowed under

subsection (1) as a result of the limitation in subsection (2) shall be added to the depreciation basis of the pool to which it relates in accordance with section 86(5).

Section 30. Research and Development Costs

(1) For the purposes of calculating a person's income for a tax year from any business, there shall be deducted research and development costs to the extent incurred by the person during the year in conducting the business.

(2) For the purposes of this section, "research and development costs"-

(a) means costs incurred by a person for the purposes of developing the person's business and improving business products or process; and

(b) excludes any costs incurred that are otherwise included as an outgoing for any asset, including an asset referred to in section 85(3) (relating to natural resource prospecting, exploration, and developing).

Section 31. Depreciation Allowances

For the purposes of calculating a person's income for a tax year from any business or investment, there shall be deducted in respect of depreciation of depreciable assets owned and used by the person during the year in the production of the person's income from the business or investment the allowances granted to the person for the year under Subdivision B of Division III.

Section 32. Losses on Realisation of Business and Investment Assets and Liabilities

(1) For the purposes of calculating a person's income for a tax year from any business, there shall be deducted any loss of the person, as calculated under Division III, from the realisation during the year of-

(a) a business asset of the business to the extent to which the asset was used in the production of income from the business; or

(b) a liability of the business to the extent to which-

(i) where the liability is a debt obligation incurred in borrowing money, the money was used or an asset purchased with the money was used; or

(ii) in any other case, the liability was incurred,

in the production of income from the business.

(2) Subsection (1) applies in calculating a person's income for a tax year from any investment as though a reference to-

- (a) a business were a reference to an investment; and
- (b) a business asset or liability of a business were a reference to an investment asset or liability of an investment.

Section 33. Losses from a Business or Investment

(1) Subject to subsections (2), (3), and (6), for the purposes of calculating the income of a person (other than a partnership or a foreign branch that is not a foreigner's Symmetrican branch) for a tax year from a business or investment, there shall be deducted-

- (a) any unrelieved loss of the year of the person from any other business or investment;
 - (b) any unrelieved loss of a previous tax year of the person from any business or investment; and
 - (c) any unrelieved loss of the year or a previous tax year of an associate of the person from any business or investment that is transferred to the person for the year.
- (2) For the purposes of subsection (1), a person may only deduct an unrelieved loss of the person or an associate-
- (a) in the case of a foreign source loss of the person or the associate from an investment, in calculating the person's income from an investment sourced in the same foreign country as the loss;
 - (b) in the case of other losses of the person or the associate from an investment, in calculating the person's income from an investment; and
 - (c) in the case of other foreign source losses of the person or the associate, in calculating the person's income sourced in the same foreign country as the loss.
- (3) An associate of a person may only transfer an unrelieved loss to the person under subsection (1)(c) where the following requirements are met:
- (a) either the person or the associate is an entity and the associate is not a partnership;

- (b) at all times during the tax year of the loss, at the time of transfer, and at all times in between-
 - (i) the person and the associate are residents;
 - (ii) where the person or the associate is an individual, the individual owns at least 50 percent of the underlying ownership of the entity; and
 - (iii) where both the person and the associate are entities, there is at least 50 percent common underlying ownership of the entities;
 - (c) the amount of loss transferred does not exceed the person's income from the business or investment for the tax year calculated-
 - (i) after deducting all unrelieved losses of the person that may be deducted under subsection (1)(a) or (b) in calculating that income; and
 - (ii) without reference to subsection (1)(c); and
 - (d) the transfer is made in writing and signed by both the associate and the person by the time the person must file a return of income for the tax year under section 235.
- (4) Without limiting subsection (1), where for the tax year in which a long-term contract of a person is completed or otherwise realised by the person, the person has an unrelieved loss for the year or a previous tax year or years that is attributable to the long-term contract, the Commissioner may, by notice in writing, allow the loss to be-
- (a) carried back to a previous tax year or years; and
 - (b) treated as an unrelieved loss for that year or years in an amount not exceeding the amount by which-
 - (i) amounts relating to the long-term contract that are included in calculating the income for that year or years from the business or investment to which the long-term contract relates; exceed
 - (ii) amounts relating to the long-term contract that are deducted in that calculation.
- (5) An unrelieved loss of a person for a tax year is attributable to a long-term contract of the person to the extent that-
- (a) the long-term contract relates to a business or investment of the person; and

- (b) deductions in calculating the income from the business or investment for the year that relate to the contract exceed inclusions in that calculation that relate to the contract.
- (6) For the purposes of calculating a non-resident person's income for any tax year, no deduction is allowed for an unrelieved loss with a source in Symmetrica-
 - (a) of the year or a previous tax year where no election is made by the person under section 213 with respect to the year; or
 - (b) of a tax year prior to a year referred to in paragraph (a).
- (7) Subject to subsection (3)(c), where a person-
 - (a) calculates income for a tax year from more than one business or investment of the person; and
 - (b) may deduct an unrelieved loss in more than one such calculation,

the person may choose the calculation or calculations in which the loss or part of the loss is deducted.

- (8) For the purposes of this section-

"loss" of a tax year of a person from any business or investment is calculated as the excess of amounts deducted in calculating the person's income from the business or investment over amounts included in calculating such income; and

"unrelieved loss" means the extent to which a loss has not been deducted in calculating a person's or an associate's income under subsection (1) or (4).

Division II: Rules Governing Amounts Used in Calculating the Income Tax Base

Subdivision A: Central Concepts

Section 40. Tax Year

- (1) Subject to this section, the tax year for every person is the calendar year.
- (2) Subject to subsections (6), (7), and (8), a person may apply, in writing, to the Commissioner for approval to change the person's tax year from-
 - (a) the calendar year; or

(b) a twelve-month period previously approved by the Commissioner under subsection (3),

to another twelve-month period.

(3) If in an application under subsection (2) the person shows a compelling need to change the person's tax year, the Commissioner may, by notice in writing, approve the application subject to any conditions as the Commissioner prescribes.

(4) The Commissioner may, by notice in writing, revoke an approval granted to a person under subsection (3).

(5) Where a person's tax year changes, the period from the start of the tax year during which the change occurs to the date of change is treated as a separate tax year.

(6) The tax year for every person's foreign branch that is not a foreigner's Symmetrigan branch is the same as the tax year of its owner.

(7) The tax year for every non-resident partnership, trust, or company is the period, not exceeding 12 months, for which the entity makes up its accounts or, if it has no such period, the calendar year.

(8) The initial tax year of a person is the period of twelve months or less from the time the person starts to exist until the end of the person's tax year as calculated according to the previous subsections of this section.

Section 41. Payment, Amount Derived, and Cost Incurred

(1) For the purposes of this Act, "payment" means-

(a) the transfer by one person of an asset or money to another person or the transfer by another person of a liability to the one person;

(b) the creation by one person of an asset that on creation is owned by another person or the decrease by one person of a liability owed by another person;

(c) the provision by one person of services to another person; and

(d) the making available of an asset or money owned by one person for use by another person or the granting of use of such an asset or money to another person,

and, subject to section 60(2), the one person is the "payer" and the other person is the "payee".

(2) Where a payment of the kind referred to in subsection (1)(c) or (d) spans more than one tax year of the payer or payee, the provision, availability, or use-

(a) from the commencement of the provision, availability, or use to the first ending of a tax year of either the payer or the payee is treated as a separate payment;

(b) from the ending of any tax year of the payer or the payee to the next ending of a tax year of either the payer or the payee, if the payment is of sufficient duration, is treated as a separate payment; and

(c) from the ending of the last tax year of the payer or the payee referred to in paragraph (a) or (b) to the end of the provision, availability, or use is treated as a separate payment.

(3) A person may be treated as making or receiving a payment, whether the payer is legally obliged to make the payment or the payee is legally entitled to receive the payment.

(4) For the purposes of this Act, but subject to Subdivision C of Division III and Division III of Part III-

"amount derived" by a person means a payment made to or received by the person or that the person is entitled to receive; and

"cost" of and "cost incurred" by a person mean a payment of the type referred to in subsection (1)(a) made by the person or which the person is obliged to make.

(5) A person is treated as-

(a) entitled to receive a payment if the person claims to be legally entitled to receive the payment and irrespective of whether the time for discharge of the entitlement is postponed or the entitlement is payable by instalments; and

(b) obliged to make a payment if the person claims to be legally obliged to make the payment;

notwithstanding that the person is not so legally entitled or obliged.

Section 42. Reference to Amounts Included or Deducted in Calculating Income

For the purposes of this Division, unless the context otherwise requires, a reference to-

(a) calculating a person's income from a business or investment for a tax year includes a reference to calculating-

- (i) gains and losses from the realisation of assets and liabilities of the business or investment during the year; and
- (ii) net incomings or net outgoings for assets and liabilities of the business or investment during the year;
- (b) amounts included or to be included in calculating a person's income from a business or investment for a tax year includes a reference to incomings for an asset or liability of the business or investment derived during the year; and
- (c) amounts deducted or to be deducted in calculating a person's income from a business or investment includes a reference to outgoings for an asset or liability of the business or investment incurred during the year.

Subdivision B: Timing of Amounts

Section 45. Timing of Payments Made and Received

A payment is made and received-

- (a) in the case of payments referred to in section 41(1)(a) and (b), at the time of transfer, creation, or decrease, as the case requires; and
- (b) in the case of payments referred to in section 41(1) (c) and (d), during the time of the provision, availability, or use, as the case requires.

Section 46. Timing of Amounts Derived and Costs Incurred

- (1) Subject to this Act, the determination of when an amount is derived or a cost is incurred by a person is made according to the person's basis of accounting for income tax purposes.
- (2) An individual shall account for income tax purposes on a cash basis in calculating the individual's income from an employment or investment.
- (3) A company shall account for income tax purposes on an accrual basis.
- (4) Subject to subsections (2) and (3) and unless the Commissioner prescribes otherwise by notice in writing, a person shall account for income tax purposes on either a cash or accrual basis.
- (5) Subject to subsections (2) and (3), a person may apply, in writing, for a change in the person's basis of accounting for income tax purposes and the Commissioner may, by notice

in writing, approve the application but only if satisfied that the change is necessary to clearly reflect the person's gains and profits.

(6) If a person's basis of accounting for income tax purposes is changed, adjustments shall be made in the tax year of the change and that following the change so that-

- (a) no amount included, deducted, or to be included or deducted in calculating the person's income is omitted or taken into account more than once; and
- (b) no amount of foreign income tax is omitted or taken into account more than once in calculating foreign tax offsets.

Section 47. Cash Basis Accounting

Subject to this Act, a person who accounts for income tax purposes on a cash basis in calculating the person's income from an employment, business, or investment-

- (a) derives an amount to be included in that calculation when payment is received or made available to the person; and
- (b) incurs a cost to be deducted in that calculation when payment is made.

Section 48. Accrual Basis Accounting

(1) Subject to this Act, a person who accounts for income tax purposes on an accrual basis in calculating the person's income from a business or investment shall calculate the income in accordance with this section.

(2) A person derives an amount to be included in the calculation of income referred to in subsection (1)-

- (a) in a case where the payment constituting the amount is to be received in return for a payment or payments made by the person (the "other payment"), when and to the extent that-
 - (i) the person is entitled to the payment;
 - (ii) the amount of the entitlement can be quantified with reasonable accuracy; and
 - (iii) the other payment has been made; or
- (b) in any other case, when the payment is received.

(3) A person incurs a cost to be deducted in the calculation of income referred to in subsection (1)-

(a) in the case where the payment constituting the cost is to be made in return for a payment or payments received from another person (the "other payment"), when and to the extent that-

(i) the person is obliged to make the payment;

(ii) the amount of the obligation can be quantified with reasonable accuracy; and

(iii) the other payment has been received; or

(b) in any other case, when the payment is made.

(4) Where a person-

(a) either-

(i) incurs a cost to be deducted in calculating income referred to in subsection (1) for a tax year and if the person accounted for income tax purposes on a cash basis the deduction would be allowed in a future tax year; or

(ii) receives a payment during a tax year to be included in calculating that income for a future tax year and if the person accounted for income tax purposes on a cash basis the payment would be so included for the tax year of payment; and

(b) the reason or one of the reasons for the timing of the incurring or receipt is to defer or reduce income tax payable by the person incurring the cost or receiving the payment for any tax year,

the Commissioner may, by notice in writing, adjust the time at which the cost or payment is recognised for income tax purposes to prevent the deferral or reduction.

(5) Where in calculating a person's income referred to in subsection (1)-

(a) the person includes a payment of a particular quantity to which the person is entitled or deducts a payment of a particular quantity that the person is obliged to make; and

(b) subsequently that entitlement or obligation is satisfied by a payment received

or made by the person, as the case requires, of a different quantity, including by reason of a change in currency valuations,

then the applicable adjustments referred to in subsections (6), (7), and (8) shall be made at the time the payment is received or made.

(6) Where the payment referred to in subsection (5) was directly included or directly deducted in calculating the person's income from the business or investment, then-

(a) the amount by which the quantity included exceeds the quantity of the payment received or the amount by which the quantity of the payment made exceeds the quantity deducted, shall be directly deducted in calculating that income; or

(b) the amount by which the quantity of the payment received exceeds the quantity included or the quantity deducted exceeds the quantity of the payment made, shall be directly included in calculating that income.

(7) Where the payment referred to in subsection (5) is included as an incoming or included as an outgoing for an asset or liability of the business or investment that is still held or owed by the business or investment, then-

(a) the amount by which the quantity included exceeds the quantity of the payment received or the quantity of the payment made exceeds the quantity included, shall be treated as an outgoing for the asset or liability; or

(b) the amount by which the quantity of the payment received exceeds the quantity included or the quantity included exceeds the quantity of the payment made, shall be treated as an incoming for the asset or liability.

(8) Where the payment referred to in subsection (5) is included as an incoming or included as an outgoing for an asset or liability of the business or investment that is no longer held or owed by the business or investment, then-

(a) the amount by which the quantity included exceeds the quantity of the payment received or the quantity of the payment made exceeds the quantity included, shall be treated as a loss from the realisation of an asset or liability of the person of that business or investment used in the production of the person's income from the business or investment; or

(b) the amount by which the quantity of the payment received exceeds the quantity included or the quantity included exceeds the quantity of the payment made, shall be treated as a gain from the realisation of an asset or liability of the person of that business or investment.

Section 49. Reverse of Amounts Including Bad Debts

- (1) Where a person has included an amount derived or deducted a cost incurred in calculating the person's income from an employment, business, or investment and-
- (a) the person later refunds the amount or recovers the cost, as the case requires;
 - (b) in the case where an amount derived was included on an accrual basis, the person later disclaims an entitlement to receive the amount or, in the case where the amount constitutes a debt claim of the person, the person writes off the debt as bad; or
 - (c) in the case where a cost incurred was deducted on an accrual basis, the person later disclaims an obligation to incur the cost,

the person shall make the adjustments referred to in subsection (3) at the time the refund, recovery, disclaimer, or write off occurs.

- (2) For the purposes of subsection (1), a person may only disclaim the entitlement to a payment or write off as bad a debt claim of the person-
- (a) in the case of a debt claim of a financial institution, after the debt claim has become a bad debt as determined in accordance with the relevant standards established by the Commonwealth of Symmetrica Bank; and
 - (b) in any other case, after the person has taken all reasonable steps in pursuing payment and the person reasonably believes that the entitlement or debt claim will not be satisfied.
- (3) The adjustments referred to in subsection (1) are:
- (a) where an amount was directly included in calculating the person's income from the employment, business, or investment, a similar amount shall be directly deducted in calculating the person's income from that employment, business, or investment;
 - (b) where a cost was directly deducted in calculating the person's income from the business or investment, a similar amount shall be directly included in calculating the person's income from that business or investment;
 - (c) where an amount was included as an incoming for an asset or liability of the business or investment that is still held or owed by the business or investment, a similar amount shall be treated as an outgoing for the asset or liability;
 - (d) where a cost was included as an outgoing for an asset or liability of the business or investment that is still held or owed by the business or investment, a

similar amount shall be treated as an incoming for the asset or liability;

(e) where an amount was included as an incoming for an asset or liability of the business or investment that is no longer held or owed by the business or investment, a similar amount shall be treated as a loss from the realisation of an asset or liability of the person of that business or investment used in the production of income from the business or investment; and

(f) where a cost was included as an outgoing for an asset or liability of the business or investment that is no longer held or owed by the business or investment, a similar amount shall be treated as a gain from the realisation of an asset or liability of the person of that business or investment.

Section 50. Averaging Inclusions and Deductions Under Long-term Contracts

(1) For the purposes of calculating a person's income for a tax year from an employment, business, or investment, estimated cumulative inclusions and deductions under a long-term contract of the person at the time the contract is to end shall be directly included or deducted in calculating that income to the extent-

(a) the inclusions or deductions multiplied by the percentage of the contract completed at the end of the year or, if earlier, the time at which the contract is realised by the person, exceed

(b) amounts directly included or deducted under the contract (including by reason of previous applications of this section) in calculating the income of the person of a previous tax year or the income of a person who was a previous owner of the contract.

(2) A "long-term contract" of a person is a contract-

(a) the term of which exceeds or is reasonably likely to exceed six months and spans or is reasonably likely to span more than one tax year; and

(b) that is either-

(i) a contract for manufacture, installation, or construction, or, in relation to each, the performance of related services; or

(ii) a contract with a deferred return that is not an excluded contract.

(3) Every person who is a party to a contract described in subsection (2)(a), other than an excluded contract or a contract described in subsection (2)(b)(i), shall-

- (a) periodically estimate whether the contract will have a positive or negative outcome and the percentage of the contract completed; and
 - (b) on that basis determine whether the contract is a long-term contract.
- (4) For the purposes of estimating whether a contract will have a positive or negative outcome and the percentage of the contract completed, a contract with a term that cannot be determined with reasonable accuracy is treated as-
- (a) in the case of a contract of employment, ending five years after the date of estimation; and
 - (b) in any other case, as ending at the time that would result in-
 - (i) the greatest positive outcome for the contract per month of the contract (ignoring adjustments for inflation); or
 - (ii) where the contract may only result in a negative outcome, the smallest negative outcome per month of the contract (ignoring adjustments for inflation).
- (5) Where the Commissioner is not satisfied with an estimate of a person under subsection (3), the Commissioner shall, by notice in writing, make an estimate of whether the contract will have a positive or negative outcome and the percentage of the contract completed, which estimate shall be treated as the estimated positive outcome, estimated negative outcome, and percentage of the contract completed, as the case requires.
- (6) The outgoings for an asset or liability being a long-term contract of a person include-
- (a) the amount by which amounts under the contract directly included in calculating the person's income for a tax year as a result of subsection (1) exceed amounts that would have been so included for the year ignoring subsection (1); and
 - (b) the amount by which amounts under the contract directly deducted in calculating the person's income for a tax year as a result of subsection (1) are less than amounts that would have been so deducted for the year ignoring subsection (1).
- (7) The incomings for an asset or liability being a long-term contract of a person include-
- (a) the amount by which amounts under the contract directly included in calculating the person's income for a tax year as a result of subsection (1) are less than amounts that would have been so included for the year ignoring subsection (1); and

(b) the amount by which amounts under the contract directly deducted in calculating the person's income for a tax year as a result of subsection (1) exceed amounts that would have been so deducted for the year ignoring subsection (1).

(8) For the purposes of this section-

"contract with a deferred return" means any contract of a person unless the person shows that at any time ("the time") during every six-month period from the commencement of the contract-

(a) in the case of an estimated positive outcome to the contract-

(i) cumulative inclusions exceed cumulative deductions under the contract to the time; and

(ii) the extent to which cumulative inclusions exceed cumulative deductions under the contract at the time is more than 80 percent of the estimated positive outcome multiplied by the percentage of the contract completed at the time; or

(b) in the case of an estimated negative outcome to the contract, 80 percent of the extent to which cumulative deductions exceed cumulative inclusions under the contract at the time is less than the estimated negative outcome multiplied by the percentage of the contract completed to the time;

"cumulative deductions" under a contract of a person at a particular time means amounts under the contract that may be directly deducted at the time or a previous time in calculating the person's income from a business or investment (determined ignoring subsection (1));

"cumulative inclusions" under a contract of a person at a particular time means amounts under the contract required to be directly included at the time or a previous time in calculating the person's income from an employment, business, or investment (determined ignoring subsection (1));

"estimated negative outcome" with respect to a contract of a person means an estimate of the excess of cumulative deductions over cumulative inclusions under the contract at the time the contract is to end (ignoring any adjustments for inflation);

"estimated positive outcome" with respect to a contract of a person means an estimate of the excess of cumulative inclusions over cumulative deductions under the contract at the time the contract is to end (ignoring adjustments for inflation);

"excluded contract" means-

(a) any contract consisting of an interest in an entity; and

(b) any contract of investment insurance; and

"percentage of contract completed" at a particular time ("the time")-

(a) in the case of a contract of a type referred to in subsection (2)(b)(i), is determined by comparing cumulative deductions under the contract at the time with estimated cumulative deductions under the contract at the time the contract is to end;

(b) subject to paragraph (a)-

(i) to the extent to which a contract is for employment or services, is determined by comparing the total market value of hours worked under the contract at the time with estimated total market value of hours to be worked under the contract by the time the contract is to end;

(ii) to the extent to which a contract involves a loan, is determined by comparing-

(A) the average capital outstanding under the loan to the time multiplied by the number of days in the term of the loan to the time, with

(B) estimated average capital outstanding under the loan over the total term of the loan multiplied by the number of days in the term of the loan; or

(iii) to the extent to which a contract involves a lease or is a contract of general insurance, is determined by comparing the time that has elapsed under the contract to the time with the total term of the contract; or

(c) to the extent to which a contract is not covered by the previous paragraphs, is determined in the manner provided by the regulations or, in the absence of regulations, by comparing cumulative deductions under the contract at the time with estimated cumulative deductions under the contract at the time the contract is to end.

Subdivision C: Quantification of Amounts

Section 55. Quantification of Payments, Amounts Derived, and Costs Incurred

(1) A payment is quantified in an amount equal to-

(a) for payments referred to in section 41(1)(a) and (b), money and the market value of assets or liabilities transferred, created, or decreased, as the case requires;

(b) for payments consisting of the availability for use or use of a motor vehicle wholly or partly for the private purposes of the payee, the amount determined in accordance with the regulations;

(c) for payments consisting of the provision of-

(i) the services of a housekeeper, chauffeur, gardener, or other domestic assistant;

(ii) any meal, refreshment, or entertainment; or

(iii) utilities in respect of the payee's place of residence,

the amount of the costs incurred by the payer in making the provision as reduced by any contribution made by the payee towards the provision;

(d) for payments consisting of the provision of a loan, the amount by which-

(i) the interest that would have been paid by the payee during the tax year of the payee in which the payment is made if interest were payable under the loan at the statutory rate for the year, exceeds

(ii) the interest paid by the payee during the year under the loan, if any;
and

(e) for other payments referred to in section 41(1)(c) and (d), the value of the benefit of the payment to a reasonable person in the position of the payee,

and in the case of paragraphs (a) and (e), the time of valuation is the time the payment is derived, incurred, made, received, or otherwise taken into account for income tax purposes including where it is taken into account as an amount that is derived or cost that is incurred by a person.

(2) For the purposes of this Act, the amount of a payment is quantified without reduction for any income tax withheld from the payment under Subdivision A of Division II of Part V.

(3) An amount derived or cost incurred is quantified in an amount equal to the amount of the payment constituting the amount or cost.

Section 56. Determination of Market Value

The market value of an asset or liability-

- (a) is determined without regard to any restriction on transfer of the asset or liability or the fact that the asset is not otherwise convertible into or the liability cannot be satisfied with a payment of money or money's worth; and
- (b) unless otherwise stated, is quantified in a positive or negative amount, as the case requires.

Section 57. Quantification in SYs

- (1) For the purposes of this Act, a person's income, amounts to be included and deducted in calculating that income, and the net incomings and net outgoings for an asset or liability shall be quantified in SYs.
- (2) Subject to subsection (3), where an amount to be included or deducted in calculating a person's income for a tax year is quantified in a currency other than the SY, the amount shall be converted at the exchange rate applying between the currency and the SY at the time the amount is derived, incurred, made, received, or otherwise taken into account for income tax purposes.
- (3) For the purposes of subsection (2) and where the Commissioner permits by notice in writing, a person may use the average exchange rate applying during the tax year as determined by the Commissioner.

Subdivision D: Allocation of Income and Amounts

Section 60. Allocation of Payments, Amounts Derived, and Costs Incurred

- (1) A payment is made by the payer of the payment and made to or received by the payee of the payment.
- (2) Where a person-
 - (a) indirectly benefits from a payment; or
 - (b) directs who is to be the payee of the payment,and the payer, an associate of the payer, or a third person under an arrangement with the payer or an associate of the payer intends the payment to benefit the person, the Commissioner may, by practice note generally or by notice in writing served on the person-
 - (c) treat the person as the payee of the payment;
 - (d) treat the person as the payer of the payment; or

- (e) treat the person as the payee of the payment and as making an equal payment to the person who would be considered the payee of the payment if this paragraph were ignored.
- (3) An amount is derived by the payee of the payment constituting the amount and a cost is incurred by the payer of the payment constituting the cost.

Section 61. Jointly Owned Investment

For the purposes of calculating a person's income from an investment that is jointly owned with another person, amounts to be included and deducted in that calculation shall be apportioned among the joint owners in proportion to their respective interests in the investment.

Section 62. Transfer Pricing and Arrangements Between Associates

In any arrangement between persons who are associates, the Commissioner may, by notice in writing, distribute, apportion, or allocate amounts to be included or deducted in calculating income and foreign income tax paid between the persons as is necessary to reflect the taxable income or tax payable that would have arisen for them if the arrangement had been conducted at arm's length.

Section 63. Income Splitting

- (1) Where a person attempts to split income with another person, the Commissioner may, by notice in writing, adjust amounts to be included or deducted in calculating the income of each person to prevent any reduction in tax payable as a result of the splitting of income.
- (2) Subject to subsection (3), a reference in subsection (1) to a person having attempted to split income includes a reference to a transfer, either directly or indirectly through one or more interposed entities, between the person and an associate of the person of-
- (a) amounts to be derived or costs to be incurred; or
 - (b) an asset or liability with the result that the transferee receives or enjoys amounts derived from or incurs costs in owning the asset or owing the liability.
- (3) Subsection (2) only applies where the reason or one of the reasons for the transfer is to lower the total tax payable by the person or the associate.

(4) In determining under subsection (2) whether a person is seeking to split income, the Commissioner shall consider the market value of any payment made for the transfer.

Subdivision E: Characterisation of Amounts

Section 65. Characterisation of Payments, Amounts Derived, and Costs Incurred

(1) Subject to this Subdivision, the character of a payment made or received is determined according to the legal nature of the arrangement with respect to which the payment is made.

(2) The character of an amount derived or cost incurred is determined by the character of the payment constituting the amount or cost.

