



BERMUDA

TAX (ACCOUNTS AND RECORDS) REGULATIONS 1991

BR 30 / 91

[made under sections 14(1) and 50 of the Taxes Management Act 1976 and brought into operation on 1 July 1991]

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SCHEDULE

Citation

1 These Regulations may be cited as the Tax (Accounts and Records) Regulations 1991.

Interpretation

2 In these Regulations, unless the context requires otherwise—

“the Act” means the Taxes Management Act 1976;

“available” means available within section 14(1) of the Act;

“contracts exchange”, “trading fees” and “transaction” have the meanings respectively assigned to them in section 39J of the Miscellaneous Taxes Act 1976 [*title 14 item 46*];

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“corporate services” has the meaning assigned to it by section 2 of the Corporate Services Tax Act 1995 ;

“developing owner”, “managing agent”, “purchaser”, “timesharing interval” and “timesharing scheme” have the meanings respectively assigned to them in the Timesharing (Licensing and Control) Act 1981 [*title 26 item 22*];

“employee”, “deemed employee”, “employer”, “exempt undertaking” and “self-employed person” have the meanings respectively assigned to them in subsection (1) of section 2 of the Payroll Tax Act 1995 ;

“hotel” and “proprietor” have the meanings respectively assigned to them in section 1 of the Miscellaneous Taxes Act 1976 [*title 14 item 46*];

“prescribed records” has the meaning assigned to it in regulation 4;

“record” includes any paper, statement, account, writing, book or document, and any device by means of which material is recorded or stored;

“taxpayer” means a person who is chargeable to tax;

“tax period”, in relation to any tax, means the period prescribed as the tax period by the law relating to that tax.

[Regulation 2 amended by BR 14/1996 effective 29 March 1996]

Object of these Regulations

3 These Regulations prescribe—

- (a) the records that taxpayers are to have available; and
- (b) the places where those records are to be available.

Prescribed records

4 The records [*sic*] that taxpayers of the several categories specified in the several paragraphs of the Schedule to these Regulations must keep (the “prescribed records”) are—

- (a) the records respectively specified in that Schedule; and
- (b) any records reasonably necessary to prove or verify any information contained in any records so specified.

[Regulation 4 amended by BR 14/1996 effective 29 March 1996]

Computerised records

5 (1) Prescribed records may be kept in computers for the purposes of these Regulations.

(2) Where prescribed records are kept in computers pursuant to paragraph (1), the information contained in the records must be available, or made available, in a form such that the information is visible and legible.

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Where prescribed records are to be kept

6 (1) Subject to paragraph (2), the place where a taxpayer's prescribed records are to be kept is, as the taxpayer may think fit, either his place of business or the place where he resides.

(2) Where a taxpayer desires to keep prescribed records elsewhere than as laid down by paragraph (1), the Tax Commissioner may in writing approve a place for the purpose and, where a place is so approved in relation to a taxpayer, that place is the place where he must keep his prescribed records and paragraph (1) does not have effect in relation to him.

Saving

7 For the avoidance of doubt, it is hereby declared that nothing in these Regulations in any way limits or curtails any right or power that is given to the Collector or any other public officer by or under any provision of the Act apart from section 14 to inspect or obtain any record.

Commencement

8 These Regulations commence on 1st July 1991.

SCHEDULE

(Regulation 4)

1 Records to be kept by Employers for Payroll Tax

(1) Financial statements and business operating account statements.

(2) Payroll records setting out—

(a) the gross remuneration for each employee or deemed employee;

(b) the deductions made therefrom; and

(c) the net remuneration paid to each employee or deemed employee,

and “remuneration” has the meaning given by section 7 of the Payroll Tax Act 1995.

