

General National Taxes Ordinance (*Algemene landsverordening Landsbelastingen*) (P.B. 2001, no. 89) after incorporation of the amendments, the latest one being the one published in P.B. 2013, no. 53

Annex to the National Decision of 24 April 2013, no. 13/0990, setting forth the text of the General National Taxes Ordinance.

**CHAPTER I
General provisions**

Article 1

1. The provisions of this ordinance shall apply to the levying of:
 - a. income tax, as meant in the Income Tax Ordinance 1943 (P.B. 2002, no. 63);
 - b. wage tax, as meant in the Wage Tax Ordinance 1976 (P.B. 1975, no. 254);
 - c. profit tax, as meant in the Profit Tax Ordinance 1940 (P.B. 2002, no. 54);
 - d. ship tonnage tax, as meant in the Ship Tonnage Tax Ordinance 2007;
 - e. transfer tax, as meant in the Transfer Tax Ordinance 1908 (P.B. 1908, no. 49);
 - f. inheritance and transfer tax, as meant in the Inheritance Tax Ordinance 1908 (P.B. 1908, no. 48);
 - g. land tax, as meant in the Land Tax Ordinance 1908 (P.B. 1908, no. 27);
 - h. turnover tax, as meant in the Turnover Tax Ordinance 1999 (P.B. 1999, no. 43);
 - i. dividend tax, as meant in the Dividend Tax Ordinance 2000 (P.B. 2000, no. 216);
 - j. tax on savings, as meant in the Savings Tax Ordinance (P.B. 2006, no. 50).
2. The stipulations of this ordinance are applicable by analogy to entities established in the Netherlands Antilles which are not subject to tax or which have been exempted from taxation.

Article 2

1. In this ordinance and the provisions based on it, the following meaning shall be ascribed to:
 - a. tax ordinance: this ordinance, the taxation ordinances meant in article 1, as well as all legal regulations issued to implement those Ordinances;
 - b. entities: associations and other legal entities, partnerships, corporations and specifically allocated funds (*doelvermogen*);
 - c. taxes: the taxes referred to in article 1, including island surcharges insofar as the land tax is concerned and the administrative fines, which may be imposed as per the tax ordinance.
2. In the tax ordinance, the following meaning shall be ascribed to:
 - a. Minister :the Minister of Finance;
 - b. Director :the Section Director for Fiscal Affairs;
 - c. Inspector: :The Inspector of Taxes and, for the implementation of the provisions of Chapter VI only, the Tax Collector and the Director of the Government Foundation for Tax Audits;

- d. Tax Collector :the official charged with the collection of the assessments issued by the Inspector.
- e. tax assessment :the provisional assessment, the assessment, the additional assessment and the supplementary assessment;
- f. taxpayer :the individual or legal entity from whom taxes are levied on the basis of a tax ordinance;
- g. Tribunal :the Appeals Tribunal for Tax Matters, as meant in article 1 of the Ordinance concerning Appeals in Tax Matters 1940, (P.B. 1941, no. 12);
- h. competent authority :the person or agency appointed by a State for the exchange of information;
- i. notification of documents :delivery to the addressee in Curaçao of a document issued by an administrative authority of another state, representing a deed or decision regarding the levying and collection of taxes;
- j. open limited partnership : the limited partnership permitting accession or substitution of limited partners, not only in the case of inheritance or bequest, without the approval of all partners, whether ordinary or limited;
- k. Crib-number : an identification number assigned by the Inspector of Taxes;
- l. ID-number : a number assigned by the Civil Register of Curaçao.

Article 2a

1. The Inspector of Taxes may issue a power of attorney to officials in charge of levying and collecting taxes and personnel of the Government Foundation for Tax Audits.
2. The Tax Collector and the Director of the Government Foundation for Tax Audits may issue a power of attorney to an official in charge of collecting taxes and the auditors of the Government Foundation for Tax Audits respectively.
3. The power of attorney shall be conferred in writing.
4. The power of attorney concerns all powers, which are bestowed by the tax ordinance, but may be limited by the Inspector of Taxes.
5. The principal remains authorized to carry out the power for which the power of attorney was granted.
6. The principal may at any time nullify the power of attorney.