Section 66. Compensation and Recovery Payments

(1) Subject to section 49, subsection (2) applies where a person or an associate of the person derives an amount ("the compensation amount") which compensates for or represents recovery of another amount (the "primary amount"), where the primary amount is-

(a) income or an amount to be included in calculating income of the person from an employment, business, or investment, which the person expects or expected to derive;

(b) a loss or an amount to be deducted in calculating income of the person from a business or investment, which the person has incurred or which the person expects or expected to incur; or

(c) a loss in value of an asset or liability or an increase in the amount of a liability of a business or investment of the person.

(2) A compensation amount referred to in subsection (1) shall-

(a) in the case where if the primary amount were derived or incurred it would constitute income, a loss, or be directly included or deducted in calculating income of the person from the employment, business, or investment, be so included in calculating the income;

(b) in the case where if the primary amount were derived or incurred it would be included as an incoming or outgoing for an asset or liability of the person's business or investment still held or owed by the business or investment, be included as an incoming for the asset or liability; and

(c) in any other case, be treated as a gain from the realisation of an asset or liability of the person of the business or investment.

Section 67. Payments Under Annuities, Instalment Sales, and Finance Leases

(1) Payments made to a person under an annuity or by a person acquiring an asset under an instalment sale or finance lease are treated as interest and a repayment of capital under a debt claim in accordance with this section.

(2) All payments referred to in subsection (1) shall be aggregated and the total divided into two portions calculated as follows:

(a) a capital portion, being the net outgoings for the annuity or the asset transferred, as the case requires, immediately before the first payment referred to in subsection (1); and

(b) an interest portion, if any, being the total of all payments referred to in subsection (1) less the capital portion.

(3) The interest and capital portions referred to in subsection (2) shall be spread over the payments referred to in subsection (1) as though the annuity, instalment sale, or finance lease were a blended loan with interest compounded six-monthly.

(4) Each payment referred to in subsection (1) shall be divided into two portions in accordance with subsection (3), the interest portion treated as interest paid or to be paid and the capital portion treated as a repayment of capital paid or to be paid under a debt claim.

(5) For the purposes of this section-

"annuity" means a periodic payment other than one of the type referred to in section 18(2)(a) (determined ignoring subsection (4)) or under an instalment sale;

"blended loan" means a loan under which payments by the borrower represent in part a payment of interest and in part a repayment of capital where the interest part is calculated on capital outstanding at the time of each payment and the rate of interest is uniform over the term of the loan;

"finance lease" with respect to leasing an asset means a lease where-

(a) the lease agreement provides for transfer of ownership following the end of the lease term, or the lessee has an option to acquire the asset after expiry of the lease term for a fixed or presupposed price;

(b) the lease term exceeds 75 percent of the useful life of the asset;

- (c) the estimated market value of the asset after expiry of the lease term is less than 20 percent of its market value at the commencement of the lease;
- (d) in the case of a lease that commences before the last 25 percent of the useful life of the asset, the present value of the minimum lease payments equals or exceeds 90 percent of the market value of the asset at the commencement of the lease term; or
- (e) the asset is custom-made for the lessee and after expiry of the lease term the asset will not be of practical use to any person other than the lessee;

"instalment sale" means a realisation of an asset by way of sale under which any payment to be made to the seller in respect of the realisation is to be made more than one year after the realisation;

"lease term" includes an additional period for which the lessee has an option to renew a lease; and

"present value" of lease payments is calculated using a discount rate equal to the statutory rate.

Section 68. Source of Income, Losses, and Payments

- (1) A person's income from any employment, business, or investment has a source in Symmetrica to the extent to which-
 - (a) the amounts directly included in calculating that income that have a source in Symmetrica, exceed
 - (b) the amounts directly deducted in calculating that income that have a source in Symmetrica.
- (2) A person's loss from any business or investment has a source in Symmetrica to the extent to which-
 - (a) the amounts directly deducted in calculating income from that business or investment that have a source in Symmetrica, exceed
 - (b) the amounts directly included in calculating that income that have a source in Symmetrica.
- (3) Amounts directly included in calculating income have a source in Symmetrica where they consist of-

- (a) incomings, gains, and amounts, referred to in section 17(2)(b), (c), or (d) or section 18(2)(b) or (c), to the extent to which a domestic asset or domestic liability is involved; and
 - (b) subject to paragraph (a), payments that have a source in Symmetrica.
- (4) Amounts directly deducted in calculating income have a source in Symmetrica where they consist of-
- (a) allowances referred to in section 28(1)(a) to the extent to which they relate to domestic assets;
 - (b) costs referred to in section 29(1) and allowances referred to in section 31 to the extent to which-
 - (i) where the costs or allowances relate to moveable tangible assets used by a person who conducts a business of land, sea, or air transport operator or charterer to carry passengers, mail, livestock, or other moveable tangible assets, the assets are used to carry-
 - (A) passengers who embark; or
 - (B) mail, livestock, or other moveable tangible assets that are embarked,
- in Symmetrica, other than as a result of transshipment; and
- (ii) in other cases, they relate to domestic assets;
- (c) losses from the realisation of business assets, investment assets, liabilities of a business, and liabilities of an investment where the asset or liability involved is a domestic asset or domestic liability; and
 - (d) subject to paragraphs (a) to (c), payments that have a source in Symmetrica.
- (5) The following payments have a source in Symmetrica:
- (a) dividends paid by a resident company;
 - (b) interest paid by a resident person;
 - (c) natural resource payments made in respect of or calculated by reference to natural resources taken from land or the sea situated within Symmetrica or its territorial waters;

- (d) rent paid for the use of, right to use, or forbearance from using an asset situated in Symmetrica;
- (e) royalties paid for the use of, right to use, or forbearance from using an asset in Symmetrica;
- (f) premiums for general insurance paid to and proceeds from general insurance paid by a person in respect of the insurance of any risk in Symmetrica;
- (g) payments received by a person who conducts a business of land, sea, or air transport operator or charterer in respect of-
 - (i) the carriage of passengers who embark; or
 - (ii) mail, livestock, or other moveable tangible assets that are embarked,in Symmetrica, other than as a result of transshipment;
- (h) payments received by a person who conducts a business of transmitting messages by cable, radio, optical fibre, or satellite communication in respect of the transmission of messages by apparatus established in Symmetrica, whether or not such messages originate in Symmetrica;
- (i) payments, including service fees, of a type not mentioned in paragraphs (g) or (h) for or attributable to employment exercised, service rendered, or a forbearance from exercising employment or rendering service-
 - (i) in Symmetrica, regardless of the place of payment; or
 - (ii) where the payer is the Government of Symmetrica, irrespective of the place of exercise, rendering, or forbearance;
- (j) proceeds of investment insurance and retirement payments not falling within paragraph (i) (the "return") paid by a resident person and any premium or retirement contribution to a resident person to secure such a return;
- (k) gifts and other ex gratia payments to the extent received in respect of business or investment conducted with domestic assets; and
- (l) payments not mentioned in the above paragraphs made in respect of-
 - (i) the acquisition of a domestic asset, incurring of a domestic liability, or realisation of such an asset or liability; or

- (ii) activity conducted or a forbearance from conducting activity in Symmetrica.
- (6) Any income, loss, amount, or payment that is not treated by the above subsections as having a source in Symmetrica is treated as having a foreign source.
- (7) For the purposes of determining in which country any income, loss, amount, or payment having a foreign source is sourced, the rules in the above subsections apply as though references in this Act to Symmetrica were references to a particular country.

Section 69. Arrangements Between Associates, Income Splitting, and Tax Avoidance Arrangements

- (1) Notwithstanding anything in this Act, the Commissioner may-
 - (a) in making any adjustment under section 62 or 63 re-characterise the source and type of any income, loss, amount, or payment;
 - (b) by notice in writing, re-characterise the source and type of any income, loss, amount, or payment derived, incurred, made or received under a tax avoidance arrangement or an arrangement the form of which does not reflect its substance; and
 - (c) by notice in writing, disregard an arrangement or part of an arrangement that does not have substantial economic effect.
- (2) For the purposes of this section-
 - (a) a reference to income, a loss, an amount, or a payment (the "amount") being of a particular type includes the amount being-
 - (i) from a particular employment, business, or investment of a person;
 - (ii) included or deducted in calculating a person's income from a particular employment, business, or investment or not being so included or deducted; or
 - (iii) a final withholding payment or investment final withholding payment; and
 - (b) "tax avoidance arrangement" means any arrangement, one of the main purposes of which is the avoidance or reduction of liability to tax of any person for any tax year.

Division III: Assets and Liabilities

Subdivision A: Central Concepts

Section 75. Calculation of Gains and Losses

(1) A person's gain from the realisation of an asset or liability is the amount by which the sum of the incomings for the asset or liability exceeds the sum of the outgoings for the asset or liability at the time of realisation.

(2) The loss of a person from the realisation of an asset or liability is the amount by which the sum of the outgoings for the asset or liability exceeds the sum of the incomings for the asset or liability at the time of realisation.

Section 76. Definitions Relating to Assets

(1) For the purposes of this Act-

"asset"-

(a) means-

(i) any kind of property or other amalgam of integrated rights and obligations; or

(ii) subject to subparagraph (i), a single right,

whether of a legal or equitable nature, that at the time acquired has a nil or positive market value;

(b) includes currency, goodwill, know-how, an owner's interest in a foreign branch, and a part of an asset; and

(c) excludes-

(i) insurance or a right to compensation held by a person to the extent to which it covers a loss with respect to any asset owned, liability owed, or the incurring of a liability by the person;

(ii) losses available for transfer under section 33(1)(c) or foreign income tax available for transfer under section 200(3)(b); and

(iii) an entitlement of the type referred to in section 48(2)(a)(i);

"business asset" means an asset to the extent to which it is used in a business including where the asset is held for sale in a business, but excludes trading stock or a depreciable asset of a business;

"debt claim"-

- (a) means a right of one person to receive a payment or repayment from another person;
- (b) includes a deposit with a financial institution, account receivable, note, bill of exchange, or bond and, in accordance with section 67, rights under an annuity, finance lease, or instalment sale; and
- (c) excludes an interest in an entity;

"depreciable asset"-

- (a) means an asset to the extent to which it is used in the production of income from a business or investment and that is likely to lose value because of wear and tear, obsolescence, or the passing of time; and
- (b) excludes land and trading stock;

"domestic asset" means-

- (a) an asset owned by a resident person other than land or a building that is not situated in Symmetrica; and
- (b) land or a building situated in Symmetrica;

"foreign currency asset" means a debt claim that is denominated in a currency other than SYs;

"investment asset" means an asset other than-

- (a) a business asset, a depreciable asset, or trading stock;
- (b) an asset being insurance or a right to compensation to the extent to which it covers burial, dental, medical, or psychiatric costs or costs incidental to those costs to be incurred in respect of an individual; or
- (c) an asset that is held primarily for personal use by the person owning the asset and that is not-
 - (i) insurance or a right to compensation; or

- (ii) used in the production of gains and profits; and

"trading stock" means assets owned by a person that are sold or intended to be sold in the ordinary course of a business conducted by the person, work in progress on such assets, and inventories of materials to be incorporated into such assets.

(2) Where an asset owned by a person has been used by the person in a particular manner, including where it is used in the production of the person's income from a business or investment, but the asset is in temporary disuse, the asset is treated as used in the particular manner during the period of disuse.

Section 77. Acquisition and Ownership of Assets

(1) A person acquires an asset-

- (a) at the time the person begins to own the asset; or

- (b) in the case where the person realises the asset in any of the manners mentioned in section 82(1)(c) to (h), at the time of realisation,

and, for the avoidance of doubt, in the case of paragraph (b) a person may acquire an asset that the person already owns immediately before realisation of the asset by the person.

(2) A person conducting a business is treated as beginning to own an asset that, if owned by the person (tested without reference to this subsection), would be trading stock of the business-

- (a) when the asset is first available to the person for sale in the ordinary course of the business; or

- (b) when the person otherwise begins to own the asset,

whichever is earlier.

(3) Where an asset is leased to a person under a finance lease, the person is treated as acquiring the asset at the commencement of the lease and owning the asset during the term of the lease.

(4) Where a person is treated as acquiring ownership of an asset by reason of subsection (2) or (3), the person who owned the asset immediately before the acquisition is treated as having transferred and parted with the ownership of the asset to the person treated as acquiring that ownership at the time of the acquisition.

(5) Where the acquirer of an asset referred to in subsection (2) or (3) returns the asset to the transferor referred to in subsection (4) or the lease ends, as the case requires, before ownership passes from the transferor other than by reason of subsection (4), the transferor is treated as re-acquiring ownership of the asset.

Section 78. Definitions Relating to Liabilities

For the purposes of this Act-

"debt obligation" means the obligation corresponding to a debt claim;

"domestic liability" means a liability owed by a resident person;

"foreign currency liability" means a debt obligation that is denominated in a currency other than SYs; and

"liability"-

(a) means-

(i) any kind of property or other amalgam of integrated rights and obligations; or

(ii) subject to subparagraph (i), a single obligation,

whether of a legal or equitable nature, that at the time incurred has a negative market value;

(b) includes a guarantee granted and a part of a liability; and

(c) excludes-

(i) an entity's rights and obligations with respect to an interest of a beneficiary in the entity; or

(ii) an obligation of the type referred to in section 48(3)(a)(i).

Section 79. When a Liability is Incurred

A person incurs a liability-

(a) when all the events required to give rise to the obligation or obligations forming the liability have occurred; or

(b) in the case where a person realises the liability in any of the manners mentioned in section 82(2)(c) to (e), at the time of realisation,

and, for the avoidance of doubt, in the case of paragraph (b) a person may incur a liability that the person already owes before realisation of the liability by the person.

Section 80. Outgoings

(1) Subject to this Act, outgoings for an asset or liability of a person means-

(a) in the case of an asset, costs incurred by the person in the person's most recent acquisition of the asset including-

(i) where relevant, costs of construction or production of the asset; and

(ii) any amount required by Subdivision B of Division I to be included in calculating the person's income as a result of the acquisition;

(b) costs incurred by the person in owning the asset or owing the liability between the date of the person's most recent acquisition of the asset or the incurring of the liability and the date of the asset or liability's next realisation by the person including-

(i) costs of altering, improving, and maintaining the asset or liability and, in the case of an asset, repairing the asset;

(ii) costs incurred under the asset or liability whether by way of interest, rent, royalty, covenant to repair, or otherwise; and

(iii) any amount required by Subdivision B of Division I to be included in calculating the person's income as a result of another person incurring on behalf of the first-mentioned person costs of the type previously mentioned in this paragraph;

(c) costs incurred by the person for the next realisation of the asset or liability;
and

(d) incidental costs incurred by the person in the most recent acquisition of the asset or incurring of the liability and in the next realisation of the asset or liability by the person,

but excludes consumption costs, excluded costs, and costs to the extent to which they may be deducted in calculating the person's income under Subdivision D of Division I.

(2) Subject to subsection (3), outgoings for trading stock of a business of a person are determined-

(a) in the case of a person accounting for income tax purposes on a cash basis, using the prime-cost or absorption-cost method; and

(b) in the case of a person accounting for income tax purposes on an accrual basis, using the absorption-cost method.

(3) Where assets owned by a person, being-

(a) trading stock; and

(b) any other type of asset prescribed by the regulations,

are fungible and not readily identifiable, the person may elect for the outgoings for the assets to be determined according to the first-in-first-out method or the average-cost method but, once chosen, the method may only be changed with the written permission of the Commissioner.

(4) For the purposes of this section-

“absorption-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct asset costs, direct labour costs, and factory overhead costs;

“average-cost method” means the generally accepted accounting principle under which outgoings are allocated to fungible assets of a particular type owned by a person based on a weighted average cost of all assets of that type owned by the person;

“direct labour costs” means labour costs incurred by a person that directly relate to the production of trading stock;

“direct asset costs” means costs incurred by a person in acquiring any asset or assets, as described in subsection (1)(a), that constitute trading stock or become an integral part of trading stock produced;

“factory overhead costs” means all costs incurred by a person in producing trading stock except direct labour and direct asset costs;

“first-in-first-out method” means the generally accepted accounting principle under which outgoings are allocated to a fungible asset of a particular type owned by a person based on the assumption that assets of that type owned by the person are realised in the order of their acquisition;

"incidental costs" incurred by a person in acquiring an asset, incurring a liability, or realising an asset or liability include-

- (a) advertising costs, taxes, duties, and other costs of transfer with respect to the acquiring, incurring, or realising; and
- (b) costs of establishing, preserving, or defending ownership of the asset or costs of establishing or defeating the liability,

and the costs referred to in paragraphs (a) and (b) include any related remuneration for the services of an agent, accountant, auctioneer, broker, consultant, legal advisor, surveyor, or valuer;

“prime-cost method” means the generally accepted accounting principle under which the cost of trading stock is the sum of direct asset costs, direct labour costs, and variable factory overhead costs; and

“variable factory overhead costs” means factory overhead costs that vary directly with changes in volume of trading stock produced.

Section 81. Incomings

Subject to this Act, incomings for an asset or liability of a person means-

- (a) in the case of a liability, amounts derived by the person in respect of incurring the liability;
- (b) amounts derived by the person in respect of owning the asset or owing the liability between the date of the person's most recent acquisition of the asset or the incurring of the liability and the date of the asset or liability's next realisation by the person including-
 - (i) amounts derived from altering or decreasing the value of the asset or liability or increasing the liability; and
 - (ii) amounts derived under the asset or liability whether by way of interest, rent, royalty, covenant to repair, or otherwise; and
- (c) amounts derived or to be derived by the person in respect of the next realisation of the asset or liability;

but excludes any amount to the extent that it is an exempt amount, a final withholding payment, or, in the case of an asset or liability other than trading stock, an amount to be included in calculating the person's income under Subdivision B of Division I.

Section 82. Realisation

- (1) A person who owns an asset is treated as realising the asset-
- (a) subject to paragraph (b), when the person parts or is treated as parting with ownership of the asset including when the asset is-
 - (i) sold, exchanged, transferred, distributed, or combined with another asset or a liability;
 - (ii) made available for sale in the ordinary course of a business engaged in by another person or leased to another person under a finance lease as described in section 77(2) and (3), respectively; or
 - (iii) cancelled, redeemed, destroyed, lost, expired, or surrendered;
 - (b) in the case of an asset of a person who ceases to exist, including a deceased individual, immediately before the person ceases to exist;
 - (c) in the case of an asset other than a Class 1, 2, 3, 4, or 5 depreciable asset or trading stock, where the sum of the incomings for the asset exceeds the sum of the outgoings for the asset;
 - (d) in the case of an asset that is a debt claim, when-
 - (i) where the debt claim is owned by a financial institution, the debt claim becomes a bad debt as determined in accordance with the relevant standards established by the Commonwealth of Symmetrica Bank and the institution writes the debt off as bad; and
 - (ii) in any other case, the person reasonably believes the debt claim will not be satisfied, the person has taken all reasonable steps in pursuing the debt claim, and the person writes the debt off as bad;
 - (e) in the case of an asset that is a business asset, depreciable asset, investment asset, or trading stock, immediately before the person begins to use the asset in such a way that it ceases to be an asset of the type it was immediately prior to that use;
 - (f) in the case of a foreign currency asset, on the last day of each tax year;
 - (g) in the case of an asset owned by an entity, in the circumstances referred to in section 171(1); and

- (h) subject to subsection (3), in the case of assets owned by a resident person other than land or buildings situated in Symmetrica, immediately before the person becomes a non-resident person.
- (2) A person who owes a liability is treated as realising the liability-
- (a) subject to paragraph (b), when the person parts with the obligations constituting the liability including when the liability is transferred, exchanged, satisfied, cancelled, released, expired, or combined with another liability or an asset;
- (b) in the case of a liability of a person who ceases to exist, including a deceased individual, immediately before the person ceases to exist;
- (c) in the case of a foreign currency liability, on the last day of each tax year;
- (d) in the case of a liability of an entity, in the circumstances referred to in section 171(1); and
- (e) subject to subsection (3), in the case of a liability owed by a resident person, immediately before the person becomes a non-resident person.
- (3) Where a person to whom subsection (1)(h) or (2)(e) would otherwise apply-
- (a) intends to re-acquire in the future status as a resident person; and
- (b) provides the Commissioner with sufficient security to satisfy any tax liability that would otherwise arise by reason of those subsections,

the Commissioner may determine, in writing and on such terms and conditions as the Commissioner thinks fit, that the person does not realise an asset or liability by reason of those subsections.

Subdivision B: Depreciable Assets, Allowances, and Inclusions

Section 85. Classification and Pooling of Depreciable Assets

- (1) Depreciable assets are classified as follows:

<u>Class</u>	<u>Depreciable Assets</u>
<u>1</u>	Computers and data handling equipment
<u>2</u>	Automobiles; buses and minibuses with a seating capacity of less than 30 passengers; goods vehicles with a load capacity of less than 7

tonnes; construction and earth-moving equipment

- 3 Buses with a seating capacity of 30 or more passengers; heavy general purpose or specialised trucks; trailers and trailer-mounted containers; plant and machinery used in manufacturing or mining operations
- 4 Railroad cars, locomotives, and equipment; vessels, barges, tugs, and similar water transportation equipment; aircraft; specialised public utility plant, equipment, and machinery; office furniture, fixtures, and equipment; any asset not included in another Class;
- 5 Natural resource exploration and production rights and assets referred to in subsection (3) in respect of natural resource prospecting, exploration, and development costs;
- 6 Buildings, structures, and similar works of a permanent nature
- 7 Intangible assets other than those in Class 5

(2) Each depreciable asset owned and used by a person during a tax year in the production of the person's income from a particular business or investment shall be, at the time the asset is first owned and so used since its most recent acquisition, placed in a pool-

- (a) in the case of a Class 1, 2, 3, 4, or 5 depreciable asset other than one referred to in paragraph (c), with all other assets of the same Class so owned and used by the person in that business or investment;
- (b) in the case of a Class 6 or 7 depreciable asset, of its own separately from other assets of that Class or any other Class; and
- (c) in the case of a moveable tangible asset used by a person who conducts a business of land, sea, or air transport operator or charterer to carry passengers, mail, livestock, or other moveable tangible assets, with all other assets of the same Class so owned and used for carriage by the person in that business,

and those pools are referred to as the person's pools of depreciable assets for the year.

(3) To the extent not otherwise provided, costs incurred by a person in the production of the person's income from a business in respect of natural resource prospecting, exploration, and development are treated as if they were incurred in securing the acquisition of an asset that is used by the person in that production.

Section 86. Depreciation Allowance

(1) Subject to this section, an allowance is granted to a person for a tax year for each of the person's pools of depreciable assets equal to the depreciation for the year of each pool calculated in accordance with subsections (2) and (7).

(2) Depreciation for a tax year for each of a person's pools of depreciable assets is calculated-

(a) in the case of Class 1, 2, 3, 4, and 5 pools, according to the diminishing value method; and

(b) in the case of Class 6 and 7 pools, according to the straight line method,

using the following formula:

$$A \times B \times C/365$$

where-

A is the depreciation basis of the pool at the end of the tax year;

B is the depreciation rate applicable to the pool; and

C is the number of days in the person's tax year.

(3) The depreciation basis of a Class 1, 2, 3, 4, or 5 pool of depreciable assets of a person at the end of a tax year is the total of-

(a) the depreciation basis of the pool at the end of the previous tax year, if any, after deducting depreciation for that pool calculated under subsections (2) and (7) for that year; and

(b) amounts added to the depreciation basis of the pool during the tax year under subsection (5) in respect of outgoings for assets in or added to the pool,

reduced, but not below zero, by incomings for the assets in the pool derived during the year.

(4) The depreciation basis of a Class 6 or 7 pool of depreciable assets of a person at the end of a tax year is the total of-

(a) the depreciation basis of the pool at the end of the previous tax year; and

(b) amounts added to the depreciation basis of the pool during the tax year under subsection (5) in respect of outgoings for the asset in the pool,

reduced, but not below zero, by incomings for the asset in the pool derived during the year.

(5) Costs that are an outgoing for a depreciable asset included in a person's pools of depreciable assets are added to the depreciation basis of the person's relevant pool in two portions as follows:

(a) the first portion is added at the time the asset is added to the pool in accordance with section 85 or the cost is incurred, whichever is later, and calculated in accordance with the following formula:

$$A/4 \times B$$

where-

A is-

(i) 4 if the portion is to be added nine months or more before the end of the tax year in which the addition is to be made;

(ii) 3 if the portion is to be added six months or more but less than nine months before the end of the year;

(iii) 2 if the portion is to be added three months or more but less than six months before the end of the year; and

(iv) 1 if the portion is to be added less than three months before the end of the year; and

B is the amount of the cost; and

(b) the remaining portion of the cost is added during the tax year following that in which the first portion is added, but not if the pool has been dissolved under section 87(2) in the meantime.

(6) The depreciation rates applicable to each pool referred to in subsection (2) are:

<u>Class</u>	<u>Rate</u>
<u>1</u>	40%
<u>2</u>	35%
<u>3</u>	30%
<u>4</u>	20%

<u>5</u>	20%
<u>6</u>	10%
<u>7</u>	1 divided by the useful life of the <u>asset</u> in the <u>pool</u> calculated at the time the <u>asset</u> is most recently <u>acquired</u> by the <u>person</u> and rounded down to the nearest half year

(7) If the depreciation basis of a pool of depreciable assets at the end of a tax year reduced by depreciation calculated under subsection (2) produces an amount that is less than SY 1000, additional depreciation of the pool is calculated as equal to that amount.

(8) The allowance granted to a person under subsection (1) for a tax year with respect to a Class 6 or 7 pool of depreciable assets shall not exceed the depreciation basis of the pool at the end of the year reduced by all other such allowances granted to the person in previous tax years in respect of the pool.

(9) Costs incurred in acquiring a road vehicle, other than a commercial vehicle, are treated as incurred in two portions as follows:

- (a) a portion not exceeding SY 40,000 at the time of acquisition; and
- (b) a portion being the remainder of such costs immediately before the vehicle is realised.

(10) For the purposes of this paragraph, “commercial vehicle” means-

- (a) a road vehicle designed to carry loads of more than half a tonne or more than thirteen passengers; or
- (b) a vehicle used in a transportation or vehicle rental business.

Section 87. Realisation of Depreciable Assets

(1) The excess of-

- (a) incomings derived by a person during a tax year for any assets that are or have been in a Class 1, 2, 3, 4, or 5 pool of depreciable assets of the person during the year; over
- (b) the depreciation basis of the pool at the end of the year calculated under section 86(3) but disregarding those incomings,

is included in calculating the person's income for that year from the business or investment in

which the assets are or were used.