2 Supplementary Records to be kept by Employers for Payroll Tax

Records setting out details of all types of remuneration falling within each paragraph of section 7(1) of the Payroll Tax Act 1995 paid to or in respect of each employee or deemed employee as follows, including the nature of each type of remuneration and details as to how each of those amounts was calculated—

(a) any wages, salary, leave pay, commission, fee, bonus, perquisite or allowance;

(b) any money paid under a profit-sharing scheme;

(c) any money or other thing of value paid or given to him as an employee or an ex-employee in connection with the permanent termination of his employment on account of redundancy or otherwise;

(d) any amount paid with respect to him to a retirement or provident fund, scheme or society, or under a hospital or health insurance scheme;

(e) the value of any meals, board or lodging, and whether provided in cash or otherwise than in cash;

(f) the rental value of any place of residence provided rent-free;

(g) where a place of residence is provided at a rent less than the rental value, the excess of the rental value over that rent;

(h) any gain obtained by the exercise by him of, or the assignment or release by him of, a right to acquire shares or stock in a body corporate, being a right arising out of services rendered by him (whether in the capacity of director otherwise) to that body corporate;

(i) any other benefit of any kind whatsoever, whether provided in cash or otherwise than in cash.

3 Records to be kept by Self-employed Persons for Payroll Tax

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In the case of a self-employed person, all the records prescribed in paragraphs 1 and 2 above.

4 Records to be kept by Hotel Proprietors for Hotel Occupancy Tax

Records setting out the rack rate charge made by the hotel in respect of each guest accommodated in the hotel.

4A *[Revoked by 2019 : 11 s. 7]*

4B Records to be kept by owners, operators and agents of passenger ships for passenger departure tax and transport infrastructure tax

Records setting out the following—

- (a) the name of the passenger ship;
- (b) the date of each departure from Bermuda;
- (c) the daily number of passengers departing during each tax period; and
- (d) the number of exempted persons.

5 Records to be kept by Developing Owners for Timesharing Occupancy Tax

- (a) records setting out the following in respect of the sale or re-sale of every timesharing interval—
 - (i) the date of execution of the contract of sale;
 - (ii) the full name of the purchaser;
 - (iii) the full name of the vendor;
 - (iv) the amount of the purchase price;
- (b) a copy of the contract of sale in respect of every sale or re-sale of a timesharing interval;
- (c) records setting out the number of timesharing intervals, identified by unit and week, at any time -
 - (i) available for sale;
 - (ii) sold;
 - (iii) unsold.

6 Records to be kept by Managing Agents for Timesharing Services Tax

Records setting out the amounts payable in each tax period by any person to the managing agent in respect of the cost of operating and maintaining the timesharing scheme under the following heads—

- (a) club membership dues;

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- (b) electricity, fuel, sanitation and water;
- (c) the use of any recreational or sporting facilities;
- (d) housekeeping services;
- (e) the replacement of any furniture, fittings, appliances or floor covering;
- (f) operating and maintaining the premises generally.

7 Records to be kept by Taxpayers for Contracts Exchange Tax

Records setting out the following—

- (a) the days on which the contracts exchange was in operation during each tax period;
- (b) the total number of transactions carried out during each tax period;
- (c) in respect of each transaction, whether the parties thereto were trading on their own account or on behalf of another (giving, in the latter case, the status of that other);
- (d) the trading fees charged by the contracts exchange in respect of each transaction.

8 Records to be kept by Taxpayers for Corporate Services Tax

Records setting out the following in respect of each exempted undertaking to which corporate services are provided—

- (a) the nature of the corporate services provided;
- (b) in respect of each such service, whether it is taxable;
- (c) the gross revenue derived from fees charged to that exempted undertaking for taxable corporate services provided to the undertaking during each tax period.

[Schedule amended by BR 14/1996 effective 29 March 1996; paragraph 4B inserted by 1999:18 s.4(3) effective 1 June 1999; para 4A inserted by BR26/2000 effective 31 March 2000; para 4B heading and paragraph (a) amended by BR 15 / 2017 reg. 2 effective 16 March 2017; paragraphs 1 — 3 revoked and substituted by 2018 : 16 s. 20 effective 1 April 2018; paragraph 4A revoked and 4B amended by 2019 : 11 s. 7 effective 1 April 2019; paragraph 4B amended by 2020 : 12 s. 5 effective 1 May 2020; Paragraph 2(a) amended by 2022 : 28 s. 4 effective 20 October 2022]

[Amended by:

BR14/1996
1999 : 18
BR26/2000
BR 15 / 2017

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2018 : 16
2019 : 11
2020 : 12
2022 : 28]