



INFORMATION SHEET 6

Title:	Collection of Taxes Law		
Authored:	November 2014	Updated:	
Company:	Chelco VAT Ltd		
Reference:	Collection of Taxes Law (N.80(I)/2014)		

In General

The Collection of Taxes Law (N.31/1962) came into force in 1962, for the collection of taxes owed to the Republic, by taking legal and other measures, as well as the confiscation of assets.

In the Government's effort to enhance its ability to collect taxes, the House of Representatives voted for specific amendments to the Collection of Taxes Law (N.80(I)/2014).

The amendments went into effect as of 20 June 2014.

Taxes within the scope of legislation

The Commissioner of Taxation has the ability to exercise the powers conferred him by the law for the collection of the following taxes:

- Income Tax/Corporation Tax
- Special Defence Contribution
- Capital Gains Tax
- Immovable Property Tax
- Special Contribution by employees of the private sector
- Special Contribution by employees of the public sector
- Stamp Duty

Commitment of funds from bank accounts

In case a person refuses or fails or neglects or delays to pay an agreed tax due that exceeds €3.000, except for taxes for which the objection deadline has not yet expired or the objection procedure has not been yet completed against a tax assessment or the Commissioner has agreed for the tax due to be paid in installments, or the Cabinet of Ministers has decided that the amount due will be forgiven or written off, or the Commissioner is satisfied that the guarantees provided are adequate for the collection of the outstanding tax due.



The Commissioner has the authority, with the written consent of the Attorney General, to request from the credit institutions operating in Cyprus at which the relevant person holds bank deposits, to freeze any free and available amount equal to the outstanding tax payable plus interest and penalties.

Before the Commissioner sent to credit institutions request for the commitment of any amount, must consider whether there are refundable tax amounts. In such a case any refundable tax amount should be first offset against any tax payable amount.

Any credit institution which receives such a notice is required to freeze the requested amount within one hour of receiving the notice and inform the same day the Commissioner on the actions it has taken for the specific person.

In case the taxable person does not maintain bank accounts, the credit institution should also inform the Commissioner.

The Commissioner within the next business day will provide guidance to credit institutions that have freeze deposits to release any amount exceeding the amount of tax due plus interest and penalties.

The Commissioner within the next business day following the day the amount due was frozen should send to the taxable person written notice informing him for the commitment of the amount.

Free and available amount belonging to the taxable person means:

- Any cash credit balance in any bank account, including a joint account with other persons, for which the taxable person has the right to withdraw the whole amount, without the involvement of other persons.

Free and available amount does not include the following:

- Amounts subject to a lien or other charge or cheques pending to be settled or guarantees regarding claims pending court decisions.
- Amounts that a credit institution has the right to offset with liabilities of the same person in the exercise of the powers conferred by law or by any agreement entered into with the taxpayer before receiving the notice from the Director for the reservation.
- Any amount in client accounts or accounts for which the taxable person declared that maintains in its capacity as administrator, trustee, guardian, partner, member of the management association, club, institution or other organization with or without legal personality, representative or any other capacity for the benefit and / or by another person.
- The amount which will be frozen should not under any circumstances leave the taxpayer's available credit balance below €2.000.



In case the frozen amount is deposited in joint account with other persons, the institution has the obligation to inform the affected persons for the commitment.

Any officer, employee or representative of a credit institution disclose information or take other actions which adversely affect the ability of the Commissioner to collect the tax due, commits an offence and on conviction is subject to imprisonment not exceeding one year or a fine up to €5.000 (five thousand euro) or both penalties.

If a person as mentioned above, on behalf of credit institutions found guilty of a criminal offence and due to illegal actions taken the recovery of the tax due was not allowed, the credit institution is obliged to pay the tax due.

The taxpayer from the date of the notification, deemed to be seven days after sending the letter for taxpayers residing in the Republic, and thirty days for taxpayers residing outside the Republic, has the right within fifteen days to submit an objection to the Commissioner, or to apply to the Court for a lift of this order.

If the objection is accompanied by the relevant documents the taxable person may require:

- Release of the blocked amount
- Waiver of commitment due to repayment of the outstanding amount or because there is the debt was settled.
- The blocked amount is not free and available amount
- Replacing the blocked amount with other measures such as the seizure of movable property or the registration of an encumbrance on immovable property.

The Commissioner shall, within fifteen days from the date of the objection to decide and inform the taxable person liable on the object.

In case of rejection of the objection, the taxable person has the right to apply to the Court for a final decision.

If the above deadline is expired without the taxable person to:

- File an objection to the Commissioner or
- Apply to the Court or
- If the person have already filed an objection and the objection is rejected and no application filed to the court to lift the order

then the Commissioner shall inform the credit institution and the blocked amount will be transferred to the Consolidated fund of the Republic for the payment of tax due.