(2) Where the assets in a pool of depreciable assets of a person are all realised by the person before the end of a tax year, the pool is dissolved and-

(a) an amount is included in calculating the person's income for that year from the business or investment in which the assets were used in respect of excess depreciation of the depreciable assets that have been in the pool calculated in accordance with the following formula:

$$\mathbf{A - B}$$

or

(b) an allowance is granted to the person for the tax year in respect of depreciation of the depreciable assets that have been in the pool calculated in accordance with the following formula:

$$\mathbf{B - A}$$

where-

A is the person's incomings derived during the tax year, or to be derived, for the assets; and

B is the sum of-

(i) the written down value of the pool at the end of the previous tax year; and

(ii) outgoings added to the depreciation basis of the pool during the tax year or to be added during the following tax year under section 86(5).

(3) For the purposes of subsection (2), a person realises an asset of the type referred to in section 85(3) only at the later of the following times:

(a) when the person ceases to conduct natural resource prospecting, exploration, development, and production in the country where the prospecting, exploration, or development giving rise to the asset occurred; or

(b) two years prior to the time at which the person and all associates of the person cease to conduct natural resource prospecting, exploration, development, and production in that country.

(4) For the purposes of this section, "written down value" of a pool of depreciable assets at the end of a tax year means-

- (a) in the case of a Class 1, 2, 3, 4, or 5 pool, the depreciation basis of the pool at the end of the year, if any, after deducting depreciation for that pool calculated under section 86(2) and (7) for that year; or
- (b) in the case of a Class 6 or 7 pool, the depreciation basis of the pool at the end of the year reduced by all allowances granted to the person under section 86(1) for that year and any previous tax year in respect of the pool.

Subdivision C: Special Rules

Section 90. Realisation with Retention of Asset or Liability

- (1) Subject to this section, where a person realises an asset in any of the manners described in section 82(1)(d) to (h)-
 - (a) the person is treated as deriving an amount in respect of the realisation equal to the market value of the asset at the time of the realisation; and
 - (b) the person is treated as incurring costs of an equal amount in the acquisition of the asset consequent on the realisation.
- (2) Where a person realises an asset, being a business asset, an investment asset, or trading stock, in the manner described in section 82(1)(e) and immediately after the realisation the asset is a business asset, depreciable asset, investment asset, or trading stock of the person-
 - (a) the person is treated as deriving an amount in respect of the realisation equal to the net outgoings for the asset immediately before the realisation; and
 - (b) the person is treated as incurring costs of an equal amount in the acquisition of the asset consequent on the realisation.
- (3) Where a person realises all the assets in a pool of the person's depreciable assets at the same time and in the manner described in section 82(1)(e), and immediately after the realisation each asset realised is a business asset, depreciable asset, investment asset, or trading stock of the person-
 - (a) the person is treated as deriving an amount in respect of the realisation equal to the written down value of the pool at the time of realisation; and
 - (b) the person is treated as incurring costs of an equal amount in the acquisition of the assets consequent on the realisation.

(4) Where a person realises a liability in any of the manners described in section 82(2)(c) to (e)-

- (a) the person is treated as incurring costs for the realisation equal to the market value of the liability (quantified in a positive amount) at the time of realisation; and
- (b) the person is treated as deriving an equal amount in respect of incurring the liability consequent on the realisation.

Section 91. Realisation by way of Instalment Sale or Finance Lease

Subject to section 94, where a person realises an asset by way of instalment sale or leasing the asset to another person under a finance lease-

- (a) the person is treated as deriving an amount in respect of the realisation equal to the market value of the asset immediately before the realisation; and
- (b) the person who acquires the asset is treated as incurring costs of an equal amount in acquiring the asset.

Section 92. Transfer of Asset or Liability to Spouse or Former Spouse

(1) Where as part of a divorce settlement or bona fide separation agreement an individual realises an asset by way of transfer of ownership of the asset to a spouse or former spouse and an election for this subsection to apply is made by the spouse or former spouse in writing-

- (a) the person is treated as deriving an amount in respect of the realisation equal to the net outgoings for the asset immediately before the realisation; and
- (b) the spouse or former spouse is treated as incurring costs of an equal amount in acquiring the asset.

(2) Where as part of a divorce settlement or bona fide separation agreement an individual realises a liability by way of transfer of the liability to a spouse or former spouse and an election for this subsection to apply is made by the spouse or former spouse in writing-

- (a) the person is treated as incurring costs for the realisation equal to the net incomings for the liability immediately before the realisation; and
- (b) the spouse or former spouse is treated as deriving an equal amount in respect of incurring the liability.

Section 93. Transfer of Asset or Liability on Death

(1) Subject to section 92, where an individual realises an asset on death by way of transfer of ownership of the asset to another person-

(a) the individual is treated as deriving an amount in respect of the realisation equal to the market value of the asset at the time of realisation; and

(b) the person who acquires ownership of the asset is treated as incurring costs of an equal amount in the acquisition.

(2) Subject to section 92, where an individual realises a liability on death by way of transfer of the liability to another person-

(a) the individual is treated as incurring costs for the realisation equal to the market value of the liability (quantified in a positive amount) at the time of realisation; and

(b) the person who incurs the liability is treated as deriving an equal amount in respect of incurring the liability.

Section 94. Transfer of Asset or Liability to an Associate or for No Consideration

(1) Subject to this section and sections 92 and 93, where a person realises an asset by way of transfer of ownership of the asset to an associate of the person or to any other person for no consideration-

(a) the person is treated as deriving an amount in respect of the realisation equal to the greater of the market value of the asset or the net outgoings for the asset immediately before the realisation; and

(b) the person who acquires ownership of the asset is treated as incurring costs of an equal amount in the acquisition.

(2) Subject to subsection (6), where a person realises an asset, being a business asset, an investment asset, or trading stock, by way of transfer of ownership of the asset to an associate of the person and the requirements of subsection (7) are met-

(a) the person is treated as deriving an amount in respect of the realisation equal to the net outgoings for the asset immediately before the realisation; and

(b) the associate is treated as incurring costs of an equal amount in acquiring the asset.

(3) Subject to subsection (6), where a person realises all the assets in a pool of the person's depreciable assets at the same time by way of transfer of ownership of the assets to an associate of the person and the requirements of subsection (7) are met-

(a) the person is treated as deriving an amount in respect of the realisation equal to the written down value of the pool immediately before the realisation; and

(b) the associate is treated as incurring costs of an equal amount in acquiring the assets.

(4) Subject to this section and sections 92 and 93, where a person realises a liability by way of transfer of the liability to an associate of the person or to any other person for no consideration-

(a) the person is treated as incurring costs for the realisation equal to the lesser of the market value of the liability (quantified in a positive amount) or the net incomings for the liability immediately before the realisation; and

(b) the person who incurs the liability is treated as deriving an equal amount in respect of incurring the liability.

(5) Subject to subsection (6), where a person realises a liability that was incurred in the production of income from a business or investment of the person by way of transfer of the liability to an associate of the person and the requirements of subsection (7) are met-

(a) the person is treated as incurring costs for the realisation equal to the net incomings for the liability immediately before the realisation; and

(b) the associate is treated as deriving an equal amount in respect of incurring the liability.

(6) The Commissioner may only exercise power under section 62 with respect to a transfer referred to in subsections (2), (3), or (5) where the transfer is part of a "tax avoidance arrangement" within the meaning of that phrase in section 69.

(7) The requirements specified in subsections (2), (3) and (5) are:

(a) either the person or the associate is an entity;

(b) in the case of subsections (2) and (3), the asset or assets are business assets, depreciable assets, investment assets, or trading stock of the associate immediately after transfer by the person;

- (c) in the case of subsection (5), the liability is incurred by the associate in the production of income from a business or investment of the associate;
 - (d) at the time of the transfer-
 - (i) the person and the associate are residents; and
 - (ii) the associate or, in the case of an associate partnership or trust, none of its partners or beneficiaries are exempt from income tax;
 - (e) there is continuity of underlying ownership in the asset or underlying obligation of the liability, as the case requires, of at least 50 percent; and
 - (f) an election for subsection (2), (3), or (5), as the case requires, to apply is made by both the person and the associate in writing.
- (8) For the purposes of this section, a transfer to an associate includes a transfer through an arrangement with one or more third persons.

Section 95. Creation and Cancellation of a Common Asset and Liability by Associates

- (1) Where an asset is created in a person that constitutes a liability of an associate-
- (a) the person is treated as incurring costs in acquiring the asset equal to the market value of the asset immediately after the creation; and
 - (b) the associate is treated as deriving an equal amount in respect of incurring the liability.
- (2) Where an asset owned by a person that constitutes a liability of an associate is realised in such a manner that the asset and the liability cease to exist as a result of the realisation-
- (a) the person is treated as deriving an amount in respect of the realisation equal to the market value of the asset immediately before the realisation; and
 - (b) the associate is treated as incurring costs for the realisation equal to the market value of the liability (quantified in a positive amount) immediately before the realisation.
- (3) For the purposes of determining whether an asset created in or owned by a person constitutes a liability of an associate, any interposed arrangement with one or more third persons shall be ignored.

Section 96. Involuntary Realisation of Asset or Liability with Replacement

- (1) Subject to subsection (3), this subsection applies where a person-
 - (a) involuntarily realises an asset in any of the manners described in section 82(1)(a);
 - (b) acquires ownership of a replacement asset of the same type within one year of the realisation; and
 - (c) elects in writing for this subsection to apply.
- (2) Where subsection (1) applies, the person is treated as-
 - (a) deriving an amount in respect of the realisation equal to-
 - (i) the net outgoings for the asset immediately before the realisation; plus
 - (ii) the amount, if any, by which amounts derived in respect of the realisation exceed costs incurred in acquiring the replacement asset (calculated ignoring this section); and
 - (b) incurring costs in acquiring the replacement asset equal to-
 - (i) the amount referred to in paragraph (a)(i); plus
 - (ii) the amount, if any, by which costs incurred in acquiring the replacement asset exceed amounts derived in respect of the realisation (calculated ignoring this section).
- (3) This subsection applies where a person-
 - (a) involuntarily realises all the assets in a pool of the person's depreciable assets at the same time in any of the manners described in section 82(1)(a);
 - (b) acquires ownership of replacement assets of the same type within one year of the realisation; and
 - (c) elects in writing for this subsection to apply.
- (4) Where subsection (3) applies, the person is treated as-
 - (a) deriving an amount in respect of the realisation equal to-

- (i) the written down value of the pool immediately before the realisation; plus
 - (ii) the amount, if any, by which amounts derived in respect of the realisation exceed the costs incurred in acquiring the replacement assets (calculated ignoring this section); and
 - (b) incurring costs in acquiring the replacement assets equal to-
 - (i) the amount referred to in paragraph (a)(i); plus
 - (ii) the amount, if any, by which costs incurred in acquiring the replacement assets exceed amounts derived in respect of the realisation (calculated ignoring this section).
- (5) This subsection applies where a person-
- (a) involuntarily realises a liability in any of the manners described in section 82(2)(a);
 - (b) incurs a replacement liability of the same type within one year of the realisation; and
 - (c) elects for this subsection to apply.
- (6) Where subsection (5) applies, the person is treated as-
- (a) incurring costs for the realisation equal to-
 - (i) the net incomings for the liability immediately before the realisation; less
 - (ii) the amount, if any, by which costs incurred for the realisation exceed amounts derived in respect of incurring the replacement liability (calculated ignoring this section); and
 - (b) deriving an amount in respect of incurring the replacement liability equal to-
 - (i) the amount referred to in paragraph (a)(i); plus
 - (ii) the amount, if any, by which amounts derived in respect of incurring the replacement liability exceed costs incurred for the realisation (calculated ignoring this section).

(7) The regulations may prescribe the circumstances in which the replacement of one security in an entity with another security in an entity as a result of conversion of the security or reconstruction of the entity constitutes an involuntary realisation.

Section 97. Realisation of Assets and Liabilities by Combination

(1) Subject to subsection (2), where a person acquires an asset or incurs a liability (the "combined asset or liability") and as a result another asset owned or liability owed by the person is realised by way of expiry or combination (the "merging asset or liability"), then-

(a) where there are net outgoings for the merging asset or liability immediately before its realisation, the person is treated as-

(i) deriving an amount in respect of the realisation of the merging asset or liability equal to the net outgoings but, in the case of a combined liability, not exceeding amounts derived by the person with respect to incurring the liability; and

(ii) incurring costs of an equal amount in owning or owing the combined asset or liability;

(b) where there are net incomings for a merging liability immediately before its realisation, the person is treated as-

(i) incurring costs for the realisation of the merging liability in an amount equal to the net incomings but, in the case of a combined asset, not exceeding costs incurred by the person in acquiring the asset; and

(ii) deriving an equal amount in owning or owing the combined asset or liability.

(2) Without limiting the generality of subsection (1), the circumstances in which that subsection applies include the exercise of an option by the person to acquire or sell an asset, the acquisition of an asset that is leased by the person, and the transfer of a liability that is guaranteed by the person.

Section 98. Realisation of Assets and Liabilities by Separation

Subject to section 77(4), where rights or obligations with respect to an asset owned or liability owed by one person are created in another person, including by way of lease of an asset or part thereof, then-

(a) where the rights or obligations are permanent, the one person is treated as realising part of the asset or liability but is not treated as acquiring any new asset or liability; and

(b) where the rights or obligations are temporary or contingent, the one person is not treated as realising part of the asset or liability but as acquiring a new asset or liability, as the case requires.

Section 99. Apportionment of Outgoings and Incomings

(1) The purpose of this section is to apportion outgoings and incomings over more than one asset or liability according to their market values in the circumstances referred to in subsections (2) to (4).

(2) Subject to sections 92 and 94-

(a) where a person acquires one or more assets or incurs one or more liabilities by way of transfer at the same time or as part of the same arrangement; then

(b) the amounts calculated under subsections (5) or (6) are treated as the costs incurred in the acquisition of each asset or the amounts derived in respect of incurring each liability, as the case requires.

(3) Subject to sections 92 and 94-

(a) where a person realises one or more assets or liabilities by way of transfer at the same time or as part of the same arrangement; then

(b) the amounts calculated under subsections (5) or (6) are treated as the amounts derived in respect of the realisation or the costs incurred for the realisation of each asset or liability, as the case requires.

(4) Where a person who owns an asset or liability realises part of it, whether, in either case, the part realised is an asset or liability, then the amounts calculated under subsections (5) or (6) are treated as-

(a) net outgoings for the part of the asset or liability realised and the part not realised to the time of realisation; and

(b) net incomings for the part of the asset or liability realised and the part not realised to the time of realisation,

as the case requires.

(5) Where there is excess value in the circumstances described in subsection (2), (3), or (4), then-

(a) the costs incurred in acquiring, the amounts derived in respect of realisation, or the net outgoings for the asset or liability, as the case requires, are calculated using the following formula:

$$\mathbf{A - B}$$

and if **B** exceeds **A**, the excess is treated as amounts derived in owning or owing, costs incurred for realisation of, or net incomings for the asset or liability, as the case requires; or

(b) the amounts derived in respect of incurring, the costs incurred for realisation of, or the net incomings for the asset or liability, as the case requires, are calculated using the following formula:

$$\mathbf{A + B}$$

(6) Where there is inadequate value in the circumstances described in subsection (2), (3), or (4), then-

(a) the costs incurred in acquiring, the amounts derived in respect of realisation of, or the net outgoings for the asset or liability, as the case requires, are calculated using the following formula:

$$\mathbf{A + B}$$

or

(b) the amounts derived in respect of incurring, the costs incurred for realisation of, or the net incomings for the asset or liability, as the case requires, are calculated using the following formula:

$$\mathbf{A - B}$$

and if **B** exceeds **A**, the excess is treated as costs incurred in owning or owing, amounts derived in respect of realisation of, or net outgoings for the asset or liability, as the case requires.

(7) For the purposes of this section, unless otherwise stated, all amounts and values are determined at the time of acquisition, incurring, or realisation, as the case requires.

(8) For the purposes of this section-

"A" means-

- (a) in the case of an asset with a positive market value or a liability with a negative market value, that value quantified in a positive amount; or
- (b) in the case of an asset with a negative market value or a liability with a positive market value, that value quantified in a negative amount;

"B" means-

C/D x E

where-

C is the market value of the asset or liability, as the case requires, quantified in a positive amount;

D is the sum of-

- (a) in a case referred to in subsection (2) or (3), the market values of all assets and liabilities, as the case requires, quantified in positive amounts; and
- (b) in a case referred to in subsection (4), the market value of the part of the asset or liability realised and the market value of the part of the asset or liability not realised, quantified in positive amounts; and

E is the excess value or inadequate value, as the case requires.

"excess value"-

- (a) in a case referred to in subsection (2), means the amount, if any, by which-
 - (i) the market value of any assets acquired plus any net amounts derived in respect of the acquisitions and incurring; exceed
 - (ii) the market value of any liabilities incurred (quantified in a positive amount) plus any net amount of costs incurred in the acquisitions and incurring;
- (b) in a case referred to in subsection (3), means the amount, if any, by which-
 - (i) the positive market value of any assets or liabilities realised plus any net amount of costs incurred for the realisations; exceed

- (ii) the negative market value of any assets or liabilities realised (quantified in a positive amount) plus any net amount derived in respect of the realisations; and
- (c) in a case referred to in subsection (4), means-
 - (i) where the asset or liability has a positive market value immediately before the realisation, the amount, if any, by which-
 - (A) that market value plus any net incomings for the asset or liability; exceed
 - (B) any net outgoings for the asset or liability at that time; and
 - (ii) where the asset or liability has a negative market value immediately before the realisation, the amount, if any, by which-
 - (A) any net incomings for the asset or liability at that time; exceed
 - (B) that market value (quantified in a positive amount);

"inadequate value"-

- (a) in a case referred to in subsection (2), means the amount, if any, by which-
 - (i) the market value of any liabilities incurred (quantified in a positive amount) plus any net amount of costs incurred in the acquisitions and incurring; exceed
 - (ii) the market value of any assets acquired plus any net amounts derived in respect of the acquisitions and incurring;
- (b) in a case referred to in subsection (3), means the amount, if any, by which-
 - (i) the negative market value of any asset or liabilities realised (quantified in a positive amount) plus any net amount derived in respect of the realisations; exceed
 - (ii) the positive market value of any assets or liabilities realised plus any net amount of costs incurred for the realisations; and
- (c) in a case referred to in subsection (4), means-
 - (i) where the asset or liability has a positive market value immediately before the realisation, the amount, if any, by which-

- (A) any net outgoings for the asset or liability at that time; exceed
 - (B) that market value; and
- (ii) where the asset or liability has a negative market value immediately before the realisation, the amount, if any, by which-
- (A) that market value (quantified in a positive amount) plus any net outgoings for the asset or liability; exceed
 - (B) any net incomings for the asset or liability at that time.

PART III: RULES GOVERNING TYPES OF PERSONS

Division I: Central Concepts

Section 105. Persons

- (1) The following two types of persons are recognised for the purposes of this Act:
- (a) individuals, which include incapacitated individuals and minors; and
 - (b) entities, being partnerships, trusts and companies (including controlled foreign trusts and companies), and foreign branches (including foreigner's Symmetrican branches).

- (2) For the purposes of this section-

"company"-

- (a) means-
 - (i) any body corporate;
 - (ii) unincorporated association; or
 - (iii) other body of persons,

other than a partnership or trust; and

- (b) includes-
 - (i) a friendly, pension, provident, retirement, superannuation, or similar fund or society;
 - (ii) a government, a political subdivision of a government, or a public international organisation; and
 - (iii) a limited partnership or a unit trust;

"controlled foreign trust" and "controlled foreign company" mean a non-resident trust or company-

- (a) in which a resident person owns an interest, directly or indirectly through one or more interposed non-resident entities; and

(b) where the person is associated with the trust or company or would be if the person and not more than four other resident persons were associated;

"foreign branch" means a permanent establishment of an individual, partnership, trust, or company that is not situated in the country in which the individual, partnership, trust, or company is resident and includes a foreigner's Symmetrican branch;

"foreigner's Symmetrican branch" means a permanent establishment of a non-resident individual, partnership, trust, or company situated in Symmetrica and is interpreted in light of section 122(5);

"incapacitated individual" means an individual who, by reason of mental illness or insanity, is incapable of managing their affairs;

"limited partnership" means-

(a) any association of 20 or more individuals or bodies corporate carrying on business jointly (whether in their own capacity, in the capacity of trustee, or through a foreign branch), irrespective of whether the association is recorded in writing; and

(b) where, under a law in force in Symmetrica or the country in which the association is organised, at least 20 of the individuals or bodies corporate have limited liability for the debts of the association;

"minor" with respect to a tax year means an individual under the age of eighteen years at the end of the tax year;

"partnership"-

(a) means any association of individuals or bodies corporate carrying on business jointly (whether in their own capacity, in the capacity of trustee, or through a foreign branch), irrespective of whether the association is recorded in writing; and

(b) excludes an entity of the type referred to in paragraph (b) of the definition of "company";

"public international organisation" means an organisation listed as such in the regulations;

"trust"-

(a) means an arrangement under which a trustee holds assets; and

(b) excludes a partnership, a body corporate, or an entity of the type referred to in paragraph (b) of the definition of "company"; and

"unit trust" means-

- (a) an arrangement under which a trustee holds assets for the benefit of at least 20 persons; and
- (b) where the entitlements of the persons to participate in the income or contributed capital of the arrangement are divided into units such that the entitlements are determined by the number of units owned.

Section 106. Definitions Relating to Beneficiaries, Managers, and Interests in Entities

For the purposes of this Act-

"beneficiary" in relation to an entity means any person who owns an interest in an entity;

"interest" in an entity means a right, including a contingent right and whether of a legal or equitable nature, to participate in any income or contributed capital of the entity;

"manager" in relation to an entity-

- (a) means any councillor, director, manager, member, officer, or other person who participates or may participate, whether alone or jointly with other persons, in making senior management decisions on behalf of the entity; and
- (b) includes a partner of a partnership, a trustee of a trust, and the owner of a foreign branch;

"partner" means a person who is a beneficiary of a partnership;

"shareholder" means a person who is a beneficiary of a company; and

"trustee"-

- (a) means an individual or body corporate holding assets in a fiduciary capacity for the benefit of identifiable persons or for some object permitted by law and whether or not-
 - (i) the assets are held alone or jointly with other individuals or bodies corporate; or
 - (ii) the individual or body corporate is appointed or constituted trustee by personal acts, by will, by order or declaration of a court, or by other operation of the law; and

- (b) includes-
 - (i) any executor, administrator, tutor, or curator;
 - (ii) any liquidator, receiver, trustee in bankruptcy, or judicial manager;
 - (iii) any person having the administration or control of assets subject to a usufruct, fideicommissum, or other limited interest;
 - (iv) any person who manages the assets of an incapacitated individual; and
 - (v) any person who manages assets under a private foundation or other similar arrangement.

Section 107. Associated Persons

- (1) Two persons are associates of each other where the relationship between the two is such that one may reasonably be expected to act, other than as employee, in accordance with the intentions of the other.
- (2) Without limiting the generality of subsection (1), the following are associates of each other:
 - (a) an individual and a relative of the individual, unless the Commissioner is satisfied that it is not reasonable to expect that either individual will act in accordance with the intentions of the other;
 - (b) two persons who are partners in the same partnership, unless the Commissioner is satisfied that it is not reasonable to expect that either person will act in accordance with the intentions of the other;
 - (c) a foreign branch and its owner; and
 - (d) an entity and-
 - (i) a person who-
 - (A) either alone or together with an associate or associates under another application of this section; and
 - (B) whether directly or through one or more interposed entities, controls or may benefit from 50 percent or more of the rights to income or contributed capital or voting power of the entity; or

(ii) a person who, under another application of this section, is an associate of a person to whom subparagraph (i) applies.

(3) For the purposes of this section, two individuals are related if one is a spouse, parent, grandparent, sibling, aunt, uncle, or first cousin of the other, including by way of marriage or adoption.

Section 108. Resident and Non-Resident Persons

(1) For the purposes of this Act, each person is either a resident person or a non-resident person.

(2) A person is a resident person-

(a) in the case of an individual, for a tax year or part of a tax year during which the individual is a resident individual; and

(b) in the case of an entity, for a tax year during which the entity is a resident partnership, resident trust, resident company, or foreigner's Symmetrigan branch.

(3) A person is a non-resident person for a tax year or part of a tax year during which the person is not a resident person.

(4) For any period during which a person is a non-resident, the person is treated as a resident of only one foreign country determined-

(a) in the case of an individual, by applying section 109(1)(a), (b), and (c) in order as though a reference to Symmetrigan were a reference to a particular foreign country; and

(b) in the case of a partnership, trust, company, or foreign branch, as the country in which the entity predominantly carries out its activities.

Section 109. Resident and Temporarily Resident Individuals

(1) An individual is resident in Symmetrigan during a tax year if the individual-

(a) has a normal place of abode in Symmetrigan and is present in Symmetrigan during the tax year;

(b) is present in Symmetrigan on more than 182 days in any period of 365 consecutive days of which 183 days fall within the tax year; or

- (c) is an employee or an official of the Government of Symmetrica posted abroad during the tax year.
- (2) Subject to subsections (3) and (4), an individual who is resident in Symmetrica during a tax year is treated as resident for the whole of the tax year.
- (3) An individual who was not resident during the previous tax year is treated as-
- (a) not resident for that part of a tax year before the day the individual is first present in Symmetrica during the tax year; and
- (b) resident for the remaining part of the tax year.
- (4) An individual who is not resident during the following tax year is treated as-
- (a) resident for that part of a tax year on and before the last day on which the individual is present in Symmetrica during the tax year; and
- (b) not resident for the remaining part of the tax year if during that remainder the individual has closer economic connections to a foreign country than to Symmetrica.
- (5) For the purposes of subsection (1)(a) and (b), an individual is treated as not present in Symmetrica on a day when-
- (a) the individual enters Symmetrica;
- (b) the individual is in transit between two points outside Symmetrica; or
- (c) the individual is present in Symmetrica by reason of diplomatic status, or is a dependant of such an individual.
- (6) An individual is temporarily resident in Symmetrica for the part of a tax year during which the individual is resident in Symmetrica if the individual-
- (a) is not a citizen of or domiciled in Symmetrica during the tax year;
- (b) does not intend, during the tax year, to reside in Symmetrica for a total period of more than four years;
- (c) has been resident in Symmetrica during less than four previous tax years; and
- (d) has been granted temporary residence status by the Director of Immigration for that part of the tax year.

Section 110. Resident Entities

- (1) A partnership is a resident partnership for a tax year if at any time during the year a partner is a resident of Symmetrica.
- (2) A trust is a resident trust for a tax year if-
 - (a) it was established in Symmetrica;
 - (b) at any time during the tax year, a trustee of the trust is a resident person; or
 - (c) at any time during the tax year a resident person directs or may direct senior managerial decisions of the trust, whether the direction is or may be made-
 - (i) alone or jointly with other persons; or
 - (ii) directly or through one or more interposed entities.
- (3) A company is a resident company for a tax year if-
 - (a) it is incorporated or formed under the laws of Symmetrica; or
 - (b) at any time during the tax year its centre of management and control is in Symmetrica.
- (4) A foreigner's Symmetrican branch is a resident person.

Division II: Rules Applicable to Particular Types of Persons

Subdivision A: Individuals

Section 115. Personal Offsets

- (1) Subject to this section, an individual who is a resident person during a tax year may claim for the year-
 - (a) a personal offset of SY 1,000; and
 - (b) an additional personal offset of SY 250 for each dependant of the individual who is a resident person during the year but not exceeding SY 1000 in total for all dependants.

(2) If the taxable income of a dependant in respect of whom an additional personal offset is claimed exceeds SY 250 for a tax year, the SY 250 offset in respect of the dependant for the year is reduced by the amount of the excess.

(3) Where an individual is a dependant of more than one relative, the additional personal offset in respect of the individual, as reduced by subsections (2) and (5), is apportioned equally between the relatives, unless they otherwise agree in writing.

(4) Subject to subsection (5), an individual who is a temporarily resident individual during a tax year may claim for the year an additional personal offset calculated as-

(a) the income tax rates referred to in section 5(1) applied to the individual's foreign source income included in calculating the individual's assessable income for the year; less

(b) any personal offsets available under subsection (1), as reduced by the rest of this section.

(5) Where by virtue of section 109(3) or (4)-

(a) an individual is resident for part of a tax year only-

(i) the personal offsets that may be claimed under subsection (1) are reduced; and

(ii) in calculating the personal offset granted under subsection (4) the rates referred to in section 5(1) are amended to reduce the thresholds referred to therein,

in proportion to the part of the year for which the individual is resident; or

(b) a dependant is resident for part of a tax year only, the additional personal offset that may be claimed by an individual in respect of the dependant, as reduced by subsection (2), is reduced in proportion to the part of the year for which the dependant is resident.

Section 116. Medical Costs Offset

(1) An individual may claim a medical costs offset for a tax year for any approved medical costs paid by the individual during the year while the individual is resident, in respect of-

(a) the individual; or

- (b) a dependant of the individual who is resident at the time the costs are incurred.
- (2) Subject to subsection (3), the medical costs offset of an individual for a tax year is calculated by applying the rate of 35 percent to the amount of approved medical costs referred to in subsection (1) for the year and adding to the result any amount referred to in subsection (4).
- (3) The medical costs offset claimed by an individual for any tax year shall not exceed the reasonable medical insurance premium limit set out in the regulations.
- (4) To the extent to which, for any individual for any tax year-
- (a) the amount referred to in subsection (2) exceeds the limit referred to in subsection (3); or
- (b) the medical costs offset claimed by the individual exceeds income tax payable by the individual under section 1(1)(a) for the year (calculated under section 1(3) without a reduction for the medical costs offset or any foreign tax offsets),

the sum of any excess under paragraphs (a) and (b) may be carried forward and added to the amount referred to in subsection (2) for the next tax year.

- (5) For the purposes of this section, "approved medical costs" means medical costs approved by the regulations.

Section 117. Taxable Investment Income of Resident Minor

- (1) Subject to subsection (2), the taxable investment income of a resident minor for a tax year is the total of the individual's assessable income for the year from each investment but not exceeding the individual's taxable income for the year.
- (2) Where an incapacitated individual is a resident minor, the individual's income from a trust established by reason of the individual's incapacity is not included in calculating the individual's taxable investment income.

Subdivision B: Partnerships

Section 120. Principles of Taxation

- (1) Notwithstanding section 1 but subject to the rest of this Act, a partnership is not liable to pay income tax with respect to its taxable income and is not entitled to any tax credit or offset with respect to that income.

- (2) Partnership income or a partnership loss of a partnership is allocated to the partners in accordance with this Division.
- (3) Amounts derived and costs incurred by partners in common are treated as derived or incurred by the partnership and not the partners.
- (4) Assets owned and liabilities owed by partners in common are treated as owned or owed by the partnership and not the partners.
- (5) To the extent that it is not so treated by section 133, 148, or 157, foreign income tax paid with respect to partnership income, whether paid by the partnership or the partners, is treated as paid by the partnership.
- (6) Subject to Division II of Part II, arrangements between a partnership and its partners are recognised.

Section 121. Partnership Income or Loss

- (1) Partnership income from a business of a resident or non-resident partnership for a tax year of the partnership is the assessable income of the partnership for the year from the business calculated as if the partnership were a resident partnership and ignoring section 33.
- (2) A partnership loss from a business of a resident or non-resident partnership for a tax year of the partnership is the loss of the partnership for the year from the business calculated under section 33(8).

Section 122. Taxation of Partners

- (1) For the purposes of calculating a partner's income from a partnership for a tax year of the partner-
 - (a) there shall be-
 - (i) included the partner's share of partnership income; and
 - (ii) deducted the partner's share of a partnership loss,from any business of the partnership for a tax year of the partnership ending on the last day of, or during the tax year of the partner;
 - (b) subject to paragraph (a), distributions by the partnership shall not be included; and

- (c) subject to section 120(3) and (4), other deductions may be made as allowed by Part II.
- (2) Partnership income or a partnership loss allocated to partners under subsection (1)(a)-
- (a) retains its character as to type and source;
 - (b) is treated as an amount derived or cost incurred, respectively, by a partner at the end of the partnership's tax year; and
 - (c) is allocated to the partners proportionately to each partner's share, unless the Commissioner, by notice in writing, permits otherwise.
- (3) At the time partnership income is treated as derived by partners under subsection (2)(b), the partners are allocated, proportionately to each partner's share, any income tax under this Act or foreign income tax-
- (a) paid by the partnership with respect to the income; or
 - (b) treated as paid by the partnership with respect to the income by reason of section 120, 133, 148, or 157.
- (4) A partner is treated as having paid the tax allocated to the partner by subsection (3) at the time of allocation and-
- (a) in the case of foreign income tax, foreign tax offsets may be available to the partner but no tax credit is available to the partner; and
 - (b) in the case of income tax paid under this Act (that is not treated as foreign income tax by section 175), a tax credit is available to the partner under section 223 as though the tax were withheld from a payment to the partner.
- (5) Notwithstanding the rest of this section, where a non-resident person is a partner in a resident partnership-
- (a) the partner is treated as having a foreigner's Symmetrigan branch but the partner's interest in that branch and the partner's interest in the partnership are treated as the same asset;
 - (b) any allocation of-
 - (i) partnership income or a partnership loss with a source in Symmetrigan (that is not treated as having a foreign source by section 175); or
 - (ii) income tax paid under this Act referred to in subsection (4)(b),

shall be made to the branch and not the partner;

(c) with respect to any allocation referred to in paragraph (b), the branch and the partner are subject to the treatment provided by this Act and, in particular, Subdivision E; and

(d) any distribution by the partnership to the partner out of income referred to in paragraph (b)(i) is treated as a distribution by the branch to the partner only.

(6) For the purposes of this section, a "partner's share" is-

(a) subject to paragraph (b), equal to the partner's percentage interest in any income of the partnership as set out in the partnership arrangement; or

(b) where the allocation of income in the partnership arrangement does not reflect the contribution of the partners to the partnership's business, equal to the partner's percentage interest in the contributed capital of the partnership.

Section 123. Outgoings and Incomings for Partner's Interest in Partnership

(1) There is included in the outgoings for a partner's interest in a partnership, unless the amounts are included by section 80-

(a) amounts included in calculating the partner's income under section 122(1)(a)(i) at the time of that inclusion; and

(b) the partner's share of exempt amounts and final withholding payments derived by the partnership at the time the amount or payment is derived.

(2) There is included in the incomings for a partner's interest in a partnership, unless the amounts are included by section 81-

(a) amounts deducted in calculating the partner's income under section 122(1)(a)(ii) at the time of deduction;

(b) distributions made by the partnership to the partner at the time of distribution; and

(c) subject to paragraphs (a) and (b), the partner's share of costs incurred by the partnership that are not-

(i) deductible for the partnership under Subdivision D of Division I of Part II; or

(ii) included as an outgoing for an asset or liability of the partnership,
at the time the cost is incurred.

Subdivision C: Trusts

Section 130. Principles of Taxation

- (1) A trust is liable to tax separately from its beneficiaries.
- (2) The attributable income of a trust may be allocated and taxed to the trust's beneficiaries in the circumstances outlined in section 133.
- (3) Separate calculations of the taxable income of a trust shall be made for separate trusts regardless of whether they have the same trustees.
- (4) Amounts derived and costs incurred by a trust or a trustee in the capacity of trustee (other than as a bare agent), whether or not derived or incurred on behalf of another person and whether or not any other person is entitled to such an amount or income constituted by such an amount, is treated as derived or incurred by the trust and not any other person.
- (5) Assets owned and liabilities owed by a trust or a trustee in the capacity of trustee (other than as a bare agent) are treated as owned or owed by the trust and not any other person.
- (6) To the extent that it is not so treated by section 122, 133, 148, or 157, foreign income tax paid with respect to the income of a trust, whether paid by a trustee, a beneficiary, or the trust, is treated as paid by the trust.
- (7) Subject to Division II of Part II, arrangements between a trust and its trustees or beneficiaries are recognised.

Section 131. Attributable Income of Trust

- (1) The attributable income for a tax year of a resident or non-resident trust is the taxable income of the trust for the year calculated as if the trust were a resident trust and determined without regard to section 132(1).
- (2) Losses of a trust for a tax year are not allocated to the beneficiaries of the trust, but are carried over and taken into account in calculating the taxable income and attributable income of the trust in subsequent tax years of the trust in accordance with section 33.

Section 132. Deduction for Amounts Allocated to Beneficiary

(1) Subject to this Act, where and to the extent that an ascertained resident beneficiary of a trust-

(a) acquires a vested right to an amount of or included in calculating the attributable income of the trust during the tax year of the trust in which the amount constitutes or is included in calculating the attributable income; and

(b) has the same tax year as the trust,

the amount shall be deducted in calculating the income of the trust for the year.

(2) Subsection (1) applies irrespective of whether the beneficiary acquires the vested right as a result of the exercise by a trustee of a discretion vested in the trustee or the happening of some other contingent event.

Section 133. Taxation of Beneficiaries

(1) For the purposes of calculating a beneficiary's income from a trust for a tax year-

(a) distributions by the trust shall not be included, otherwise than as provided for by subsections (2) and (3); and

(b) deductions may be made as allowed by Part II but subject to section 130(4) and (5).

(2) For the purposes of calculating a beneficiary's income from a trust for a tax year of the beneficiary, there shall be included any amount of or included in calculating the attributable income of the trust for a tax year of the trust ending within the tax year of the beneficiary-

(a) to which the beneficiary has a vested right and that is deductible in ascertaining the income of the trust for the trust's tax year under section 132(1);

(b) to which the beneficiary is or has become entitled (otherwise than in the manner referred to in paragraph (a)) within 30 days of the end of the trust's tax year; or

(c) that is distributed to the beneficiary within 30 days of the end of the trust's tax year.

(3) For the purposes of calculating a beneficiary's income from a trust for a tax year of the beneficiary, there shall be included any amount of or included in calculating the attributable income of the trust for any tax year of the trust during which the trust was a non-resident trust-

(a) to which the beneficiary is or has become entitled during the beneficiary's tax year; or

(b) that is distributed to the beneficiary during the beneficiary's tax year,

and that is not and has not been allocated under subsection (2).

(4) Attributable income of a trust-

(a) on allocation to beneficiaries under subsection (2)-

(i) retains its character as to type and source; and

(ii) is allocated proportionately out of each type and source of the trust's attributable income; and

(b) on allocation to beneficiaries under subsection (3), is treated as an amount derived from an investment of the beneficiary from a source in the country in which the trust is resident.

(5) An amount of attributable income allocated to a beneficiary under subsection (2) or (3), is treated as an amount derived by the beneficiary at the time it vests, the beneficiary becomes entitled to it, or it is distributed, as the case requires, but, in the case of subsection (2), not later than the end of the tax year of the trust.

(6) Subject to this Act, at the time an amount of attributable income of a trust referred to in subsection (2) is treated as derived by a beneficiary under subsection (5), the beneficiary is allocated any income tax under this Act or foreign income tax-

(a) paid by the trust with respect to the amount; or

(b) treated as paid by the trust with respect to the amount by reason of section 122, 130, 148, 157, or this section.

(7) A beneficiary is treated as having paid the tax allocated to the beneficiary by subsection (6) at the time of allocation and-

(a) in the case of foreign income tax, foreign tax offsets may be available to the beneficiary but no tax credit is available to the beneficiary; and

(b) in the case of income tax paid under this Act (that is not treated as foreign income tax by section 175), a tax credit is available to the beneficiary under section 223 as though the tax were withheld from a payment to the beneficiary.

Section 134. Incapacitated Individuals

For the purposes of determining whether an amount vests in a beneficiary of a trust under section 132 or whether a beneficiary of a trust is entitled to an amount under section 133, a lack of legal capacity of the beneficiary is ignored.

Section 135. Deceased Individuals

For the purposes of section 132 and section 133, an ascertained heir or legatee of a deceased individual is treated as having a vested interest in an amount-

- (a) that consists of or is included in calculating the attributable income of the estate of the deceased; and
- (b) that is derived by the executor of the estate for the immediate or future benefit of the heir or legatee.

Section 136. Incomings of Beneficiary's Interest in Trust

For the purposes of section 81 but subject to section 158, distributions by a trust to a beneficiary out of attributable income, exempt amounts, and final withholding payments are not incomings for the beneficiary's interest in the trust.

Subdivision D: Companies

Section 140. Principles of Taxation

- (1) A company is liable to tax separately from its shareholders.
- (2) The dividends of a company may be taxed to the company's shareholders in accordance with section 142.
- (3) Amounts derived and costs incurred by a company that lacks legal capacity, whether or not derived or incurred on behalf of another person, are treated as derived or incurred by the company and not any other person.

- (4) Assets owned and liabilities owed by a company that lacks legal capacity are treated as owned or owed by the company and not any other person.
- (5) To the extent that it is not so treated by section 122, 133, 148, or 157, foreign income tax paid with respect to the income of a company, whether paid by a manager, a shareholder, or the company, is treated as paid by the company.
- (6) Subject to Division II of Part II, arrangements between a company and its managers or shareholders are recognised.

Section 141. Dividends

A dividend of a company is a distribution by the company that is not a repayment of capital.

Section 142. Taxation of Shareholders

- (1) Subject to this Act, dividends distributed by-
- (a) a resident company are taxed in the hands of the company's shareholders in the form of a final withholding tax; and
 - (b) a non-resident company are included in calculating the income of the shareholders.
- (2) Subject to subsection (3), a dividend distributed by a resident company to another resident company is exempt from income tax where the company receiving the dividend controls 25 percent or more of the voting power in the company distributing the dividend, either directly or indirectly through one or more interposed entities.
- (3) Subsection (2) does not apply to a dividend distributed to-
- (a) an exempt organisation; or
 - (b) a company by virtue of its ownership of redeemable shares in the company distributing the dividend.

Subdivision E: Foreigner's Symmetric Branches and Other Foreign Branches

Section 145. Principles of Taxation

- (1) Notwithstanding section 1 but subject to the rest of this Act-

- (a) a foreigner's Symmetrican branch, rather than the person who owns it, is liable to pay income tax with respect to the taxable income of the branch; and
- (b) the owner of a foreign branch that is not a foreigner's Symmetrican branch, rather than the branch, is liable to pay income tax with respect to the taxable income of the branch and the branch is not entitled to any tax credit or offset with respect to that income.
- (2) The repatriated income of a foreigner's Symmetrican branch is taxed in the hands of the branch in accordance with section 1(1)(b).
- (3) Foreign branch income of a foreign branch and a foreign branch loss of a foreign branch that is not a foreigner's Symmetrican branch are allocated to the owner of the branch in accordance with this Subdivision.
- (4) Amounts derived and costs incurred by a foreign branch are treated as derived or incurred by the branch and not the person who owns the branch.
- (5) Assets owned and liabilities owed by a foreign branch are treated as owned or owed by the branch and not the person who owns the branch.
- (6) To the extent that it is not so treated by section 122, 133, or 157, foreign income tax paid with respect to the income of a foreign branch is treated as paid by the branch.
- (7) Subject to Division II of Part II, arrangements between a foreign branch and its owner are recognised.

Section 146. Repatriated Income of Foreign Branch

The repatriated income of a foreign branch for a tax year is the sum of all distributions made by the branch during the year that are not a repayment of capital.

Section 147. Foreign Branch Income or Loss

- (1) Foreign branch income from a business of a foreign branch for a tax year is the assessable income of the branch for the year from the business calculated as if the branch were a resident company and, in the case of a branch that is not a foreigner's Symmetrican branch, ignoring section 33.
- (2) A foreign branch loss from a business of a foreign branch that is not a foreigner's Symmetrican branch for a tax year is the loss of the branch for the year from the business calculated under section 33(8).

Section 148. Taxation of Owner of Foreign Branch

- (1) For the purposes of calculating the income of an owner of a foreign branch for a tax year-
- (a) there shall be-
 - (i) included the foreign branch income of the branch for the year but, in the case of a foreigner's Symmetrican branch, not exceeding the repatriated income of the branch for the year; or
 - (ii) where the branch is not a foreigner's Symmetrican branch, deducted the foreign branch loss of the branch for the year;
 - (b) subject to paragraph (a), distributions by the branch shall not be included; and
 - (c) subject to section 145(4) and (5), other deductions may be made as allowed by Part II.
- (2) The foreign branch income or loss of a foreign branch allocated to the owner under subsection (1)(a)-
- (a) retains its character as to type and source;
 - (b) is treated as an amount derived or cost incurred, respectively, by the owner at the end of the tax year; and
 - (c) in the case of foreign branch income of a foreigner's Symmetrican branch, is allocated proportionately out of each type and source of the income.
- (3) At the time foreign branch income of a foreign branch is treated as derived by its owner under subsection (2)(b), the owner is allocated any income tax under this Act or foreign income tax-
- (a) paid by the branch with respect to the income; or
 - (b) treated as paid by the branch with respect to the income by reason of section 122, 133, 145, or 157.
- (4) For the purposes of subsection (3), income tax paid under section 1(1)(b) with respect to the repatriated income of a foreigner's Symmetrican branch for a tax year is treated as paid with respect to the branch's income for the year.

(5) An owner is treated as having paid the tax allocated to the owner by subsection (3) at the time of allocation and foreign tax offsets may be available to the owner but no tax credit is available to the owner.

Section 149. Outgoings and Incomings of Owner's Interest in Foreign Branch

(1) There is included in the outgoings for an owner's interest in a foreign branch, unless the amounts are included by section 80-

(a) amounts included in calculating the owner's income under section 148(1)(a)(i) at the time of that inclusion; and

(b) exempt amounts and final withholding payments derived by the branch at the time the amount or payment is derived.

(2) There is included in the incomings for an owner's interest in a foreign branch, unless the amounts are included by section 81-

(a) amounts deducted in calculating the owner's income under section 148(1)(a)(ii) at the time of deduction;

(b) distributions made by the branch to the owner at the time of distribution;

(c) subject to paragraphs (a) and (b), costs incurred by the branch that are not-

(i) deductible for the branch under Subdivision D of Division I of Part II;
or

(ii) included as an outgoing for an asset or liability of the branch,

at the time the cost is incurred.

Subdivision F: Controlled Foreign Trusts and Companies

Section 155. Principles of Taxation

(1) Controlled foreign trusts and companies and their beneficiaries are taxed in accordance with Subdivisions C and D as modified by this Subdivision.

(2) A controlled foreign trust or company is treated as distributing its unallocated income to its beneficiaries at the end of each tax year in accordance with section 157.

Section 156. Unallocated Income of Controlled Foreign Trust or Company

- (1) The unallocated income of a controlled foreign trust or company for a tax year is-
 - (a) in the case of a trust-
 - (i) the attributable income of the trust for the year, calculated under section 131; less
 - (ii) any amount of the income included in calculating the income of a beneficiary of the trust under section 133(2) (determined ignoring section 157); or
 - (b) in the case of a company-
 - (i) the attributable income of the company for the year; less
 - (ii) any dividends distributed by the company during the year to any of its shareholders (determined ignoring section 157).
- (2) The "attributable income" of a controlled foreign company for a tax year is its taxable income for the year calculated as if the company were a resident company.

Section 157. Taxation of Beneficiaries of Controlled Foreign Trusts and Companies

- (1) Where at the end of a tax year a trust or company is a controlled foreign trust or company, the trust or company is treated as distributing to its beneficiaries at that time its unallocated income for the year-
 - (a) in accordance with the beneficiaries' rights to that income on distribution, or
 - (b) where those rights are not reasonably certain, in such manner as the Commissioner thinks appropriate in the circumstances.
- (2) A beneficiary who is treated as receiving a distribution under subsection (1) may deduct the amount treated as distributed in calculating the beneficiary's income to the extent to which-
 - (a) in the case of a trust, amounts are included in calculating that income under section 133(3) with respect to the tax year of the beneficiary in which the distribution is treated as made or in any future tax year of the beneficiary; or

- (b) in the case of a company, dividends are received from the company in future tax years of the company, other than another distribution treated as made under subsection (1).
- (3) To the extent that all distributions made by a controlled foreign company during a tax year, including as a result of subsection (1), do not exceed the company's attributable income for the year, then distributions to shareholders who are associated with the company at the time of distribution are treated as-
- (a) having the same character as to type and source as the company's attributable income; and
- (b) made proportionately out of each type and source of the company's attributable income.
- (4) At the time an amount is treated as distributed by a controlled foreign company to an associated shareholder under subsection (3), the shareholder is allocated any income tax under this Act or foreign income tax-
- (a) paid by the company with respect to the amount; or
- (b) treated as paid by the company with respect to the amount, whether under section 122, 133, 140, 148, or this section.
- (5) A shareholder is treated as having paid the tax allocated to the shareholder by subsection (4) at the time of allocation and foreign tax offsets may be available to the shareholder but no tax credit is available to the shareholder.

Section 158. Outgoings and Incomings of Beneficiary's Interest in Controlled Foreign Trust or Company

- (1) Any amount treated as distributed to a beneficiary under section 157(1) is included in the outgoings for the beneficiary's interest in the non-resident trust or company at the time of distribution.
- (2) Any amount deducted by a beneficiary under section 157(2) is included in the incomings for the beneficiary's interest in the non-resident trust or company at the time of deduction.

Division III: General Provisions Applicable to Entities

Section 165. Distributions by Entities

(1) A distribution by an entity-

(a) means a payment made by the entity to any of its beneficiaries, in any capacity, to the extent that-

(i) the amount of the payment plus, where section 94(2), (3), or (5) applies, a reasonable allowance for any potential income tax liability transferred from the beneficiary to the entity; exceeds

(ii) the amount of any payment made by the beneficiary to the entity in return for the entity's payment plus, where section 94(2), (3), or (5) applies, a reasonable allowance for any potential income tax liability transferred from the entity to the beneficiary; and

(b) excludes a payment of the type referred to in paragraph (a) to the extent to which the payment-

(i) is included in calculating the beneficiary's income, other than by reason of being a distribution; or

(ii) consists of a final withholding payment of the type described in section 222(1)(b) or (c).

(2) Distributions by an entity to any of its beneficiaries are classified as follows:

(a) distributions of profits;

(b) repayments of capital; and

(c) distributions of collateral benefits.

(3) A distribution by an entity to a beneficiary is a distribution of profits or a repayment of capital only if it reduces the market value of the entity's assets or liabilities.

(4) Subject to subsection (5), a distribution of the kind referred to in subsection (3) is a distribution of profits to the extent that, at the time of the distribution-

(a) the market value of the entity's assets exceeds,

(b) the market value of the entity's liabilities (quantified in a positive amount) plus capital contributions to the entity,

and, to the extent that such a distribution is not a distribution of profits, it is a repayment of capital.

(5) Subject to section 170, where-

- (a) there is a distribution by an entity of the kind referred to in subsection (3) in respect of the realisation of an interest in the entity in any of the manners referred to in section 82(1)(a)(iii) or as a result of the entity purchasing such an interest in itself;
- (b) the distribution is not and may not be reasonably calculated, in any respect, as approximately referable to the rights of beneficiaries to share in the entity's income; and
- (c) after the realisation the beneficiary to whom the distribution is made is not an associate of the entity,

the distribution is treated as partly a distribution of profits by the entity and partly as a repayment of capital by the entity in the proportion that the beneficiary would be entitled to share in such distributions if the interest were realised in the course of liquidating the entity at that time.

(6) Capital contribution to an entity-

- (a) means a payment of the kind referred to in section 41(1)(a) or (b) made to the entity by a beneficiary of the entity, in any capacity, including by a person for the creation or transfer of an interest in the entity, to the extent that-
 - (i) the amount of the payment plus, where section 94(2), (3), or (5) applies, a reasonable allowance for any potential income tax liability transferred from the entity to the beneficiary; exceeds
 - (ii) the amount of any payment made by the entity to the beneficiary in return for the payment of the beneficiary plus, where section 94(2), (3), or (5) applies, a reasonable allowance for any potential income tax liability transferred from the beneficiary to the entity; and
- (b) excludes-
 - (i) a payment the type referred to in paragraph (a) to the extent to which the payment is included in calculating the entity's income or consists of an exempt amount or final withholding payment; or
 - (ii) a capitalisation of profits.

(7) A distribution by an entity is a distribution of a collateral benefit if it is not a distribution of profits or a repayment of capital.

(8) For the purposes of applying section 41(1) in determining whether a payment is made to or by an entity under this section, an interest in the entity is treated as though it were not an asset or a liability.

Section 166. Entity Treatment of Capital Contributions and Distributions

(1) Subject to section 132, for the purposes of calculating the income of an entity, distributions made by the entity are not deductible.

(2) Capital contributions to an entity are not an incoming of the entity.

(3) Distributions by an entity are not an outgoing of the entity.

Section 167. Distributions of Collateral Benefits

(1) Where an entity makes a distribution of a collateral benefit to a beneficiary, other than of the type referred to in subsection (2), the amount of the distribution is included in calculating the income of the entity.

(2) Where an entity having five or fewer beneficiaries all of whom are individuals makes a distribution of a collateral benefit to a beneficiary consisting of the type of payment referred to in section 41(1)(c) or (d) and-

(a) the provision of the services is not conducted by a business of the entity; or

(b) the asset available for use or the use of which is granted is not held by a business of the entity,

the entity is not allowed any deductions under this Act to the extent to which they relate to the provision of the services or the holding of the asset.

Section 168. Asset and Liability Dealings Between Entity and Beneficiary

(1) Subject to subsection (4) and section 94, where an asset is realised by way of transfer of ownership of the asset by an entity to one of its beneficiaries or vice versa-

(a) the transferor is treated as deriving an amount in respect of the realisation equal to the market value of the asset immediately before the realisation; and

(b) the transferee is treated as incurring costs of an equal amount in the acquisition.