In case of registered application to the court to lift the order and depending to the court's decision the Commissioner will inform the credit institution to waive the lien or transfer the amount decided by the court to the Consolidated Fund of the Republic.



The court in the process of considering the application of the taxable person cannot examine the legality of the assessment or the accuracy of the tax imposed.

Seizure and sale of other movable property

In case a person refuses or fails or neglects or delays to pay an agreed amount of tax due, that exceeds €3.000, except for taxes for which the objection deadline has not yet expired or the objection procedure has not been yet completed against a tax assessment or against the Commissioner's decision or against the Tax Council's decision or the Commissioner has agreed for the tax due to be paid in installments, or the Cabinet of Ministers has decided that the amount due will be forgiven or written off, or the Commissioner is satisfied that the guarantees provided are adequate for the collection of the outstanding tax due.

The Commissioner or any other authorized person has the authority to seize and sell property owned by the taxable person except for immovable property.

For the purposes of the exercise of the power conferred by the Law, the Commissioner or the authorized person may enter at any reasonable time, to premises or other place owned by the taxable person, with the exception of houses, and seizes any property.

After the seizing the Commissioner or the authorized person shall send a notification to the taxable person to inform him for the seizure, stating the grounds for the seizure.

The Commissioner or the authorized person has the authority to seize and sell movable property up to twice the value of the outstanding tax due plus interest and penalties.

After the completion of thirty days from the date of seizure, the property is deemed to be under confiscation unless a written dispute against the confiscation submitted to the Director by the liable person. In this case, the Director shall proceed to a court decision and if the Court finds that the property seized actually subject to confiscation, then the property is judicially under confiscation.

It is expected that the Cabinet of Ministers will issue regulations defining the procedure, terms and conditions for the confiscation of movable property as well as defining the powers and duties of the Commissioner or the authorized persons.

Registration of an encumbrance on immovable property

In case a person refuses or fails or neglects or delays to pay an agreed amount of tax due, exceeding €5.000 (five thousand euro), that remains outstanding for the a period of more than 30 days from its due date, except for taxes for which the objection deadline has not yet expired or the objection procedure has not yet been completed against a tax assessment or the Cabinet of Ministers has decided that the amount due will be forgone or written off, or



the Commissioner is satisfied that the guarantees provided are adequate for the collection of the outstanding tax due, the Commissioner has the authority to contact the Department of Land and Surveys and register an encumbrance on immovable property owned by that person.

The value of the immovable property that will be used as a guarantee can be up to twice the value of the taxes payable plus interest and penalties.

The registered encumbrance on immovable property would prohibit the owner of alienating the immovable property and would act as guarantee for any agreed taxes due.

The Commissioner immediately after the registration of encumbrance, it must notify the taxpayer in writing.

The taxpayer has the right to file an objection to the Commissioner or apply to the Court for the lifting of the encumbrance within 30 days from the date of the receipt of the notice regarding the registration of an encumbrance on the immovable property.

If the objection is accompanied by the relevant documents the taxable person may require:

- Review of the registration of encumbrance
- Waiver of the registration due to repayment of the outstanding amount or because there is no longer the debt
- Replacing the registration of encumbrance with other measures such as the freezing of bank deposits or the seizure of movable property.

The Commissioner shall, within thirty days from the date of the objection to decide and inform the taxable person liable on the object.

If the Commissioner accepts the objection of the taxpayer or the Court issue a decision on withdrawal of registration of encumbrance or recover the amount of tax due, then the Commissioner within fifteen days must inform the Department of Lands and Surveys to withdraw the registration of encumbrance.

During the registration of encumbrance on the property, the amount of tax due has priority over other debts of the taxpayer.

Notwithstanding any transfer or mortgage, which occurred after the registration of encumbrance, in part or in whole property, the proportion that ensures the amount of tax due can be sold after a court order at any time.

Any person, whose name has been transferred or mortgaged the property, can claim damages only from the person who has transferred or mortgaged the property.



Progress report to Parliament on the collection of Taxes

Under the provision of the law, the Commissioner shall submit in a quarterly basis, starting from September 30, 2014, a progress report on the status of taxes due, including relevant table showing the category of amounts due, the number of debtors and the relevant outstanding tax, as well as the actions taken by the Department of Taxation on tax collection.

Entry into force of the Law

The law entered into force on 20 June 2014 and applies to taxes due, which have already been assessed either before or after that date.



NOTE

The information in this document is intended as a guide only and every reasonable effort was made to ensure the accuracy and timeliness of the information. In no circumstances shall we be legally bound by any information contained in this document, and shall accept no liability in respect of loss caused by reliance on such information.

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