(2) Subject to subsection (4) and section 94, where a liability is realised by way of transfer of the liability by an entity to one of its beneficiaries or vice versa-

(a) the transferor is treated as incurring costs for the realisation equal to the market value of the liability (quantified in a positive amount) immediately before the realisation; and

(b) the transferee is treated as deriving an equal amount in respect of incurring the liability.

(3) Subject to subsection (4), section 95 applies as though an entity and its beneficiaries were associates of each other.

(4) This section does not apply to an asset or liability consisting of an interest in an entity.

Section 169. Creation or Transfer of Interests in Entities by Entities

(1) Subject to subsections (2) and (3), where an interest (the "new interest") in an entity is created in a person or transferred by the entity to a person, the beneficiary who acquires the new interest is treated as incurring costs in the acquisition of the new interest equal to the market value of the new interest immediately after its creation or transfer.

(2) This subsection applies where-

(a) the beneficiary referred to in subsection (1) already owns an interest in the entity at the time the new interest is created or transferred (the "old interest");

(b) the new interest is created or transferred by the entity in respect of rights held by the beneficiary under the old interest; and

(c) one of the following three circumstances exists:

(i) the new interest is part of a bonus issue of the entity whereby the entity issues interests to all existing beneficiaries in proportion to their existing interests for no consideration;

(ii) the beneficiary incurs costs in acquiring the new interest that are less than the market value of the new interest after the creation or transfer and the market value of the old interest immediately before the creation or transfer is greater than that value immediately after the creation or transfer by the same amount; or

(iii) the beneficiary incurs costs in acquiring the new interest that are more than the market value of the new interest after the creation or transfer and the market value of the old interest immediately before the creation or transfer is less than that value immediately after the creation or transfer by the same amount.

(3) Where subsection (2) applies, any net outgoings with respect to the old interest immediately before the creation or transfer and any costs incurred in acquiring the new interest (calculated ignoring paragraph (c)) shall be aggregated and the beneficiary treated as-

(a) realising the old interest and deriving an amount in respect of the realisation equal to any such net outgoings;

(b) re-acquiring the old interest at the time of the creation or transfer and incurring costs in the acquisition equal to the portion of the aggregate that the market value of the old interest bears to the market value of the new interest immediately after the creation or transfer; and

(c) incurring costs in acquiring the new interest equal to the portion of the aggregate that the market value of the new interest bears to the market value of the old interest immediately after the creation or transfer.

Section 170. Termination or Acquisition of Interests in Entities by Entities

(1) Subject to subsection (2), where a beneficiary of an entity who is an associate of the entity realises an interest in the entity-

(a) in any of the manners referred to in section 82(1)(a)(iii); or

(b) as a result of the entity purchasing the interest,

the entity is treated as making a distribution of the kind referred to in section 165(3) to the beneficiary equal to the market value of the interest immediately before the realisation.

(2) Where an entity makes a distribution to one of its beneficiaries (determined ignoring this subsection) in the course of purchasing an interest owned by the beneficiary in the entity and the purchase is conducted in the ordinary course of business on a recognised stock exchange-

(a) notwithstanding any law to the contrary, the beneficiary is treated as realising the interest by way of transfer and, after the realisation, the entity is treated as owning the interest in itself;

- (b) the beneficiary is treated as deriving an amount in respect of the realisation that is not a distribution but that is in an amount equal to the distribution;
- (c) the entity is treated as immediately cancelling the interest owned in itself for an equal distribution to itself of the kind referred to in section 165(3); and
- (d) the provisions of this Act apply to the entity with respect to the cancelling of the interest and the distribution referred to in paragraph (c), including section 165(5)-
 - (i) for the purposes of determining how much of the distribution is a distribution of profits or repayment of capital; and
 - (ii) as though the interest were owned by an independent person in the entity.

Section 171. Change in Control

- (1) Where there is a change of 50 percent or more in the underlying ownership of an entity as compared with that ownership three years previously, the entity is treated as realising any assets owned by it and any liabilities owed by it immediately before the change.
- (2) Where there is a change in ownership of the type referred to in subsection (1), after the change the entity is not permitted to-
 - (a) deduct or transfer a loss under section 33(1) that was incurred by the entity prior to the change;
 - (b) carry back a loss under section 33(4) or 182(3) that was incurred after the change to a tax year occurring before the change;
 - (c) in a case where the entity accounted for a payment in terms of section 48(5)(a) prior to the change and after that change the payment is satisfied in terms of section 48(5)(b), make the adjustments in section 48(6), (7), and (8);
 - (d) in a case where the entity has included an amount in terms of section 49(1) (including by way of an adjustment under that section) prior to the change and after that change the entity-
 - (i) refunds the amount;
 - (ii) disclaims an entitlement to receive the amount;
 - (iii) in the case where the amount constitutes a debt claim of the entity, writes off the debt as bad; or

(iv) in the case of an adjustment under that section, incurs a cost that represents the amount,

make the adjustments in section 49(3) or otherwise claim a deduction in respect of any of the events referred to in subparagraphs (i) to (iv); or

(e) carry forward or transfer foreign income tax under section 200(3) that was originally paid with respect to foreign source income derived by the entity prior to the change.

(3) Where there is a change in ownership of the type referred to in subsection (1) during the tax year of an entity, the parts of the tax year before and after the change in ownership are treated as separate tax years.

Section 172. Income or Dividend Stripping

(1) Where a distribution is made by an entity to an acquirer in the course of an income or dividend stripping arrangement, the arrangement is treated as though-

(a) the payment is not made by the acquirer or an associate of the acquirer but is a distribution made by the entity to the original beneficiary; and

(b) the distribution made by the entity to the acquirer is in an amount equal to the distribution less the amount of the payment.

(2) For the purposes of this section, “income or dividend stripping arrangement” means an arrangement under which-

(a) an entity has accumulated, current or expected income (the “income”);

(b) a person (the “acquirer”) acquires an interest in the entity and the acquirer or an associate of the acquirer makes a payment (the “payment”), whether or not in respect of the acquisition and whether or not the payment is at the time of acquisition, to another person who is or was a beneficiary in the entity (the “original beneficiary”) or an associate of such another person;

(c) the payment reflects, in whole or in part, the income of the entity; and

(d) after the acquirer acquires the interest in the entity, the entity makes a distribution to the acquirer that represents, in whole or in part, the income.

Section 173. Direct Value Shifting

- (1) This section applies where an event occurs with respect to an asset owned in or a liability owed to an entity by a person who is an associate of the entity, which event has the effect of increasing or decreasing the market value of another asset owned in or liability owed to the entity by-
- (a) the person; or
 - (b) an associate of the person.
- (2) Subject to section 169, the person or associate owning an asset referred to in subsection (1) the market value of which is reduced by the event is treated as-
- (a) realising a part of the asset equal to the proportion that the reduction bears to the market value of the asset immediately before the event; and
 - (b) deriving an amount equal to the reduction in respect of the realisation.
- (3) Where a realisation under subsection (2) produces a loss, the loss is not recognised but is treated as costs incurred, in addition to any other costs incurred or treated as incurred otherwise than by reason of this section, by the person with respect to the event.
- (4) A person or an associate owing a liability referred to in subsection (1) the market value of which is reduced by the event is treated as deriving an amount equal to the reduction in market value in respect of owing the liability.
- (5) Where, after the treatment provided for in subsection (4), the person or associate has net incomings for the liability that exceed the market value of the liability immediately after the event (quantified in a positive amount), the person or associate is treated as-
- (a) realising the liability and immediately re-incurring the liability at the time of the event;
 - (b) incurring costs for the realisation equal to the greater of the market value of the liability immediately after the event (quantified in a positive amount) and the net incomings for the liability immediately before the event; and
 - (c) deriving an equal amount in respect of re-incurring the liability.
- (6) Subject to section 169, a person or associate owning an asset referred to in subsection (1) the market value of which is increased by the event is treated as incurring costs in owning the asset equal to the increase in value.

(7) A person or associate owing a liability referred to in subsection (1) the market value of which is increased by the event is treated as incurring costs in owing the liability equal to the increase in value.

(8) For the purposes of this section-

(a) an "event occurs" with respect to an asset or liability where the asset or liability, or part thereof, is created, incurred, varied, or realised, including where an entity issues bonus shares or other rights in the entity;

(b) "asset" owned in an entity means an asset that constitutes a liability of the entity, an interest in the entity, or a right held with respect to the entity's assets or liabilities; and

(c) "liability" owed to an entity means a liability that constitutes an asset of the entity or that is owed with respect to the entity's assets or liabilities.

Section 174. Indirect Value Shifting

(1) Where section 173(2) or (4) applies to an associate owning an asset or owing a liability and the associate is an entity or where an entity makes a gift to an associate-

(a) the reduction referred to in section 173(2) or (4) or the amount of the gift shall be apportioned-

(i) in accordance with the beneficiaries' rights to distributions of profits by the entity; or

(ii) where those rights are not reasonably certain, in such manner as the Commissioner thinks appropriate in the circumstances;

(b) the entity is treated as making a distribution to its beneficiaries who are associates of the entity with respect to each of their interests in the entity; and

(c) the distribution is treated as made in the form of a payment of the kind referred to in section 41(1)(a) in an amount equal to the portion of the reduction or gift attributable to the interest.

(2) Where-

(a) subsection (1) applies (the "previous application of subsection (1)") to treat an amount as distributed by an entity (the "primary entity") to a person, including by reason of this subsection applying; and

- (b) the person is also an entity (the "secondary entity"), then

subsection (1) applies to the secondary entity as though the secondary entity makes a gift to an associate in an amount equal to the distribution treated as made to the secondary entity under the previous application of subsection (1).

- (3) Where section 173(6) or (7) applies to an associate owning an asset or owing a liability and the associate is an entity or where an entity receives a gift from an associate-

- (a) the increase referred to in section 173(6) or (7) or the amount of the gift shall be apportioned-

(i) in accordance with the beneficiaries' rights to distributions of profits by the entity; or

(ii) where those rights are not reasonably certain, in such manner as the Commissioner thinks appropriate in the circumstances;

- (b) a payment being a capital contribution is treated as made to the entity by its beneficiaries who are associates of the entity with respect to each of their interests in the entity; and

- (c) the payment is treated as made in an amount equal to the portion of the increase or gift attributable to the interest.

- (4) Where-

(a) subsection (3) applies (the "previous application of subsection (3)") to treat an amount as a capital contribution by a person to an entity (the "primary entity"), including by reason of this subsection applying; and

- (b) the person is also an entity (the "secondary entity"), then

subsection (3) applies to the secondary entity as though the secondary entity receives a gift from an associate in an amount equal to the contribution treated as made by the secondary entity under the previous application of subsection (3).

Section 175. Allocations To or Through Non-Residents Treated as Having a Foreign Source

- (1) Notwithstanding section 68, where income or a loss with a source in Symmetrica is allocated under section 133, 148, or 157 to-

- (a) a non-resident person; or

- (b) any person where the income or loss was-
 - (i) originally derived or incurred by a non-resident person; or
 - (ii) previously allocated to a non-resident person under any of those sections,

the income or loss is treated as having a foreign source in a particular foreign country and not having a source in Symmetrica.

(2) Notwithstanding the definition of "foreign income tax" in section 345, any income tax paid under this Act that is allocated to a person with any income referred to in subsection (1) is treated as foreign income tax paid to a particular foreign country and not income tax paid under this Act.

(3) Section 157(3), (4), and (5), apply to distributions by a resident company made during any tax year to a non-resident associate of the company as though-

- (a) the company were a controlled foreign company; and
- (b) the attributable income of the company were its taxable income for the year.

PART IV: SPECIAL INDUSTRIES AND OFFSETS

Division I: Insurance Business

Section 180. Types of Insurance Business

(1) The following two types of insurance business are recognised for the purposes of this Act:

- (a) general insurance business; and
- (b) investment insurance business.

(2) For the purposes of this section-

"general insurance" means any insurance that is not investment insurance;

"general insurance business" means any insurance business that is not an investment insurance business;

"insurance" means an agreement that in consideration for a payment (the "premium") made by one person (the "insured") to another person (the "insurer"), the insurer will, on a specified event happening during a given period, which event is detrimental to the insured, pay to the insured an agreed amount or series of amounts or the amount of the loss caused to the insured by the event (the "proceeds");

"insurance business" means the business of an insurer in effecting, issuing, and carrying out insurance;

"investment insurance" means insurance of any of the following classes:

- (a) insurance where the specified event is the death of an individual who is the insured or an associate of the insured;
- (b) insurance where-
 - (i) the specified event is an individual who is the insured or an associate of the insured sustaining personal injury or becoming incapacitated in a particular manner; and
 - (ii) the insurance agreement is expressed to be in effect for at least five years or without limit of time and is not terminable by the insurer before the expiry of five years except in circumstances prescribed by the regulations;

(c) insurance under which an amount or series of amounts is to become payable to the insured in the future; and

(d) re-insurance of-

(i) insurance referred to under paragraphs (a) to (c); and

(ii) re-insurance referred to in a previous application of this paragraph; and

“investment insurance business” means the business of an insurer in effecting, issuing, and carrying out investment insurance.

Section 181. Premiums

Subject to sections 182 and 183, for the purposes of calculating the income of a person, the deductibility of a premium incurred by the person for insurance is determined in accordance with section 25.

Section 182. General Insurance Business

(1) For the purposes of this Act, a person's activities in conducting a general insurance business are treated as a business separate from any other activity of the person and the person's income or loss from the business for any tax year shall be calculated separately.

(2) For the purposes of calculating the income of a person for a tax year from a general insurance business-

(a) there shall be included, together with any other amounts to be included under other provisions of this Act-

(i) premiums derived during the year by the person as insurer, including as re-insurer, in conducting the business; and

(ii) proceeds derived during the year by the person under any contract of re-insurance in respect of proceeds referred to in paragraph (b)(i); and

(b) there shall be deducted, together with any other amounts deductible under other provisions of this Act-

(i) proceeds incurred during the year by the person as insurer, including as re-insurer, in conducting the business; and

- (ii) premiums incurred during the year by the person under any contract of re-insurance in respect of proceeds referred to in subparagraph (i).
- (3) Where a person incurs a loss for a tax year from any general insurance business, the person may carry back the loss and deduct it in calculating the income from the business for any of the five previous tax years.
- (4) The deduction under subsection (3)-
 - (a) shall not exceed any income from the business for the previous tax year;
 - (b) shall not in total exceed the amount of the loss; and
 - (c) shall reduce the amount of the loss that is considered an unrelieved loss for the purposes of section 33.

Section 183. Investment Insurance Business

- (1) For the purposes of this Act, a person's activities in conducting an investment insurance business are treated as a business separate from any other activity of the person and the person's income or loss from the business for any tax year shall be calculated separately.
- (2) For the purposes of calculating the income of a person for a tax year from an investment insurance business-
 - (a) there shall be included any amounts to be included under other provisions of this Act but the following amounts are not to be included and are not an incoming of the person:
 - (i) premiums derived during the year by the person as insurer, including as re-insurer, in conducting the business; and
 - (ii) proceeds derived during the year by the person under any contract of re-insurance in respect of proceeds referred to in paragraph (b)(i);
 - (b) there shall be deducted any amounts deductible under other provisions of this Act but the following amounts are not deductible and are not an outgoing of the person:
 - (i) proceeds incurred during the year by the person as insurer, including as re-insurer, in conducting the business; and
 - (ii) premiums incurred during the year by the person under any contract of re-insurance in respect of proceeds referred to in subparagraph (i); and

(c) a contract of investment insurance of the business is not an asset or liability of the person.

Section 184. Proceeds from Insurance

(1) Subject to subsection (2) and sections 182 and 183, for the purposes of calculating the income of a person, the treatment of proceeds derived by the person from insurance shall be determined in accordance with section 66.

(2) Subject to sections 182 and 183, gains from investment insurance are-

(a) in the case where the proceeds are paid by a resident insurer, taxed in the hands of the payee in the form of a final withholding tax; and

(b) in the case where the proceeds are paid by a non-resident insurer, included in calculating the income of the payee.

(3) For the purposes of this section, "gain" from investment insurance means the extent to which proceeds from investment insurance paid by an insurer exceed premiums paid to the insurer with respect to the insurance.

Division II: Retirement Savings

Section 190. Types of Retirement Funds

(1) The following two types of retirement funds are recognised for the purposes of this Act:

(a) approved retirement funds; and

(b) unapproved retirement funds.

(2) For the purposes of this section-

"approved retirement fund" means a resident retirement fund that has been issued with a ruling by the Commissioner under section 313 currently in force stating that it complies with the requirements prescribed by the regulations;

"retirement contribution" means a payment made to a retirement fund for the provision or future provision of retirement payments;

"retirement fund" means any entity (determined ignoring paragraph (b)(i) of the definition of "company" in section 105(2)) established and maintained solely for the purposes of accepting and investing retirement contributions in order to provide retirement payments to individuals who are beneficiaries of the entity or a dependant of such an individual;

"retirement payment" means a payment made by a person to-

- (a) an individual in the event of the individual's retirement; or
- (b) a dependant of an individual in the event of the individual's death; and

"unapproved retirement fund" means a retirement fund that is not an approved retirement fund.

Section 191: Retirement Contributions

(1) For the purposes of calculating the income of a person, the deductibility of a retirement contribution incurred by the person is determined in accordance with section 25.

(2) Subject to subsection (3), an individual may claim to have their taxable income for a tax year reduced by retirement contributions made during the year by the individual to an approved retirement fund in respect of an interest owned by the individual or a spouse of the individual in the fund.

(3) The reduction claimed by an individual under subsection (2) for any tax year shall not exceed the reasonable retirement limit for the individual prescribed by the regulations.

(4) The incomings for an individual's interest in an approved retirement fund include reductions claimed by the individual under subsection (3) for retirement contributions made with respect to the interest.

Section 192. Taxation of Retirement Funds

(1) Subject to this section, the provisions of Part II and Part III apply to a retirement fund and the calculation of income of a retirement fund.

(2) For the purposes of calculating the income of a retirement fund-

- (a) retirement contributions received by the fund are not to be included and are not an incoming of the fund;
 - (b) retirement payments are not deductible and are not an outgoing of the fund;
- and

- (c) the interest of a beneficiary in a retirement fund is not a liability of the fund.
- (3) Amounts derived by an approved retirement fund are exempt from income tax.
- (4) Where an approved retirement fund ceases to be an approved retirement fund, it shall pay income tax in an amount equal to the income tax rate referred to in section 6(2) applied to-
- (a) all retirement contributions received by and taxable income of the fund (calculated ignoring subsection (3)) during the period from its most recent approval as an approved retirement fund to when it ceased to be so approved, less
- (b) all retirement payments made by the fund from its most recent approval as an approved retirement fund to when it ceased to be so approved.
- (5) Income tax referred to in subsection (4) is due at the time the fund ceases to be approved and is due and payable 15 days after the day on which the fund so ceases.
- (6) Any amount referred to in subsection (4)(a) less-
- (a) any amount referred to in subsection (4)(b); and
- (b) any income tax payable under subsection (4),

shall be apportioned according to beneficiaries' interests in the fund and the amount apportioned to each interest is included in the outgoings for the interest.

Section 193. Retirement Payments

- (1) Subject to section 192(2), for the purposes of calculating the income of a person, the deductibility of a retirement payment incurred by the person is determined in accordance with section 25.
- (2) Gains from an interest in an unapproved retirement fund are-
- (a) in the case where the retirement payments are paid by a resident fund, taxed in the hands of the payee in the form of a final withholding tax; and
- (b) in the case where the retirement payments are paid by a non-resident fund, included in calculating the income of the payee.
- (3) For the purposes of calculating a person's income for a tax year, there shall be included retirement payments made by an approved retirement fund to the person during the year.

(4) For the purposes of this section, "gain" from an interest in an unapproved retirement fund means the extent to which retirement payments made by an unapproved retirement fund in respect of an interest in the fund exceed retirement contributions paid to the fund in respect of the interest.

Division III: Foreign Tax Offsets

Section 200. Foreign Tax Offsets

(1) Subject to subsection (5), a resident person (other than a partnership) may claim foreign tax offsets for a tax year for any foreign income tax paid by the person to the extent to which it is paid with respect to the person's taxable foreign income for the year.

(2) Foreign tax offsets claimed under subsection (1)-

(a) are calculated separately for each tax year for taxable foreign income sourced in each country; and

(b) with respect to each calculation, shall not exceed the average rate of Symmetrica income tax of the person for the year applied to the person's taxable foreign income sourced in the country.

(3) For the purposes of subsection (1) and (2), there shall be treated as foreign income tax paid by a resident person with respect to the person's taxable foreign income for a tax year sourced in a particular country-

(a) any unrelieved foreign income tax of a previous tax year paid by the person with respect to taxable foreign income sourced in the same country; and

(b) subject to subsection (4), any unrelieved foreign income tax of the tax year or a previous tax year paid by an associate of the person with respect to taxable foreign income of the associate sourced in the same country that is transferred to the person for the year.

(4) An associate of a person may only transfer unrelieved foreign income tax to the person under subsection (3)(b) where the following requirements are met:

(a) either the person or the associate is an entity and the associate is not a partnership;

(b) at all times during the tax year with respect to which the foreign income tax was originally paid, at the time of transfer, and at all times in between-

- (i) the person and the associate are residents;
 - (ii) where the person or the associate is an individual, the individual owns at least 50 percent of the underlying ownership of the entity; and
 - (iii) where both the person and the associate are entities, there is at least 50 percent common underlying ownership of the entities;
- (c) the amount of unrelieved foreign income tax transferred does not result in an excess under subsection (2)(b) for the person, determined after accounting for any unrelieved foreign income tax of the person; and
- (d) the transfer is made in writing and signed by both the associate and the person by the time the person must file a return of income for the tax year under section 235.
- (5) A person may elect to relinquish a foreign tax offset available for a tax year and claim a deduction for that year for foreign income tax paid for which the offset is available.
- (6) To the extent that foreign income tax with respect to which a foreign tax offset or a deduction under subsection (5) is claimed is not otherwise reflected in calculating the income and assessable income of the person making the claim, the foreign income tax shall be included in those calculations and the amount included-
- (a) is included at the same time as the taxable foreign income in respect of which the offset or deduction is claimed; and
 - (b) takes its character as to type and source from that income.
- (7) For the purposes of this section-
- “average rate of Symmetrica income tax” of a resident person for a tax year means the percentage that income tax payable by the person for the year under section 1(1)(a) (calculated under section 1(3) without a reduction for any foreign tax offsets) is of the taxable income of the person for the year;
- “taxable foreign income” of a resident person for a tax year means foreign source income that is included in the person's assessable income from any employment, business, or investment for the year; and
- "unrelieved foreign income tax" of a resident person means foreign income tax paid by the person with respect to the person's taxable foreign income (determined ignoring subsection (3))-
- (a) for which a foreign tax offset is not granted under subsection (1) as a result of the limitation in subsection (2)(b); and-

- (b) that has not been-
- (i) treated as paid with respect to taxable foreign income under subsection (3); or
 - (ii) where the person is a trust, foreigner's Symmetrigan branch, or company, allocated to a beneficiary of the entity under section 133(6), 148(3), or (by reason of section 175(3)) 157(4).

PART V: TAX PAYMENT PROCEDURE

Division I: General Obligations

Section 205. Types of Tax and Methods of Payment

- (1) Tax payable under this Act means-
 - (a) income tax imposed under section 1(1), including amounts payable-
 - (i) by a withholding agent or withholdee under section 220;
 - (ii) by an instalment payer under section 230; and
 - (iii) on assessment under sections 240, 241, and 242;
 - (b) interest and penalties imposed by Subdivision A of Division V;
 - (c) an amount required to be paid to the Commissioner in collection from a tax debtor under section 272(8) or 310(3); and
 - (e) an amount required to be paid to the Commissioner in respect of a tax liability of a third party under section 280(2), 281(3) or (4), 282(2), or 283(1) or (3).
- (2) Tax payable under this Act is payable by one or more of the following methods:
 - (a) with respect to income tax-
 - (i) by withholding under Division II;
 - (ii) by instalment under Division III;
 - (iii) on assessment under Division IV;
 - (iv) on change from an approved to an unapproved retirement fund under section 192(4);
 - (b) with respect to interest and penalties, on assessment under section 255;
 - (c) with respect to amounts required to be paid to the Commissioner under section 272(8), 281(3) or (4), 282(2), 283(1) or (3), or 310(3), on notification; or
 - (d) with respect to a liability under section 280(2), on failure to pay tax by the entity.

- (3) Tax shall be paid to the Commissioner in the form and at the place prescribed.

Section 206. Time for Payment of Tax

- (1) This Act distinguishes between tax that is due and tax that is due and payable as follows:

(a) tax that is due by a person is a debt owed to the Government of Symmetrica but may not be payable until a later time; and

(b) tax that is due and payable by a person is a debt owed to the Government of Symmetrica that must be paid immediately and may be recovered under Division V.

- (2) Tax is due-

(a) in the case of income tax payable by withholding, at the time provided for in section 220;

(b) in the case of income tax payable on an assessment made under section 241 or 242, on the date on which the person assessed is served with a notice of assessment under section 243;

(c) in the case of income tax payable on change from an approved to an unapproved retirement fund, at the time provided in section 192(5); and

(d) in any other case, at the time it is due and payable.

- (3) Subject to subsection (4), tax is due and payable-

(a) in the case of income tax payable by withholding, at the time provided for in section 220;

(b) in the case of income tax payable by instalment, on the date by which the instalment is to be paid under section 230;

(c) in the case of income tax payable on an assessment-

(i) under section 240, on the date by which the return of income must be filed;

(ii) under section 241, on the date specified in the notice of assessment served under section 243; or

- (iii) under section 242, within thirty days from the date on which the person assessed is served with a notice of assessment under section 243;
 - (d) in the case of income tax payable on change from an approved to an unapproved retirement fund, at the time provided in section 192(5);
 - (e) in the case of interest and penalties under Subdivision A of Division V, on the date specified in the notice of assessment served under section 255;
 - (f) with respect to amounts required to be paid to the Commissioner under section 272(8), 282(2), 283(1) or (3), or 310(3), on the date set out in the notice;
 - (g) with respect to a liability under section 280(2), at the same time as the tax is due and payable by the entity; or
 - (h) with respect to amounts required to be paid to the Commissioner under section 281(3) or (4), seven days after the sale from which the amount is set aside or the failure to set aside, respectively.
- (4) On written application by a person, the Commissioner-
- (a) may, where good cause is shown, extend the date on which tax or part of tax is due and payable including by permitting payment of the tax by instalments of equal or varying amounts; and
 - (b) shall serve the person with written notice of the Commissioner's decision on the application.
- (5) Where an extension is granted under subsection (4) by permitting the person to pay tax by instalments and the person defaults in paying any of the instalments, the whole balance of the tax outstanding becomes due and payable immediately.

Section 207. Maintenance of Documentation

- (1) Unless otherwise authorised by the Commissioner by notice in writing, every person liable to tax under this Act shall maintain in Symmetrica such documents as may be necessary-
- (a) to explain information to be provided in a return or in any other document to be filed with the Commissioner under this Act; or
 - (b) to enable an accurate determination of the tax payable by the person.

(2) The documents referred to in this section must be retained for a period of not less than five years from the end of the tax year or years to which they are relevant unless the Commissioner otherwise specifies by notice in writing.

(3) Where any document referred to in subsection (1) is not in an official language of Symmetrica, the Commissioner may, by notice in writing, require the person to provide, at the person's expense, a translation into an official language by a translator approved by the Commissioner in the notice.

Division II: Income Tax Payable by Withholding

Subdivision A: Withholding Obligations

Section 210. Withholding by Employers

(1) A resident employer, or non-resident employer who makes an election under section 213, who makes a payment with a source in Symmetrica that is to be included in calculating income of an employee from the employment shall withhold income tax from the payment at the rate provided for in section 5.

(2) The obligation of an employer to withhold income tax under subsection (1) is not reduced or extinguished-

(a) because the employer has a right or is under an obligation to deduct and withhold any other amount from the payment; or

(b) because of any other law that provides that an employee's income from employment shall not be reduced or subject to attachment.

Section 211. Withholding from Investment Returns

(1) Subject to subsection (2), where a resident person, or a non-resident person who makes an election under section 213-

(a) pays a dividend, interest, natural resource payment, gain from investment insurance, gain from an interest in an unapproved retirement fund, rent, royalty, or, where the person is an approved retirement fund, a retirement payment to another person; and

(b) the payment has a source in Symmetrica and is not subject to withholding under section 210,

the person shall withhold income tax from the payment at the rate provided for in section 5.

- (2) This section does not apply to-
- (a) payments made by individuals unless made in conducting a business;
 - (b) interest paid to a resident financial institution; or
 - (c) payments that are exempt amounts.

Section 212. Withholding from Service Fees and Contract Payments

- (1) Subject to subsection (3), a resident person, or a non-resident person who makes an election under section 213, who pays a service fee with a source in Symmetrica shall withhold income tax from the payment at the rate provided for in section 5.
- (2) Subject to subsection (3), the Commissioner may, by service of a notice in writing, require a resident person, or a non-resident person who makes an election under section 213, to withhold income tax at the rate provided for in section 5 from any payment-
- (a) to be made by the person to a non-resident person under a contract; and
 - (b) that is not subject to withholding under section 210, 211, or subsection (1).
- (3) This section does not apply to-
- (a) payments made by individuals unless made in conducting a business; or
 - (b) payments that are exempt amounts.

Section 213. Withholding by Non-Resident Persons

A non-resident person may elect to withhold income tax as required by this Subdivision from payments made by the person during a tax year.

Subdivision B: Procedure Applicable to Withholding

Section 220. Statements and Payments of Tax Withheld or Treated as Withheld

- (1) Every withholding agent shall file with the Commissioner within 15 days after the end of each calendar month a statement in the manner and form prescribed specifying-

- (a) payments made by the agent during the month that are subject to withholding under Subdivision A;
 - (b) the name, address, and, in the case of a resident withholdee, tax identification number of the withholdee;
 - (c) income tax withheld from each payment (ignoring subsection (3)); and
 - (d) any other information that the Commissioner may prescribe.
- (2) Together with the statement referred to in subsection (1), a withholding agent shall pay to the Commissioner any income tax that has been withheld during the month or that is treated by subsection (3) as withheld.
- (3) A withholding agent who fails to withhold income tax in accordance with Subdivision A is treated as though the tax had been withheld at the time required.
- (4) Any income tax withheld under Subdivision A or treated as withheld by subsection (3) is due by the withholding agent at the time the payment is made and due and payable by the withholding agent and, where subsection (5) applies, the withholdee at the end of the fifteen day period referred to in subsection (1).
- (5) Where a withholding agent-
- (a) fails to withhold income tax from a payment as required by Subdivision A;
and
 - (b) does not pay the income tax treated as paid under subsection (3) to the Commissioner by the date the tax is due and payable under subsection (4),
- then the withholdee is jointly and severally liable with the withholding agent for the payment of the tax to the Commissioner.
- (6) A withholding agent who withholds income tax under Subdivision A and pays the tax to the Commissioner is treated as having paid the amount withheld to the withholdee for the purposes of any claim by the withholdee for payment of the amount withheld.
- (7) A withholding agent who fails to withhold income tax under Subdivision A but pays the tax treated as withheld under subsection (3) to the Commissioner is entitled to recover an equal amount from the withholdee.

Section 221. Withholding Certificates

- (1) A withholding agent shall prepare and serve on a withholdee-

- (a) separately for each period referred to in subsections (2) and (3);
- (b) at the time referred to in those subsections; and
- (c) in the form prescribed,

a withholding certificate setting out the amount of payments made to the withholdee and income tax withheld from those payments under Subdivision A by the agent during the period.

(2) Subject to subsection (3), a withholding certificate shall cover a calendar month and shall be served within 15 days after the end of the month.

(3) In the case of income tax withheld under section 210, a withholding certificate-

- (a) shall cover the part of the calendar year during which the employee is employed; and
- (b) shall be served by 30 January after the end of the year or, where the employee has ceased employment with the withholding agent during the year, no more than 30 days from the date on which the employment ceased.

Section 222. Final Withholding Payments

(1) Subject to subsection (3), for the purposes of this Act, the following are final withholding payments:

- (a) dividends paid by a resident company;
- (b) gains from investment insurance and gains from interests in unapproved retirement funds paid by a resident person; and
- (c) payments made to non-resident persons that are subject to withholding under Subdivision A.

(2) For the purposes of this Act, an investment final withholding payment is a final withholding payment subject to withholding-

- (a) under section 211; or
- (b) where the payment is made to a person who is an associate of the withholding agent, under section 210 or 212.

- (3) A non-resident person who-
- (a) makes an election under section 213 with respect to a tax year; and
 - (b) withholds income tax as required by Subdivision A from all payments made during the year,

may further elect that any payments received during the year that are final withholding payments (determined ignoring this subsection), other than those referred to in subsection (1)(a) and (b), are not final withholding payments.

- (4) Income tax-
- (a) withheld from a final withholding payment under Subdivision A; or
 - (b) treated by section 220(3) as withheld from such a payment that is paid to the Commissioner by the withholding agent or the withholdee,

satisfies the withholdee's income tax liability under section 1(1)(c).

Section 223. Inclusion and Credit for Non-Final Withholding Tax

(1) The withholdee of a payment that is not a final withholding payment is treated as having paid any income tax-

- (a) withheld from the payment under Subdivision A; or
- (b) treated by section 220(3) as withheld from the payment that is paid to the Commissioner by the withholding agent or the withholdee,

and the withholdee is entitled to a tax credit in an amount equal to the tax treated as paid for the tax year in which the payment is derived.

(2) To the extent that income tax with respect to which a tax credit is available is not otherwise reflected in calculating the income and assessable income of the person entitled to the credit, the income tax shall be included in those calculations and the amount included-

- (a) is included at the same time as the payment in respect of which the credit is available; and
- (b) takes its character as to type and source from the payment.

Division III: Income Tax Payable by Instalment

Section 230. Payment of Income Tax by Instalment

(1) A person (an "instalment payer") who derives or expects to derive any assessable income during a tax year from a business or investment shall pay income tax for the year by quarterly instalments as provided for by this section.

(2) An instalment payer shall pay four instalments of income tax-

(a) in the case of a person whose tax year is a twelve month period beginning at the start of a calendar month, on or before the last day of the third, sixth, ninth, and twelfth months of the tax year, or

(b) in any other case, at the end of each three-month period commencing at the beginning of the tax year and a final instalment on the last day of the year unless it coincides with the end of one of the three-month periods.

(3) Subject to subsection (4), the amount of each instalment of income tax payable by an instalment payer for a tax year is calculated according to the following formula-

$$\frac{\mathbf{A - B}}{\mathbf{C}}$$

where-

A is the estimated tax payable by the instalment payer for the year at the time of the instalment;

B is the total sum of any-

(a) income tax paid during the year but prior to the due date for payment of the instalment by the person by previous instalment under this section;

(b) income tax withheld under Subdivision A of Division II during the year but prior to the due date for payment of the instalment from payments received by the person during the year that are included in calculating the person's income for the year;

(c) income tax treated by section 220(3) as withheld from a payment of the kind referred to in paragraph (b) that is paid to the Commissioner by the withholding agent or the withholdee during the year but prior to the due date for payment of the instalment; and

(d) medical costs offset that may be claimed under section 116 with respect to approved medical costs paid by the person prior to the due date for payment of the instalment; and

C is the number of instalments remaining for the year including the current instalment.

(4) Where the amount of an instalment calculated under subsection (3) is less than SY 100, the amount of the instalment is nil.

(5) An instalment payer is entitled to a tax credit for a tax year in an amount equal to the income tax paid by way of instalment for the year under this section.

Section 231. Statement of Estimated Tax Payable

(1) Subject to subsection (6), every person who is an instalment payer for a tax year shall file with the Commissioner by the date for payment of the first tax instalment for the year under section 230 a statement in the manner and form prescribed specifying the person's estimate of-

(a) the person's assessable income for the year from each employment, business, and investment and the source of that income;

(b) the person's taxable income for the year and the income tax to become payable with respect to that income under section 1(1)(a) calculated under section 1(3) without reduction for any medical costs offset;

(c) in the case of a foreigner's Symmetrican branch, the branch's repatriated income for the year and the income tax to become payable with respect to that income under section 1(1)(b); and

(d) any other information that the Commissioner may prescribe.

(2) Subject to subsections (5) and (7), the sum of the income tax referred to in subsection (1)(b) and (c) is the person's estimated tax payable for the tax year.

(3) In estimating income tax payable for a tax year under subsection (1)(b) and calculating any foreign tax offset to be claimed under section 200, a person may only take account of foreign income tax that the person has paid or the person reasonably estimates will be paid during the year.

(4) An instalment payer's estimate under subsection (1) shall remain in force for the whole of the tax year unless the person files with the Commissioner a revised estimate, in the form and specifying the information referred to in subsection (1), together with a statement of reasons for the revision.

(5) Subject to subsection (6), a revised estimate filed by a person under subsection (4) is the person's estimated tax payable for the tax year, but only for the purposes of calculating instalments payable under section 230 for the year after the date the revised estimate is filed with the Commissioner.

(6) The Commissioner may specify by notice in writing that an instalment payer or class of instalment payers are not required to submit an estimate under subsection (1).

(7) Where an instalment payer fails to file an estimate for a tax year as required by subsection (1), the Commissioner is not satisfied with the estimate or revised estimate filed, or an instalment payer is not required to submit an estimate by reason of subsection (6), the Commissioner shall-

(a) make an estimate of the person's estimated tax payable for the year, which may be based on income tax payable under section 1(1)(a) and (b) for the previous tax year; and

(b) serve on the instalment payer a written notice stating the Commissioner's estimate, the manner in which it is calculated, and, where the person has filed an estimate, the reasons why the Commissioner is not satisfied with the person's estimate.

(8) Where the Commissioner serves an instalment payer with a notice under subsection (7), then for the purposes of section 230 the estimated tax payable by the person for the tax year is the amount estimated by the Commissioner.

Division IV: Income Tax Payable on Assessment

Subdivision A: Returns

Section 235. Returns of Income

(1) Subject to sections 236, 237, and 241, every person shall file with the Commissioner not later than three months after the end of each tax year a return of income for the year.

(2) A return of income of a person for a tax year shall-

(a) be in the manner and form prescribed specifying-

(i) the person's assessable income for the year from each employment, business, and investment and the source of that income;

- (ii) the person's taxable income for the year and the income tax payable with respect to that income under section 1(1)(a);
 - (iii) in the case of a foreigner's Symmetrican branch, the branch's repatriated income for the year and the income tax payable with respect to that income under section 1(1)(b);
 - (iv) any income tax paid by the person for the year by withholding, instalment, or assessment for which a tax credit is available under section 223, 230, or 241;
 - (v) the amount of income tax still to be paid for the year calculated as the sum of the tax referred to in subparagraphs (ii) and (iii) less the tax already paid referred to in subparagraph (iv); and
 - (vi) any other information that the Commissioner may prescribe;
- (b) be signed by the person and include a declaration that the return is complete and accurate; and
- (c) have attached to it-
- (i) any withholding certificates supplied to the person under section 221 with respect to payments derived by the person during the year;
 - (ii) any statement provided to the person under subsection (4);
 - (iii) any estimate made during the year under section 50(3); and
 - (iv) any other information that the Commissioner may prescribe.
- (3) A person who, in return for a payment, prepares or assists in the preparation of a return of income or an attachment to a return of income of another person (other than as employee of the other person), shall sign the return certifying that-
- (a) the first-mentioned person has examined the relevant documents of the other person maintained under section 207, and
 - (b) to the best of the first-mentioned person's knowledge, the return or attachment correctly reflects the circumstances to which it relates.
- (4) Where a person referred to in subsection (3) refuses to sign a return of income as required by that subsection, the person shall furnish the other person with a statement in writing of the reasons for such refusal.

(5) Subject to sections 236, 237 and 241, where prior to the date for filing a return of income for a tax year under subsection (1)-

- (a) a person becomes bankrupt, is wound-up, or goes into liquidation;
- (b) a person is about to leave Symmetrica indefinitely;
- (c) a person is otherwise about to cease activity in Symmetrica; or
- (d) the Commissioner otherwise considers it appropriate,

the Commissioner may, by notice in writing served on the person, require the person to file, by the date specified in the notice, a return of income for the year or part of the year.

Section 236. Return of Income Not Required

Unless requested by the Commissioner by notice in writing served on the person, no return of income for a tax year is required under section 235 from-

- (a) a person who has no income tax payable for the year under section 1(1)(a) or (b); or
- (b) a resident individual-
 - (i) whose income for the year consists exclusively of income from any employment having a source in Symmetrica;
 - (ii) who has only one employment at a time during the year, even if the employment changes during the year, and each employment is by a resident employer; and
 - (iii) who does not claim for the year-
 - (A) averaging under section 5(2);
 - (B) a medical costs offset under section 116, other than with respect to medical costs paid through the employer; or
 - (C) a reduction in taxable income under section 191(2), other than with respect to retirement contributions paid through the employer,

but such a person may elect to file a return of income in any case.

Section 237. Extension of Time to File Return of Income

(1) Subject to subsection (2), where a person who is required to file a return of income under section 235 makes a written request to the Commissioner by the due date for filing the return, the Commissioner-

(a) may, on such terms and conditions as the Commissioner thinks appropriate (including as to payment of security) and where reasonable cause is shown, extend the date by which the return is to be filed; and

(b) shall serve the person with written notice of the Commissioner's decision on the application.

(2) The Commissioner may grant multiple extensions under subsection (1) with respect to the filing of a return of income but the extensions shall not in total exceed 60 days from the date the return was originally to be filed.

Subdivision B: Assessments

Section 240. Self-Assessments

(1) Where a person files a return of income for a tax year, an assessment is treated as made on the due date for filing the return of-

(a) the income tax payable by the person for the year under section 1(1)(a) and (b) in the amount shown in the return; and

(b) the amount of that tax still to be paid for the year in the amount shown in the return (the "tax payable on the assessment").

(2) Where a person fails or is not required to file a return of income for a tax year then, until such time as a return is filed, an assessment is treated as made on the due date for filing the return that-

(a) the income tax payable by the person for the year is equal to the sum of any income tax withheld from payments derived by the person during the year under Division II and any income tax paid by the person by instalment for the year under Division III; and

(b) there is no tax payable on the assessment.

Section 241. Jeopardy Assessments

- (1) Where a person is required to file a return of income under section 235(5) for part of a tax year, section 240 applies as though a reference to a tax year were a reference to the part of the year for which the return is to be filed.
- (2) In the circumstances specified in section 235(5), instead of requiring a person to file a return of income, the Commissioner may, according to the Commissioner's best judgement, make an assessment of-
 - (a) the amounts referred to in section 235(2)(a)(i) to (iv) for the tax year or part of the year; and
 - (b) in accordance with section 235(2)(a)(v), the amount of income tax still to be paid for the year or part of the year (the "tax payable on the assessment").
- (3) Where an assessment is made under section 240 by reason of subsection (1) or under subsection (2) (the "jeopardy assessment")-
 - (a) with respect to a full tax year, the assessed person shall not file a return of income for the year under section 235(1); or
 - (b) with respect to part of a tax year, the assessed person is still required to file a return of income under section 235(1) for the year.
- (4) Any income tax paid on a jeopardy assessment of the type referred to in subsection (3)(b) is available as a tax credit against the tax payable on an assessment made for the full tax year.

Section 242. Amended Assessments

- (1) Subject to this section, the Commissioner may amend an assessment made under section 240, 241, or this section so as to adjust the assessed person's liability to tax, including any tax payable on the assessment, in such manner as, according to the Commissioner's best judgement, is consistent with the intention of this Act.
- (2) Subject to subsections (3) and (4), the Commissioner may amend an assessment under subsection (1) within three years after-
 - (a) in the case of an assessment under section 240 (including by reason of section 241(1)), the due date for filing the return of income to which the assessment relates;
 - (b) in the case of an assessment under section 241(2), the date on which the notice of assessment is served on the person assessed as required by section 243; and

- (c) in the case of an amended assessment under subsection (1), the date referred to in paragraph (a) or (b) with respect to the assessment under section 240 or 241 that was originally amended.
- (3) The Commissioner may amend an assessment under subsection (1) at any time-
- (a) in the case of an assessment under section 240 where the person assessed fails to file a return of income in accordance with section 235 with the intent of evading or delaying the payment of tax;
 - (b) in the case of an assessment that is inaccurate by reason of fraud or any gross or wilful neglect by or on behalf of the assessed person; or
 - (c) where new information is uncovered that renders the assessment inaccurate.
- (4) The Commissioner may not amend an assessment to the extent that the assessment has been amended or reduced pursuant to an order of a court of competent jurisdiction unless the order is vacated.

Section 243. Notice of Assessment

Where the Commissioner makes an assessment under section 241(2) or 242, the Commissioner shall serve a written notice of the assessment on the person stating-

- (a) the Commissioner's assessment of-
 - (i) the income tax payable by the person under section 1(1)(a) and (b);and
 - (ii) the tax payable on the assessment,for the tax year or period to which the assessment relates;
- (b) the manner in which the assessment referred to in paragraph (a) is calculated;
- (c) the reasons why the Commissioner has made the assessment;
- (d) the date on which the tax payable on the assessment is due and due and payable; and
- (e) the time, place, and manner of objecting to the assessment.

Division V: Non-Compliance

Subdivision A: Interest and Penalties

Section 250. Penalty for Failure to Maintain Documentation or File Statement or Return of Income

- (1) A person who fails to-
- (a) maintain proper documents for a tax year as required by section 207(1);
 - (b) file a statement for a tax year as required by section 231(1); or
 - (c) file a return of income for a tax year as required by section 235(1),

is liable for a penalty for each month and part of a month during which the failure continues calculated as the higher of-

- (d) the statutory rate applied to the product of-
 - (i) all amounts required to be included in calculating the person's income that is included in the person's assessable income for the year (gross of any deductions); and
 - (ii) the rate of income tax referred to in section 6(1); or
 - (e) SY 100.
- (2) A withholding agent who fails to file a statement as required by section 220(1) is liable for a penalty for each month or part of a month during which the failure continues calculated as the higher of-
- (a) the statutory rate applied to the amount of income tax required to be withheld under Subdivision A of Division II from payments made by the agent during the month to which the failure relates; or
 - (b) SY 100.

Section 251. Interest for Understating Estimated Tax Payable by Instalment

- (1) This section applies where-
- (a) an instalment payer's estimate or revised estimate of income tax payable for a tax year under section 231, which is used to calculate an instalment of income tax for the year payable under section 230; is less than

(b) 90 percent of the income tax payable by the payer for the year under section 1(1)(a) and (b) (the "correct amount").

(2) Where this section applies, the instalment payer is liable for interest for each month or part of a month (the "period") from the date the first instalment for the year is due and payable until the due date by which the person must file a return of income for the year under section 235(1).

(3) The amount of interest that an instalment payer must pay for each period under subsection (2) is calculated as the statutory rate, compounded monthly, applied to the excess of-

(a) 90 percent of the total amount that would have been paid by way of instalments during the tax year to the start of the period had the person's estimate or revised estimate equalled the correct amount, over

(b) the amount of income tax paid by instalments during the year to the start of the period.

Section 252. Interest for Failure to Pay Tax

(1) A person who fails to pay tax on or before the date on which the tax is due and payable is liable for interest for each month or part of a month (the "period") for which any of the tax is outstanding calculated as the statutory rate, compounded monthly, applied to the amount outstanding at the start of the period.

(2) For the purposes of calculating interest payable under subsection (1), any extension granted under section 206(4) or 237 is ignored.

(3) A withholding agent may not recover from a withholdee interest payable by the agent in respect of a failure to comply with section 220(4).

Section 253. Penalty for Making False or Misleading Statements

(1) A person who-

(a) makes a statement to the Commissioner that is false or misleading in a material particular; or

(b) omits from a statement made to the Commissioner any matter or thing without which the statement is misleading in a material particular,

is liable for a penalty equal to-

- (c) where the statement or omission is made without reasonable excuse, 50 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the inaccuracy of the statement had gone undetected; or
 - (d) where the statement or omission is made knowingly or recklessly, 100 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the inaccuracy of the statement had gone undetected.
- (2) A reference in this section to a statement made to the Commissioner is a reference to a statement made in writing to the Commissioner or an officer of the Income Tax Service acting in the performance of duties under this Act, and includes a statement made-
- (a) in an application, notification, return, objection, statement, or other document made, prepared, given, or filed under this Act;
 - (b) in a document furnished to the Commissioner or such an officer otherwise than pursuant to this Act;
 - (c) in answer to a question asked of a person by the Commissioner or such an officer; or
 - (d) to another person with the knowledge or reasonable expectation that the statement will be conveyed to the Commissioner or such an officer.

Section 254. Penalty for Aiding and Abetting

A person who knowingly or recklessly aids, abets, counsels, or induces another person to commit an offence of a type referred to in Subdivision B is liable for a penalty equal to 100 percent of the underpayment of tax that, in the Commissioner's view, may have resulted if the offence had been committed and had gone undetected.

Section 255. Assessment of Interest and Penalties

- (1) The Commissioner shall make an assessment of the interest and penalties for which a person is liable under this Subdivision.
- (2) Liability for interest and penalties under this Subdivision with respect to a particular failure or statement is calculated separately for each section of this Subdivision.

(3) The imposition of interest and penalties under this Subdivision is in addition to any other tax imposed by this Act and does not relieve any person from liability to criminal proceedings under Subdivision B.

(4) Where an assessment has been made under this section, the Commissioner shall serve a written notice of assessment on the person, which notice may be incorporated with a notice under section 243, stating-

- (a) the Commissioner's assessment of the interest or penalties;
- (b) the manner in which the assessment referred to in paragraph (a) is calculated;
- (c) the reasons why the Commissioner has made the assessment;
- (d) the date on which the interest or penalties are due and due and payable; and
- (e) the time, place, and manner of objecting to the assessment.

(5) Section 242 applies to an assessment made under this section as though-

- (a) a reference to an assessment in section 242(1), (2)(b), (3), and (4) included an assessment made under this section; and
- (b) a reference in section 242(2)(b) to section 243 were a reference to subsection (4) of this section.

Subdivision B: Offences

Section 260. Offence of Failure to Comply with Act

Except as otherwise provided in this Act, any person who fails to comply with a provision of this Act commits an offence and is liable on summary conviction-

- (a) where the failure results or, if undetected, may have resulted in an underpayment of tax in an amount exceeding SY 500, to a fine of not less than SY 100 and not more than SY 500; and
- (b) in any other case, to a fine of not less than SY 25 and not more than SY 100.

Section 261. Offence of Failure to Pay Tax

Any person who without reasonable excuse fails to pay any tax on or before the date on which the tax is due and payable commits an offence and is liable on summary conviction-

(a) where the failure is to pay tax in excess of SY 500, to a fine of not less than SY 250 and not more than SY 1000, imprisonment for a term of not less than three months and not more than one year, or both; and

(b) in any other case, to a fine of not less than SY 50 and not more than SY 250, imprisonment for a term of not less than one month and not more than three months, or both.

Section 262. Offence of Making False or Misleading Statements

(1) A person who-

(a) makes a statement to the Commissioner or appears as a witness before the Income Tax Tribunal and gives evidence that is false or misleading in a material particular; or

(b) omits from a statement or evidence referred to in paragraph (a) any matter or thing without which the statement or evidence is misleading in a material particular,

commits an offence and is liable on summary conviction-

(c) where the statement or omission is made without reasonable excuse-

(i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding SY 500, to a fine of not less than SY 250 and not more than SY 1000, imprisonment for a term of not less than three months and not more than one year, or both; and

(ii) in any other case, to a fine of not less than SY 50 and not more than SY 250, imprisonment for a term of not less than one month and not more than three months, or both; or

(d) where the statement or omission is made knowingly or recklessly-

(i) and, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding SY 500, to a fine of not less than SY 500 and not more than SY 2000, imprisonment for a term of not less than one year and not more than two years, or both; and

(ii) in any other case, to a fine of not less than SY 100 and not more than SY 500, imprisonment for a term of not less than six months and not more than one year, or both.

(2) A reference in this section to a statement made to the Commissioner has the same meaning as in section 253(2).

Section 263. Offence of Impeding Tax Administration

A person who without reasonable excuse-

- (a) obstructs or attempts to obstruct an officer of the Income Tax Service acting in the performance of duties under this Act;
- (b) fails to comply with a notice under section 321 or fails to provide evidence to the Income Tax Tribunal as required under section 337(2)(a);
- (c) is found guilty of contempt of the Income Tax Tribunal under section 337(2)(c); or
- (d) otherwise impedes or attempts to impede the administration of this Act,

commits an offence and is liable on summary conviction to a fine of not less than SY 100 and not more than SY 2000, imprisonment for a term of not more than two years, or both.

Section 264. Offences by Authorised and Unauthorised Persons

(1) Any person who-

- (a) being an officer of the Income Tax Service acting in the performance of duties under this Act-
 - (i) directly or indirectly asks for or takes in connection with any of the officer's duties, any payment or reward whatsoever, whether pecuniary or otherwise, or promise or security for any such payment or reward, not being a payment or reward that the officer is lawfully entitled to receive; or
 - (ii) agrees to, permits, conceals, connives at, or acquiesces in any act or thing whereby the Government is or may be defrauded with respect to any matter under this Act, including the payment of tax; or
- (b) not being authorised under this Act, collects or attempts to collect an amount of tax payable under this Act or an amount that the person describes as such tax,

commits an offence and is liable on summary conviction to a fine of not less than SY 500, imprisonment for a term of not less than one year and not more than three years, or both.

(2) Any person who contravenes section 322 commits an offence and is liable on summary conviction to a fine not exceeding SY 1000, imprisonment for a term not exceeding one year, or both.

Section 265. Offence of Aiding or Abetting

Any person who knowingly or recklessly aids, abets, counsels, or induces another person to commit an offence under this Act (the “original offence”) commits an offence and is liable on summary conviction-

(a) where the original offence involves a statement of the kind mentioned in section 262(1)(a) or (b) that, if the inaccuracy of the statement were undetected, may have resulted in an underpayment of tax in an amount exceeding SY 500, to a fine of not less than SY 500 and not more than SY 2000, imprisonment for a term of not less than one year and not more than two years, or both; and

(b) in any other case, to a fine of not less than SY 100 and not more than SY 500, imprisonment for a term of not less than six months and not more than one year, or both.

Subdivision C: Recovery of Tax from Tax Debtor

Section 270. Suit for Unpaid Tax

Subject to the general directions of the Attorney-General, tax that has not been paid when it is due and payable may be sued for and recovered in any court of competent jurisdiction by the Commissioner acting in the Commissioner's official name.

Section 271. Security for Income Tax Payable by Withholding

(1) Income tax that a withholding agent is required to withhold from a payment under Subdivision A of Division II is-

- (a) a first charge on the payment; and
- (b) withheld prior to any other deduction that the withholding agent may be required to make by virtue of an order of any court or any other law.

(2) Income tax withheld by a withholding agent under Subdivision A of Division II-

- (a) is held in trust for the Government of Symmetrica including any assets acquired by the agent into which the tax withheld may be traced;

- (b) is not subject to attachment in respect of a debt or liability of the agent; and
- (c) in the event of the liquidation or bankruptcy of the agent, does not form part of the estate in liquidation or bankruptcy and the Commissioner acting for the Government has a first claim over the tax or assets before any distribution in liquidation or bankruptcy is made.

Section 272. Charge Over Assets

(1) The Commissioner may cause a charge to be created in favour of the Government of Symmetrica over the assets of a person (the "tax debtor") as provided by this section where-

- (a) the person fails to pay tax on or before the date the tax is due and payable; or
- (b) the Commissioner believes on reasonable grounds that the person will not pay tax that is currently due by the date on which it becomes due and payable.

(2) Subject to subsection (3), the Commissioner creates a charge referred to in subsection (1) by serving the tax debtor with a notice in writing specifying the tax debtor, the assets charged, the extent of the charge as provided for in subsection (3), the tax to which the charge relates, and details regarding the Commissioner's power of sale under section 273.

(3) The assets of a tax debtor charged under subsection (2) are charged to the extent of the tax due, interest accruing with respect to that tax under section 252, and any costs of charge and sale.

(4) A charge created under subsection (2) does not have effect until-

- (a) where land or buildings are charged, the Commissioner files an application to register the charge under subsection (6);
- (b) where other tangible assets are charged, the Commissioner takes possession of the assets in accordance with section 273(3); and
- (c) in any other case, the notice is served on the tax debtor under subsection (2).

(5) A charge created under subsection (2) is released when the tax debtor pays to the Commissioner in full the amounts referred to in subsection (3) that are secured by the charge.

(6) Where the Commissioner creates a charge over land or buildings under subsection (2), the Commissioner shall apply to the Chief Registrar of Titles (the "Chief Registrar") and the Chief Registrar shall, without fee, register the charge referred to in subsection (2) on the title of the land or buildings.

(7) Where a charge over land or buildings is released under subsection (5), the Commissioner shall file a release of the charge with the Chief Registrar and the Chief Registrar shall, without fee, remove the entry of the charge from the title of the land or buildings.

(8) The Commissioner may at any time serve on a tax debtor a notice in writing specifying any costs of charge and sale with respect to assets of the debtor incurred by the Commissioner prior to the date of service and requiring the debtor to pay those costs to the Commissioner by the date specified in the notice.

(9) For the purposes of this section, "costs of charge and sale" with respect to assets means any costs incurred or to be incurred by the Commissioner-

(a) under this section with respect to creating or releasing a charge over the assets, or

(b) under section 273 with respect to taking possession of, holding, and selling the charged assets.

Section 273. Sale of Charged Assets

(1) The Commissioner may notify a tax debtor of the Commissioner's intention to sell charged assets owned by the debtor (a "subsection (1) notice").

(2) A subsection (1) notice may be incorporated into or accompany a notice referred to in section 272(2) and shall be in writing, served on the tax debtor, and specify-

(a) the charged assets, the Commissioner's intention to sell those assets, and the proposed method and timing of sale; and

(b) in the case of tangible assets, the manner and place at which the Commissioner intends to take possession of the assets.

(3) The Commissioner may-

(a) take possession of tangible assets referred to in a subsection (1) notice at any time after the notice is served;

(b) for the purposes of taking possession, enter at any time any premises described in the subsection (1) notice and request the assistance of the police; and

(c) where the assets are tangible assets other than land or buildings, store the assets, at the cost of the tax debtor, at any place that the Commissioner considers appropriate.

(4) Where the Commissioner serves a tax debtor with a subsection (1) notice, the Commissioner may-

(a) where the charged assets are land or buildings, 30 days after taking possession under subsection (3);

(b) where the charged assets are perishable tangible assets, one day after taking possession under subsection (3);

(c) where the charged assets are tangible assets other than those referred to in paragraph (a) or (b), 10 days after taking possession under subsection (3); and

(d) in any other case, 10 days after service of the subsection (1) notice,

sell the charged assets by public auction or deal with the assets in such manner as the Commissioner considers appropriate.

(5) The proceeds of a sale under subsection (4) shall be used to pay the costs of charge and sale of the assets sold, then to pay the tax due and interest accrued with respect to that tax under section 252, and any remainder shall be paid to the tax debtor.

(6) After applying sale proceeds in accordance with subsection (5), the Commissioner shall serve the tax debtor with a written notice detailing the manner in which the sale proceeds have been applied.

(7) If the proceeds of a sale applied in accordance with subsection (5) are insufficient to pay in full the costs of charge and sale, the tax due, and interest accrued with respect to that tax under section 252, the Commissioner may proceed to collect the insufficiency with fresh actions under this Subdivision or Subdivision D.

(8) This section does not restrict the exercise of any rights that the Commissioner otherwise has by reason of a security created under section 271 or 272.

(9) For the purposes of this section-

"charged assets" owned by a tax debtor means assets held by a withholding agent on trust under section 271(2) or assets of a tax debtor that the Commissioner has created a charge over under section 272(2);

"costs of charge and sale" with respect to assets has the meaning in section 272(9); and

"tax debtor" has the meaning in section 272 and includes a withholding agent referred to in section 271.

Section 274. Departure Prohibition Order

- (1) This section applies where-
 - (a) a person fails to pay tax on or before the date the tax is due and payable; or
 - (b) the Commissioner believes on reasonable grounds that a person will not pay tax that is currently due by the date on which it becomes due and payable.
- (2) Where this section applies, the Commissioner may, by notice in writing to the Director of Immigration, order the Director to prevent the person from leaving Symmetrica for a period of 72 hours from the time the notice is served on the Director.
- (3) The Commissioner shall withdraw a notice under subsection (2) where the person pays the tax or makes an arrangement for payment satisfactory to the Commissioner.
- (4) On application by the Commissioner, the High Court may extend the period referred to in subsection (2).

Subdivision D: Third Party Liability

Section 280. Officers of Entities

- (1) Subject to subsection (3), when an entity commits an offence, every person who is an officer of the entity at that time is treated as also committing the same offence.
- (2) Subject to subsection (3), where an entity commits an offence by failing to pay tax on or before the date on which the tax is due and payable, every person who is an officer of the entity at that time or was such an officer within the previous six months is jointly and severally liable with the entity and every other such person for payment of the tax.
- (3) Subsections (1) and (2) do not apply where-
 - (a) the offence is committed by the entity without the person's knowledge or consent; and
 - (b) the person has exercised the degree of care, diligence, and skill that a reasonably prudent person would have exercised in comparable circumstances to prevent the commission of the offence.

- (4) Where a person pays tax under subsection (2)-
- (a) the person may recover the payment from the entity;
 - (b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the entity in or coming into the possession of the person an amount not exceeding the payment; and
 - (c) no claim may be made against the person by the entity or any other person with respect to the retention.

(5) For the purposes of this section, "officer" of an entity means a manager of the entity or a person purporting to act in that capacity.

Section 281. Recovery of Tax from Receiver

- (1) A receiver shall notify the Commissioner in writing within fourteen days of being appointed to the position of receiver or taking possession of an asset situated in Symmetrica, whichever occurs first.
- (2) The Commissioner may serve a receiver with a notice in writing of the amount that appears to the Commissioner to be sufficient to provide for any tax that is due or will become due by the tax debtor.
- (3) After receiving a notice under subsection (2), a receiver-
- (a) shall sell sufficient of the assets that come into the receiver's possession under the receivership to set aside, after payment of any debts having priority over the tax referred to in that subsection, the amount notified by the Commissioner under that subsection; and
 - (b) is liable to pay to the Commissioner on account of the tax debtor's tax liability the amount set aside.
- (4) To the extent that a receiver fails to set aside an amount as required by subsection (3), the receiver is personally liable to pay to the Commissioner on account of the tax debtor's tax liability the amount that should have been set aside but may recover any amount paid from the tax debtor.
- (5) For the purposes of this section-

“receiver” means any person who, with respect to an asset situated in Symmetrica, is-

- (a) a liquidator of an entity;

- (b) a receiver appointed out of court or by a court in respect of an asset or entity;
- (c) a trustee for a bankrupt person;
- (d) a mortgagee in possession;
- (e) an executor or administrator of a deceased individual's estate; or
- (f) conducting the affairs of an incapacitated individual; and

"tax debtor" means the person whose assets come into the possession of a receiver.

Section 282. Recovery of Tax from Person Owing Money to Tax Debtor

- (1) This section applies where tax is due by a person (the "tax debtor") and-
 - (a) the tax debtor fails to pay the tax on or before the date it is due and payable; or
 - (b) the Commissioner believes on reasonable grounds that the tax debtor will not pay the tax by the date on which it becomes due and payable.
- (2) Where this section applies, the Commissioner may by notice in writing require any person (the "payer")-
 - (a) owing or who may subsequently owe money to the tax debtor;
 - (b) holding or who may subsequently hold money for, or on account of, the tax debtor;
 - (c) holding or who may subsequently hold money on account of a third person for payment to the tax debtor; or
 - (d) having authority from a third person to pay money to the tax debtor,

to pay, on account of and to the extent of the tax due by the tax debtor, the money to the Commissioner on the date set out in the notice.

- (3) The Commissioner shall serve the payer with the notice referred to in subsection (2) and, as soon a practicable after that service, serve the tax debtor with a copy of the notice.
- (4) The date specified in the notice under subsection (2) must not be a date before-

- (a) the money becomes payable to the tax debtor or the money is held on behalf of the tax debtor; and
 - (b) the payer is served with the notice under subsection (3).
- (5) A person making a payment pursuant to a notice under subsection (2) is treated as making the payment to the tax debtor for the purposes of any claim by the tax debtor or any other person for or with respect to the payment.

Section 283. Recovery of Tax from Agent of Non-resident

- (1) Where tax is due by a non-resident person (the "tax debtor") and-
- (a) the tax debtor fails to pay the tax on or before the date it is due and payable; or
 - (b) the Commissioner believes on reasonable grounds that the tax debtor will not pay the tax by the date on which it becomes due and payable,

the Commissioner may, by service of a notice in writing, require a person who is in possession of an asset owned by the tax debtor to pay tax on behalf of the tax debtor, up to the market value of the asset but not exceeding the amount of tax due by the tax debtor.

- (2) For the purposes of subsection (1)-
- (a) a tax debtor who charters an aircraft or ship under a charter exceeding three years is treated as owning the aircraft or ship during that period; and
 - (b) the captain of any aircraft or ship is treated as being in possession of the aircraft or ship.
- (3) The Commissioner may, by service of a notice in writing, require a resident partnership or a resident partner to pay on behalf of a non-resident partner tax due by the non-resident partner up to the amount of tax due that is attributable to any amount included in calculating the non-resident partner's income under section 122.
- (4) Where a person makes a payment to the Commissioner pursuant to a notice under subsection (1) or (3)-
- (a) the person may recover the payment from the tax debtor or non-resident partner;
 - (b) for the purposes of paragraph (a), the person may retain out of any assets (including money) of the tax debtor or non-resident partner in or coming into the possession of the person an amount not exceeding the payment; and

- (c) the tax debtor, non-resident partner, or any other person may not make a claim against the person with respect to the retention.
- (5) For the purposes of this section, "non-resident partner" includes a foreigner's Symmetrical branch of a non-resident partner referred to in section 122(5).

Subdivision E: Proceedings Under Subdivisions B, C, and D

Section 290. Compounding Offences

- (1) Subject to subsection (2), where any person commits an offence under Subdivision B, other than of a kind referred to in section 264, the Commissioner may, at any time prior to the commencement of court proceedings-
- (a) compound the offence; and
- (b) order the person to pay a sum of money specified by the Commissioner but not exceeding the amount of the fine prescribed for the offence.
- (2) The Commissioner may compound an offence under this section only if the person concerned admits in writing that the person has committed the offence.
- (3) Where the Commissioner compounds an offence under this section, the order referred to in subsection (1)-
- (a) shall be in writing, specify the offence committed, the sum of money to be paid, and the date for payment, and have attached the written admission referred to in subsection (2);
- (b) shall be served on the person who committed the offence;
- (c) is final and not subject to any appeal; and
- (d) may be enforced in the same manner as an order of the High Court for the payment of the amount stated in the order.
- (4) Where the Commissioner compounds an offence under this section, the person concerned is not liable for a penalty under Subdivision A or prosecution under Subdivision B with respect to that offence.

Section 291. Transfer to the Director of Public Prosecutions

The Commissioner may transfer information about a person to the Director of Public Prosecutions to enable the Director to bring charges against the person in respect of an offence under Subdivision B.

Section 292. Venue

Any proceedings with respect to an offence or in recovery of tax under Subdivision B, C, or D shall be commenced, heard, and disposed of at the court with competent jurisdiction nearest to-

- (a) the usual place of abode of the person who is charged with the offence or from whom recovery is sought, as the case requires; or
- (b) the office of the Commissioner having primary responsibility for the person's affairs under this Act.

Section 293. Tax Payable and Proof of Tax Payable

- (1) The date on which tax is due or due and payable is not affected by the institution of proceedings with respect to an offence or in recovery of tax under Subdivision B, C, or D.
- (2) In proceedings with respect to an offence or in recovery of tax under Subdivision B, C, or D, the production of a certificate signed by the Commissioner stating the name and address of the person liable and the amount of tax due or due and payable by the person is sufficient evidence of the amount of tax due or due and payable by the person, as the case requires.

Division VI: Remission and Refund

Section 300. Remission

- (1) The Minister may remit in whole or in part any tax that is due by a person where the Commissioner certifies in writing to the Minister that the Commissioner is satisfied that the tax cannot be effectively collected.
- (2) The Commissioner may remit in whole or in part any penalty charged under Subdivision A where the person liable for the penalty shows good cause.

Section 301. Refunds and Set-Off

(1) Where tax credits available to a person for a tax year exceed the person's income tax payable under section 1(1)(a) and (b) for the year or where the Commissioner is otherwise satisfied that a person has paid tax in excess of the person's tax liability, the Commissioner shall-

(a) apply the excess in reduction of any tax due but unpaid by the person under this Act; and

(b) refund the remainder, if any, to the person.

(2) Interest paid by a person under section 252 shall be refunded to the person to the extent that the tax to which the interest relates is found not to have been payable.

(3) A person may apply to the Commissioner in writing for a refund under subsection (1) within three years of the later of-

(a) the end of the tax year during which the events occurred that gave rise to the payment of the excess; or

(b) the date on which the excess was paid.

(4) The Commissioner shall serve the person with written notice of the Commissioner's decision on an application under subsection (3).

(5) Where the Commissioner refunds an amount of tax to a person, whether by reason of court order or otherwise, the Commissioner is liable to pay the person interest at the statutory rate, compounded monthly, for the period-

(a) where the refund relates to excess tax credits available to a person for a tax year, commencing on the date for filing a return of income for the year under section 235 and ending on the day the refund is made; and

(b) in any other case, commencing on the date the person paid the tax to be refunded and ending on the day the refund is made.

PART VI: ADMINISTRATION

Division I: Officers of the Income Tax Service

Section 305. Commissioner and Other Officers

- (1) On the recommendation of the Government, including as to terms and conditions of appointment, the Minister shall appoint as officers of the Income Tax Service-
 - (a) a Commissioner of Income Tax (the "Commissioner");
 - (b) Deputy Commissioners and Assistant Commissioners of Income Tax; and
 - (c) such other persons as may be necessary for the administration of this Act.
- (2) The Commissioner is responsible for the administration of this Act including the assessment and collection of all tax due and payable to the Government and shall pay all tax collected into the Consolidated Fund.
- (3) The Commissioner may not delegate the power to-
 - (a) compound an offence under section 290; or
 - (b) remit interest or penalties under section 300(2).
- (4) Subject to subsection (3), the Commissioner may delegate to-
 - (a) any Deputy Commissioner of Income Tax or Assistant Commissioner of Income Tax-
 - (i) the power to extend the date on which tax is due and payable under section 206(4) or to stay the payment of tax pending an objection or appeal under section 326(5), 330(5), or 331(3);
 - (ii) the authorisation of an officer under section 320 or the issuing of a notice under section 321; and
 - (iii) this power of delegation other than with respect to matters referred to in this paragraph or subsection (3); and
 - (b) any officer of the Income Tax Service, any duties, powers, and functions conferred or imposed on the Commissioner under this Act that are not mentioned in paragraph (a) or subsection (3).

Division II: Official Documentation

Section 310. International Agreements

(1) To the extent that the terms of an international agreement to which Symmetrica is a party are inconsistent with the provisions of this Act, apart from subsection (5) and Subdivisions D and E of Division II of Part II, the terms of the agreement prevail over the provisions of this Act.

(2) This subsection applies where the Commissioner receives a request pursuant to an international agreement from the competent authority of another country for the collection in Symmetrica of an amount payable by a person (the "tax debtor") under the tax laws of the other country.

(3) Where subsection (2) applies, the Commissioner may, by service of a notice in writing, require the tax debtor to pay the amount to the Commissioner by the date specified in the notice and for transmission to the competent authority.

(4) This subsection applies where an international agreement provides Symmetrica will exempt income or a payment or subject income or a payment to reduced tax.

(5) Where subsection (4) applies, the exemption or reduction is not available to any entity-

(a) who, for the purposes of the agreement, is a resident of the other contracting state; and

(b) 50 percent or more of whose underlying ownership is owned by individuals or entities in which no individual has an interest who, for the purposes of the agreement, are not residents of the other contracting state or Symmetrica.

Section 311. Regulations

The Minister may make regulations-

(a) for matters authorised to be made or prescribed under this Act by regulation;

(b) amending any monetary amount set out in this Act; and

(c) for the better carrying into effect of the principles and purposes of this Act.

Section 312. Practice Notes

- (1) To achieve consistency in the administration of this Act and to provide guidance to persons affected by this Act, including officers of the Income Tax Service, the Commissioner may issue in writing practice notes setting out the Commissioner's interpretation of this Act.
- (2) A practice note is binding on the Commissioner until revoked.
- (3) A practice note is not binding on persons affected by this Act.
- (4) The Commissioner shall make practice notes available to the public at offices of the Income Tax Service and at such other locations or by such other medium as the Commissioner may determine.

Section 313. Private Rulings

- (1) The Commissioner may, on application in writing by a person, issue to the person, by notice in writing served on the person, a private ruling setting out the Commissioner's position regarding the application of this Act to the person with respect to an arrangement proposed or entered into by the person.
- (2) Where prior to the issue of a ruling under subsection (1), the person makes-
 - (a) a full and true disclosure to the Commissioner of all aspects of the arrangement relevant to the ruling; and
 - (b) the arrangement proceeds in all material respects as described in the person's application for the ruling,

the ruling is binding on the Commissioner with respect to the application of this Act (as in force at the time of the ruling) to the person with respect to the arrangement.

- (3) Where there is any inconsistency between a practice note and a private ruling, priority is given to the terms of the private ruling.

Section 314. Form of Documentation

- (1) The Commissioner may from time to time specify the form of documents required under this Act, which forms shall contain such information as is required by this Act, by regulations made under this Act, and for the efficient administration of this Act.
- (2) The Commissioner shall make the forms referred to in subsection (1) available to the public at offices of the Income Tax Service and at such other locations or by such other medium as the Commissioner may determine.

Section 315. Tax Identification Number

(1) For the purposes of identifying persons liable to tax under this Act, the Commissioner may, by service of a notice in writing, issue persons with a number to be known as a tax identification number.

(2) The Commissioner may require persons to show their tax identification number in any claim, notice, return, statement, or other document used for the purposes of this Act.

Section 316. Service of Documents

A document to be served on a person under this Act is considered sufficiently served if-

(a) where the person is to be served by the Commissioner and the person has notified the Commissioner in writing of an address for service under this Act, including a fax number or electronic-mail address, left at or sent to the address;

(b) handed to the person or, in the case of an entity, a manager of the entity; or

(c) left at or sent by post to the usual or last known place of abode, business, office, or other address of the person.

Section 317. Defective Documents

(1) A document issued by the Commissioner under this Act is sufficiently authenticated if the name or title of the Commissioner, or authorised officer of the Income Tax Service, is signed, printed, stamped, or written on the document.

(2) A document issued under this Act is not invalid or defective if-

(a) it is in substance and effect in conformity with the Act; and

(b) the person to whom the document is addressed or to whom it applies is designated in the document according to common understanding.

(3) Where a document issued by the Commissioner under this Act contains a defect that does not involve a dispute as to the interpretation of this Act or facts involving a particular person, the Commissioner may, for the purposes of rectifying the defect, amend the document.

Section 320. Commissioner's Access to Information

(1) For the purposes of administering this Act, the Commissioner and every officer of the Income Tax Service authorised in writing by the Commissioner-

- (a) shall have at all times and without any prior notice full and free access to any premises, place, document, or other asset;
 - (b) may make an extract or copy, including an electronic copy, of any document to which access is obtained under paragraph (a);
 - (c) may seize any document that, in the opinion of the Commissioner or authorised officer, affords evidence that may be material in determining the tax liability of any person under this Act; and
 - (d) may, where a copy of a document is not provided on request by a person having access to the document, seize an asset to which access is obtained under paragraph (a) that the Commissioner or authorised officer reasonably suspects contains or stores the document in any form.
- (2) In exercising powers under subsection (1), an officer shall, on request, produce the authorisation referred to in that subsection to an occupier of the premises or place or a person having access to the document or asset to which the exercise of powers relates.
- (3) On request by the Commissioner or an authorised officer, an occupier of the premises or place or a person having access to the document or asset to which an exercise of powers under subsection (1) relates shall provide all reasonable facilities and assistance for the effective exercise of the powers.
- (4) The Commissioner may retain-
- (a) any document seized under subsection (1)(c) for as long as is required to determine the person's tax liability or for any proceedings under this Act; and
 - (b) any asset seized under subsection (1)(d) for as long as is necessary to obtain access to the document, which document may be retained in accordance with paragraph (a).
- (5) A person whose documents or assets are retained under subsection (4) may examine them and, in the case of documents, make copies or extracts from them, at the person's expense, during regular office hours under such supervision as the Commissioner may determine.

- (6) The Commissioner or authorised officer may request the assistance of the police when exercising powers under subsection (1).
- (7) This section has effect notwithstanding any rule of law relating to privilege or the public interest with respect to the production of or access to documents.
- (8) For the purposes of this section, “occupier” in relation to premises or a place means the owner, manager, or any other person on the premises or place.

Section 321. Notice to Obtain Information

- (1) The Commissioner may, by service of a notice in writing, require a person, whether or not liable for tax under this Act-
- (a) to produce, including by way of creation of a document, within the time specified in the notice, any information that is described with reasonable certainty in the notice;
 - (b) to attend at the time and place designated in the notice for the purposes of being examined on oath by the Commissioner or by an officer of the Income Tax Service authorised in writing by the Commissioner concerning the tax affairs of the person or any other person; or
 - (c) to produce at an examination of the person under paragraph (b) and for the purposes of that examination any document in the control of the person that is described with reasonable certainty in the notice.
- (2) Any person to be examined on oath under subsection (1)(b) is entitled to legal or other representation throughout the examination.
- (3) A notice under subsection (1) shall be served by delivery of the notice by hand to the person to whom it is directed or leaving the notice at the person's last and usual place of business or abode.
- (4) This section has effect notwithstanding any rule of law relating to privilege or the public interest with respect to the production of or access to documents.

Section 322. Official Secrecy

- (1) Every officer of the Income Tax Service shall-

- (a) regard and deal with all documents and information coming into the officer's possession or knowledge in connection with the performance of duties under this Act as secret; and
 - (b) not disclose such documents or information to a court, tribunal, or other person except as provided for in subsection (2) and (3).
- (2) An officer of the Income Tax Service may disclose a document or information referred to in subsection (1)-
- (a) to the extent required in order to perform the officer's duties under this Act;
 - (b) where required by a court or tribunal in relation to administrative review or proceedings with respect to a matter under this Act;
 - (c) to the Minister;
 - (d) where the disclosure is necessary for the purposes of any other fiscal law of Symmetrica;
 - (e) to any person in the service of the Government in a revenue or statistical department where such disclosure is necessary for the performance of the person's official duties;
 - (f) to the Auditor-General or any person authorised by the Auditor-General where such disclosure is necessary for the performance of official duties; or
 - (g) to the competent authority of the government of another country with which Symmetrica has entered into an international agreement, to the extent permitted under that agreement.
- (3) Any person, court, tribunal, or authority receiving documents and information under subsection (2) is required to keep them secret under the provisions of this section, except to the minimum extent necessary to achieve the purposes for which the disclosure is permitted.

Division IV: Administrative Review

Subdivision A: Objections

Section 325. Reviewable Decisions

- (1) For the purposes of this Act, the following are reviewable decisions:

- (a) a decision by the Commissioner on an application by a person to extend the date on which tax is due and payable under section 206(4);
 - (b) an estimate by the Commissioner, or the decision to make an estimate, of a person's estimated tax payable under section 231(7);
 - (c) a decision by the Commissioner to require a person to file a return of income under section 235(5) or 236;
 - (d) a decision by the Commissioner on an application by a person to extend the due date by which the person must file a return of income under section 237;
 - (e) an assessment of income tax payable by a person under section 240, 241, or 242 or interest and penalties payable by a person under section 255;
 - (f) a decision by the Commissioner to make an assessment of income tax payable by a person under section 241(2);
 - (g) notification by the Commissioner of an amount to be set aside by a person as a receiver under section 281(2);
 - (h) a decision by the Commissioner to require a person to pay monies owing to a tax debtor to the Commissioner under section 282(2);
 - (i) a decision by the Commissioner to require a person to pay tax on behalf of a non-resident person under section 283(1) or (3);
 - (j) a certificate signed by the Commissioner under section 293(2);
 - (k) a decision by the Commissioner on an application by a person for a refund of tax under section 301(4);
 - (l) a private ruling issued by the Commissioner under section 313; and
 - (m) a decision by the Commissioner on an application by a person for an extension of time within which to file an objection under section 326(3).
- (2) A reviewable decision is treated as made-
- (a) in the case of an assessment of income tax payable by a person under section 240, on the day the assessment is treated as made; and
 - (b) in any other case, on the day when the person is served with the notice of the decision.

(3) Where the Commissioner fails to serve a person making an application under section 206(4), 237, 301(3), 313, or 326(3) with the required notice of the decision within 30 days of the application being made, the person may, by notice in writing filed with the Commissioner, elect to treat the Commissioner as having decided to refuse the application.

(4) Where a person makes an election under subsection (3), the Commissioner is treated as having refused the application and served the person with the required notice to that effect on the day the election is filed.

(5) A person may challenge or seek administrative review of a reviewable decision only under the objection and appeal procedure in this Division and in any such challenge or review the burden of proof is on the person to show the decision is incorrect.

Section 326. Objection to Reviewable Decision

(1) A person who is aggrieved by a reviewable decision may file an objection to the decision with the Commissioner within 60 days after the decision is made.

(2) An objection must be in writing and specify in detail the grounds on which it is made.

(3) On application in writing filed with the Commissioner by a person who is aggrieved by a reviewable decision, the Commissioner-

(a) may, where reasonable cause is shown, extend for a period not exceeding 60 days the date by which an objection must be filed by the person under subsection (1); and

(b) shall serve the person with written notice of the Commissioner's decision on the application.

(4) Subject to subsection (5), the operation and enforcement of a reviewable decision is not stayed or otherwise affected by the filing of an objection under subsection (1).

(5) For the purposes of securing the effectiveness of an objection filed under subsection (1), on application in writing by the person who made the objection filed with-

(a) the Commissioner, the Commissioner may; or

(b) the Registrar of the Income Tax Tribunal, the Income Tax Tribunal may,

stay or otherwise affect the operation or enforcement of a reviewable decision pending the outcome of the objection.

- (6) After consideration of a person's objection filed under subsection (1), the Commissioner-
- (a) may allow the objection in whole or part by amending the reviewable decision or disallow the objection (the "objection decision"); and
 - (b) shall serve the person with written notice of the objection decision.
- (7) Where the Commissioner fails to serve a person with notice of an objection decision within 60 days of an objection being filed under subsection (1), the person may, by notice in writing filed with the Commissioner, elect to treat the Commissioner as having made a decision to disallow the objection.
- (8) Where a person makes an election under subsection (7), the Commissioner is treated as having disallowed the objection and served the person with notice of the objection decision to that effect on the day the election is filed.

Subdivision B: Appeal

Section 330. Appeal to Income Tax Tribunal

- (1) A person (the "appellant") who is aggrieved by an objection decision may file a notice of appeal with the Registrar of the Income Tax Tribunal within 60 days after notice of the objection decision is served in accordance with section 326(6) or (8).
- (2) On application in writing filed with the Registrar of the Income Tax Tribunal by a person who is aggrieved by a reviewable decision or an objection decision, the Income Tax Tribunal may, where reasonable cause is shown, extend the period-
- (a) under section 326(1) by which the person must file an objection; or
 - (b) under subsection (1) by which the person must file a notice of appeal.
- (3) A person who files a notice of appeal under subsection (1) or an application under subsection (2) shall, within five days of doing so, file a copy of the notice or application with the Commissioner.
- (4) Subject to subsection (5), the operation and enforcement of an objection decision is not stayed or otherwise affected by the filing of a notice of appeal under subsection (1).
- (5) For the purposes of securing the effectiveness of an appeal filed under subsection (1), on application in writing by the appellant filed with-
- (a) the Commissioner, the Commissioner may; or

(b) the Registrar of the Income Tax Tribunal, the Income Tax Tribunal may, stay or otherwise affect the operation or enforcement of an objection decision pending the outcome of the appeal.

(6) The Registrar of the Income Tax Tribunal shall give not less than 15 days notice to the parties before the date fixed for hearing of an appeal or application under this section.

(7) In an appeal filed under subsection (1), the appellant is limited to the grounds set out in the objection filed under section 326(1), unless the Income Tax Tribunal grants the appellant leave to add new grounds.

(8) In deciding an appeal filed under subsection (1), the Income Tax Tribunal shall determine facts that are relevant to the objection decision under review and may, in a manner consistent with the application of this Act to those facts-

(a) in the case of a decision with respect to tax payable, affirm, reduce, increase, or vary the amount payable;

(b) in any case, affirm, cancel, exercise, or vary any discretion, power, or right vested by this Act in the Commissioner; or

(c) in any case, remit the decision to the Commissioner for reconsideration in accordance with the directions or recommendations of the Tribunal.

Section 331. Appeal to High Court

(1) Where the appellant or the Commissioner is dissatisfied with a decision of the Income Tax Tribunal made under section 330(8), that person may file a notice of appeal with the Registrar of the High Court within 60 days after being notified of the decision or such further period as the High Court may allow.

(2) Subject to subsection (3), the operation and enforcement of a decision of the Income Tax Tribunal under section 330(8) is not stayed or otherwise affected by the filing of a notice of appeal under subsection (1).

(3) For the purposes of securing the effectiveness of an appeal filed under subsection (1), on application in writing by the person who filed the appeal, which application is filed with-

(a) the Commissioner, the Commissioner may; or

(b) the Registrar of the High Court, the High Court may,

stay or otherwise affect the operation or enforcement of a decision of the Income Tax Tribunal under section 330(8) pending the outcome of the appeal.

(4) In deciding an appeal filed under subsection (1), the High Court may only review the application of the law by the Income Tax Tribunal to the facts as found by the Tribunal.

(5) An appeal filed under subsection (1) shall be conducted in accordance with procedures specified in the Rules of the High Court.

Subdivision C: Income Tax Tribunal

Section 335. Establishment and Jurisdiction

(1) The Income Tax Tribunal is established.

(2) The Income Tax Tribunal has jurisdiction to hear and determine applications and appeals in accordance with sections 326 and 330.

Section 336. Membership

(1) The Income Tax Tribunal shall-

(a) consist of not more than ten members, being individuals appointed by the President acting in accordance with the advice of the Prime Minister;

(b) by majority vote of members appoint one of its members to be Chairperson; and

(c) be assisted by a Registrar appointed by the Minister.

(2) Members of the Income Tax Tribunal shall-

(a) subject to paragraph (c), hold office for a term of five years and are eligible for reappointment;

(b) subject to paragraphs (a) and (c), hold office on such terms and conditions, including as to remuneration, as prescribed by the regulations; and

(c) cease to hold office if they are or become the holder of any other public office or have been or are convicted of any offence involving moral turpitude.

(3) No action, suit, prosecution, or any other proceeding may be brought or instituted personally against an individual who is or was a member of the Income Tax Tribunal in respect of-

(a) any act done in good faith in the discharge of any function under this Act as such a member; or

(b) such an act that in good faith is or was omitted to be done.

(4) A member of the Income Tax Tribunal who has a material, pecuniary, or other interest that may conflict with the proper performance of the member's functions shall-

(a) where the interest may conflict with any hearing of the Tribunal in which the member is involved, disclose the interest to the parties to the hearing and not take part in the hearing unless all parties agree on the member's participation; and

(b) in any case, disclose the interest to the Minister.

Section 337. Powers and Procedure

(1) Subject to this Subdivision, the authorised activities of the Income Tax Tribunal shall be conducted in accordance with any rules of practice and procedure established by the Tribunal, which rules may adopt, in whole, part, or modified form, any rules of practice and procedure of any court.

(2) In conducting authorised activities, the Income Tax Tribunal-

(a) may take and require evidence to be given by any method by which a court of record may take or require evidence to be given including by way of summoning a person to attend before the Tribunal, filing of an affidavit, or the production of documents;

(b) despite paragraph (a), is not bound by the rules of evidence and may inform itself on any matter in such manner as it thinks appropriate;

(c) may, in the same manner as a court of record, find a person guilty of contempt of the Tribunal;

(d) may make an order as to costs; and

(e) shall have such assistance in carrying out and enforcing its decisions, orders, and any other judicial process as is available to the High Court.

Section 338. Hearings

- (1) Hearings of the Income Tax Tribunal shall be-
 - (a) conducted with a view to maximising the convenience of the parties and minimising expense, formality, and technicality;
 - (b) conducted at times and places specified by the Chairperson;
 - (c) conducted by-
 - (i) in any case provided for by the rules specified under section 337(1), a single member of the Tribunal nominated by the Chairperson; and
 - (ii) in any other case, three members of the Tribunal nominated by the Chairperson;
 - (d) presided over by the member of the Tribunal conducting the hearing or, in a case referred to in paragraph (c)(ii), the Chairperson or the member nominated by the Chairperson; and
 - (e) open to the public unless the Chairperson orders otherwise.
- (2) In a hearing before the Income Tax Tribunal, a barrister, a solicitor, or an accountant may represent parties to the hearing.

Section 339. Decisions

- (1) A decision on a hearing of the Income Tax Tribunal shall-
 - (a) be made as quickly as practicable;
 - (b) be in writing and signed by the Chairperson or other member who presided over the hearing;
 - (c) include a statement as to the Tribunal's findings of fact or opinion (that are material to the decision) and the application of the law to the facts; and
 - (d) be notified to the parties.
- (2) Subject to subsection (4), decisions of the Income Tax Tribunal and evidence received by it, including a transcript of hearings, are public records open to inspection by the public.

(3) Subject to subsection (4), the Income Tax Tribunal shall provide for the publication of its decisions in such form and manner as may be adapted for public information and use, and such authorised publication is evidence of the decisions of the Tribunal in all courts of Symmetrica without any further proof or authentication.

(4) The Income Tax Tribunal shall ensure that in releasing or allowing access to information under subsections (2) and (3) measures are taken to prevent the disclosure of trade secrets or other confidential information.

PART VII: INTERPRETATION AND CITATION

Section 345. Definitions

For the purposes of this Act, unless otherwise provided or the context otherwise requires-

"accrual basis" with respect to accounting for income tax purposes has the meaning in section 48;

"acquisition" of an asset has the meaning in section 77;

"amended assessment" means an assessment amended in accordance with section 242;

"amount derived" has the meaning in section 41;

"approved retirement fund" has the meaning in section 190;

"arrangement" includes any action, agreement, course of conduct, promise, transaction, understanding, or undertaking, whether express or implied, whether or not enforceable by legal proceedings and whether unilateral or involving more than one person;

"assessable income" has the meaning in section 15;

"assessment" means an assessment under sections 240, 241, 242, or 255 but excludes an assessment that has been replaced with an amended assessment under section 242;

"asset" has the meaning in section 76;

"associate" has the meaning in section 107;

"attributable income"-

- (a) of a trust has the meaning in section 131; and
- (b) of a controlled foreign company has the meaning in section 156;

"authorised activities" of the Income Tax Tribunal means any activity of the Tribunal that is authorised by this Act;

"beneficiary" with respect to an entity has the meaning in section 106;

"business" includes-

- (a) a trade, profession, vocation, or isolated arrangement with a business character; and

(b) a past, present, or prospective business,

but excludes employment;

"business asset" has the meaning in section 76;

"capital contribution" with respect to an entity has the meaning in section 165;

"cash basis" with respect to accounting for income tax purposes has the meaning in section 47;

"Chairperson" with respect to the Income Tax Tribunal has the meaning in section 336;

"class" of depreciable assets is determined in accordance with section 85;

"collateral benefit" with respect to a distribution by an entity has the meaning in section 165;

"Commissioner" has the meaning in section 305;

"company" has the meaning in section 105;

"consumption costs" has the meaning in section 25;

"contributed capital" of an entity is the total of capital contributions to the entity less any repayments of capital made by the entity;

"controlled foreign trust" and "controlled foreign company" have the meanings in section 105;

"cost" of and "cost incurred" by a person have the meaning in section 41;

"debt claim" has the meaning in section 76;

"debt obligation" has the meaning in section 78;

"deducted" with respect to an amount in calculating income has, for the purposes of Division II of Part II and the definition of "foreign source" and "source" only, the meaning in section 42;

"dependant" of an individual with respect to a tax year means a relative of the individual who-

(a) has taxable income for the year that does not exceed SY 250; and

(b) receives substantial support from the individual during the whole year for the necessities of life;

"depreciable asset" has the meaning in section 76;

"depreciation basis" at the end of a tax year with respect to a pool of depreciable assets, has the meaning in section 86;

"derive" with respect to an amount or payment has the meaning in section 41;

"distribution" and "distribute" by an entity have the meaning in section 165;

"distribution of profits" with respect to a distribution by an entity has the meaning in section 165;

"dividend" of a company has the meaning in section 141;

"document" means a statement in writing, includes an account, assessment, book, certificate, claim, note, notice, order, record, return, or ruling, and may take an electronic form;

"domestic asset" has the meaning in section 76;

"domestic liability" has the meaning in section 78;

"due" and "due and payable" with respect to tax have the meanings in section 206;

"employee" means an individual who is the subject of an employment conducted by an employer;

"employer" means a person conducting the employment of an individual and includes a person who has conducted or has the prospect of conducting the employment of an individual;

"employment" means-

- (a) a position of an individual in the employ of another person;
- (b) a position of an individual as manager of an entity other than as partner of a partnership;
- (c) a position of an individual entitling the individual to a periodic remuneration in respect of services performed; and
- (d) a public office held by an individual, and

includes a past, present, or prospective employment;

"entitled" and "entitlement" with respect to receipt of a payment are interpreted in light of section 41;

"entity" has the meaning in section 105;

"estimated tax payable" with respect to an instalment payer has the meaning in section 231;

"excluded costs" has the meaning in section 25;

"exempt amount" means a payment or an amount exempt from income tax by reason of section 20, 142, or 192;

"exempt organisation" has the meaning in section 20;

"final withholding payment" has the meaning in section 222;

"finance lease" has the meaning in section 67;

"financial institution" means-

- (a) a bank regulated under the Banking Act;
- (b) an insurance company regulated under the Insurance Act; or
- (c) any other entity prescribed by the regulations;

"foreign branch" has the meaning in section 105;

"foreign branch income" and "foreign branch loss" have the meanings in section 147;

"foreign currency asset" has the meaning in section 76;

"foreign currency liability" has the meaning in section 78;

"foreign income tax"-

- (a) means income tax imposed by a foreign country and includes a final withholding tax or branch profits tax imposed by a foreign country;
- (b) excludes-
 - (i) a tax designed to reduce income tax that might otherwise be imposed by the country of a person's residence; or

(ii) tax to the extent to which it has been reduced, refunded, or otherwise compensated for; and

(c) is interpreted in light of section 175;

"foreign source" with respect to income, a loss, amounts included or deducted in calculating income, or a payment has, subject to section 175, the meaning in section 68;

"foreign tax offset" has the meaning in section 200;

"foreigner's Symmetrical branch" has the meaning in section 105;

"gain"-

(a) from the realisation of an asset or liability has the meaning in section 75;

(b) from an interest in an unapproved retirement fund has the meaning in section 193; and

(c) from investment insurance has the meaning in section 184;

"general insurance" and "general insurance business" have the meanings in section 180;

"gift" means a payment without consideration or a payment with consideration to the extent the market value of the payment exceeds the market value of the consideration and for the purposes of this definition a payment may consist of the market value of a loss transferred under section 33(1)(c) or foreign income tax transferred under section 200(3)(b);

"hearings" of the Income Tax Tribunal means the hearing of applications and appeals under sections 326 and 330;

"incapacitated individual" has the meaning in section 105;

"included" with respect to an amount in calculating income has, for the purposes of Division II of Part II and the definition of "foreign source" and "source" only, the meaning in section 42;

"income"-

(a) from a business has the meaning in section 17;

(b) from an employment has the meaning in section 16;

(c) from an investment has the meaning in section 18; and

(d) generally means a person's income from any employment, business, or investment and an aggregation of such income as calculated in accordance with this Act;

"income tax" payable under this Act has the meaning in section 1;

"Income Tax Service" means the government agency of that name;

"Income Tax Tribunal" means the Tribunal established under section 335;

"incomings" for an asset or liability has the meaning in section 81;

"incur" with respect to a cost, has the meaning in section 41 and, with respect to a liability, has the meaning in section 79;

"instalment payer" has the meaning in section 230;

"instalment sale" has the meaning in section 67;

"insurance", "insurance business", "insured", and "insurer" have the meanings in section 180;

"interest"-

(a) in an entity has the meaning in section 106; and

(b) otherwise means a payment for the use of money and includes-

(i) a payment made or accrued under a debt obligation that is not a repayment of capital;

(ii) any gain realised by way of a discount, premium, swap payment, or similar payment; and

(iii) amounts treated as interest under section 67;

"international agreement" means a treaty or other agreement with a foreign government that has entered into force in Symmetrica providing for-

(a) relief of international double taxation and the prevention of fiscal evasion; or

(b) reciprocal administrative assistance in the enforcement of tax liabilities;

"investment"-

- (a) means the owning of one or more depreciable or investment assets-
 - (i) of a similar nature; or
 - (ii) that are used in an integrated fashion, on similar terms, and subject to similar conditions, including as to location,

together with any liabilities incurred with respect to the assets;

- (b) includes a past, present, or prospective investment; and
- (c) excludes a business or employment;

"investment asset" has the meaning in section 76;

"investment insurance" and "investment insurance business" have the meanings in section 180;

"investment final withholding payment" has the meaning in section 222;

"liability" has the meaning in section 78;

"lease" means an asset owned by one person constituted by a temporary right in respect of an asset of another person, other than money, and includes a licence, profit-a-prendre, option, rental agreement, royalty agreement, or tenancy;

"loan" means an asset owned by one person constituted by a debt claim that is not payable until the happening of a future event or a future time;

"long-term contract" has the meaning in section 50;

"loss"-

- (a) from any business or investment has the meaning in section 33; and
- (b) from the realisation of an asset or liability has the meaning in section 75;

"made" with respect to a payment is interpreted in light of sections 45 and 60;

"manager" with respect to an entity has the meaning in section 106;

"market value" is determined in accordance with section 56;

"medical costs" incurred in respect of an individual means costs incurred in the medical treatment of the individual and premiums paid for medical insurance of the individual but

excludes costs incurred in conducting any insurance business;

"medical costs offset" has the meaning in section 116;

"member" of the Income Tax Tribunal has the meaning in section 336;

"Minister" means the Minister of Finance;

"minor" has the meaning in section 105;

"natural resource" means minerals, petroleum, or any other non-living or living resource that may be taken from land or the sea;

"natural resource payment" means any payment, including a premium or like amount-

(a) for the right to take natural resources from land or the sea; or

(b) calculated in whole or part by reference to the quantity or value of natural resources taken from land or the sea;

"net incomings" for a liability to a particular time means the amount by which cumulative incomings for the liability exceed cumulative outgoings for the liability to the time;

"net outgoings" for an asset or liability to a particular time means the amount by which cumulative outgoings for the asset or liability exceed cumulative incomings for the asset or liability to the time;

"non-resident" with respect to a person has the meaning in section 108;

"notice of assessment" means a notice served under section 243 or 255(4);

"objection decision" has the meaning in section 326;

"obligation" and "obliged" with respect to making a payment are interpreted in light of section 41;

"officers" of the Income Tax Service has the meaning in section 305;

"offset" means a personal offset, medical costs offset, or foreign tax offset;

"outgoings" for an asset or liability has the meaning in section 80;

"ownership" of an asset is interpreted in light of sections 77, 120, 130, 140, and 145;

"partner" has the meaning in section 106;

"partner's share" has the meaning in section 122;

"partnership" has the meaning in section 105;

"partnership income" and "partnership loss" have the meanings in section 121;

"pay", "payable", "payee", "payer", and "payment"-

(a) have the meanings in section 41; and

(b) with respect to tax payable under this Act, are also interpreted in light of section 205;

"penalty" means a penalty imposed under Subdivision A of Division V of Part V;

"permanent establishment" means a place where a person carries on business, and includes-

(a) a place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such;

(b) a place where a person has, is using, or is installing substantial equipment or substantial machinery; and

(c) a place where a person is engaged in a construction, assembly, or installation project for 90 days or more, including a place where a person is conducting supervisory activities in relation to such a project;

"person" has the meaning in section 105;

"personal offset" has the meaning in section 115;

"pools" of depreciable assets of a person for a tax year has the meaning in section 85;

"premium" with respect to insurance has the meaning in section 180;

"proceeds" with respect to insurance has the meaning in section 180;

"realisation" of an asset or liability has the meaning in section 82;

"receive" and "receipt" with respect to a payment are interpreted in light of sections 45 and 60;

"Registrar" of the Income Tax Tribunal means the individual appointed to that position under section 336;

"regulations" means regulations made under section 311;

"relative" of an individual has the meaning in section 107;

"rent" means any payment made by the lessee under a lease of a tangible asset including any premium and any other payment for the granting of the lease but excludes a natural resource payment;

"repatriated income" of a foreign branch has the meaning in section 146;

"residence" or "resident" with respect to a person is determined in accordance with sections 108, 109, and 110;

"retirement contribution" has the meaning in section 190;

"retirement fund" has the meaning in section 190;

"retirement payment" has the meaning in section 190;

"repayment of capital"-

- (a) with respect to a distribution by an entity has the meaning in section 165; and
- (b) with respect to a debt claim or debt obligation means the payment or repayment of an amount derived by the holder of the obligation under the obligation that represents incomings for the obligation;

"return of income" has the meaning in section 235;

"reviewable decision" has the meaning in section 325;

"royalty" means any payment made by the lessee under a lease of an intangible asset including payments for-

- (a) the use of, or the right to use, a copyright, patent, design, model, plan, secret formula or process, or trademark;
- (b) the supply of know-how;
- (c) the use of, or right to use, a cinematography film, video tape, sound recording, or any other like medium;
- (d) the supply of assistance ancillary to a matter referred to in paragraphs (a) to (c); or

(e) a total or partial forbearance with respect to a matter referred to in paragraphs (a) to (d),

but excludes a natural resource payment;

“service” of a document is interpreted in light of section 316;

"service fee" means a payment to the extent to which, based on market values, it is reasonably attributable to services rendered by a business of a person;

"shareholder" has the meaning in section 106;

"source" with respect to income, a loss, amounts included or deducted in calculating income, or a payment has, subject to section 175, the meaning in section 68;

"statutory rate" in relation to a tax year means the Bank of Symmetrica discount rate at the commencement of the year;

"tax" has the meaning in section 205;

"tax credit" means a tax credit available under section 223, 230, or 241;

"tax payable on an assessment" has the meaning in sections 240, 241, and 242;

"taxable income" has the meaning in section 10;

"taxable investment income" of a resident minor has the meaning in section 117;

"tax identification number" has the meaning in section 315;

"tax year" has the meaning in section 40;

"temporarily resident" with respect to an individual has the meaning in section 109;

"trading stock" has the meaning in section 76;

"trust" has the meaning in section 105;

"trustee" has the meaning in section 106;

"unallocated income" of a controlled foreign trust or company has the meaning in section 156;

"unapproved retirement fund" has the meaning in section 190;

"underlying ownership"-

(a) in relation to an entity, means interests owned in the entity, directly or indirectly through one or more interposed entities, by individuals or by entities in which no person has an interest; or

(b) in relation to an asset owned by an entity, is determined as though the asset is owned by the persons having underlying ownership of the entity in proportion to that ownership of the entity;

"underlying obligation" in relation to a liability owed by an entity, is determined as though the liability is owed by the persons having underlying ownership of the entity in proportion to that ownership of the entity;

"withholdee" means a person receiving or entitled to receive a payment from which income tax is required to be withheld under Subdivision A of Division II of Part V;

"withholding agent" means a person required to withhold income tax from a payment under Subdivision A of Division II of Part V or who elects to withhold income tax under section 213; and

"written down value" of a pool of depreciable assets-

(a) at the end of a tax year has the meaning in section 87(4);

(b) at a particular time ("the time") during a tax year means-

(i) the written down value of the pool at the end of the previous tax year; plus

(ii) outgoings added to the depreciation basis of the pool during the tax year or to be added during the following tax year under section 86(5) in respect of costs incurred during the tax year but prior to the time; less

(iii) incomings-

(A) derived during the tax year; or

(B) to be derived with respect to a realisation occurring,

prior to the time in respect of assets that are or have been in the pool.

Section 346. Citation

This Act may be cited as the Income Tax Act 20**.

PART VIII: TRANSITIONAL

Section 350. Repeal

(1) The following laws and any regulations, rules, or other subsidiary legislation made under them are repealed (the "repealed legislation):

Income Tax Act 19**
Capital Gains Tax Act 19**

(2) Any right or privilege acquired by a person under the repealed legislation ceases to exist on the date this Act comes into effect under section 351 unless it is expressly provided in section 351 or in the regulations that the right or privilege is to remain in existence.

Section 351. Effective Date and Transition

(1) Subject to this section, this Act comes into effect for tax years commencing on or after 1 January 20**.

(2) The repealed legislation continues to apply for tax years prior to tax years in which this Act comes into effect.

(3) All appointments made under the repealed legislation and subsisting at the date this Act comes into effect are deemed to be appointments made under this Act.

(4) Any international agreement made by Symmetrica that is effective at the time this Act comes into effect continues to have effect under this Act.

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

(6) A reference in this Act to-

(a) a previous tax year includes, where the context requires, a reference to a tax year under the repealed legislation; and

(b) this Act or to a provision of this Act includes, where the context requires, a reference to the repealed legislation or to a corresponding provision of the repealed legislation, respectively.

(7) Division V of Part V (relating to non-compliance) applies to tax due and to offences committed on or after 1 January 20**.

(8) Division IV of Part VI (relating to administrative review) applies with respect to reviewable decisions made on or after 1 January 20**.

(9) Subject to section 40(4), (6), (7), and (8), a person whose tax year under the repealed legislation is a period of twelve months other than the calendar year is treated as having been granted approval by the Commissioner under section 40(3) to use that tax year under this Act.

(10) The Minister may make regulations with respect to transitional measures related to the implementation of this Act.

(11) For the purposes of this section, “repealed legislation” means the laws, regulations, rules, or other subsidiary legislation repealed by section 350.