Article 3

1. Where in the tax ordinance reference is made to:
 - a. the Director of an entity, the general partner of a partnership and the local representative of an entity not established in Curaçao as well as the person charged with the liquidation in the event of dissolution, are included;
 - b. association, the term includes the joint venture without legal personality, which in the existing social order may be equated with an association;
 - c. flow-through company, the limited liability company or the private limited company which, in accordance with the procedure established in article 3b, has

- informed the relevant authorities that it wishes to be treated as a partnership as meant in the National Ordinance on partnerships, for purposes of the tax ordinances mentioned in article 1, paragraph 1, under a, c or i;
- d. Curaçao, the part of the sea-bed situated outside the territorial waters of Curaçao and the subsoil thereof, insofar as the Kingdom of the Netherlands on the basis of international law may exercise sovereign rights thereon for the exploration and exploitation of natural resources, as well as the installations and other constructions in, upon or over that area used for the exploration and exploitation of natural resources within that area.
2. Without prejudice to the provisions of paragraph one, under c, a legal entity mentioned in that paragraph may only be considered as a flow-through company if:
 - a. All shares in its capital are registered shares;
 - b. The articles of association contain a share transfer restriction whereby the shareholder who wishes to alienate one or more shares is only allowed to transfer said shares to a co-shareholder or to a third party who, simultaneously with the transfer, has presented a declaration to the board of directors of the entity evidencing his agreement with the treatment of the entity as a partnership, as meant in the National Ordinance on Partnerships as stipulated in this national ordinance;
 - c. The board of directors of the legal entity maintains a register in which the names and addresses of the ultimate beneficial owners with an interest of 10% or more in the entity are registered.
 3. For purposes of section 2 of Chapter VIII of this national ordinance, a flow-through company will be treated as if it were an entity subject to taxation as meant in article 1, paragraph 1, under c and i.

Article 3a

1. Where in the tax ordinance as meant in article 1, paragraph 1, under a, c or i, reference is made to limited liability companies, private limited companies or other corporate entities or associations with a capital divided wholly or partially into shares, such will not include the flow-through company.
2. For the application of the national ordinances as meant in article 1, paragraph 1, under a, c or i, the income and equity of the flow-through company will be deemed to be income and equity of the participants entitled to a share in the equity of the flow-through company.

Article 3b

1. A limited liability company or private limited company will, in accordance with article 3, paragraph 1, under c, be treated as a partnership as meant in the National Ordinance on partnerships, provided that the management of the company or someone on its behalf requests the Inspector in writing, after having been given a power of attorney to do so by each of the company's shareholders individually, to be treated as such. The Inspector shall rule on the request as meant in the previous sentence within two months from the date of receipt thereof by means of an appealable decision. If the decision as meant before is not dispatched within the period mentioned in the second sentence, the request will be deemed to have been

honored. If it results that not all the requirements were satisfied, the flow-through status of the company will have lapsed with retroactive effect.

2. The request as meant in the first paragraph can only be made by:
 - a. a private limited company or limited liability company incorporated in the year the request is made or the previous year, or
 - b. an existing private limited company or limited liability company, provided that company is not nor has ever been subject to the application of articles 8A, 8B, 14 and 14A of the Profit Tax Ordinance 1940, as in effect on 31 December 1999;
as long as the private limited company or limited liability company, in the year the request is made or the previous year, has not had a subsidiary whose profit has been partially disregarded for application of article 11, paragraph 4, of the Profit Tax Ordinance 1940, and the shares in this private limited company or limited liability company are not held by a corporate entity which is not established in Curaçao.
3. A private limited company or a limited liability company as meant in paragraph 2, under a, is required to submit the request as meant in the first paragraph within three months from the date of incorporation of the entity.
4. A private limited company or a limited liability company as meant in paragraph 2, under b is required to submit the request as meant in the first paragraph before or within three months from the start of the financial year in which the entity wishes to be considered as a flow-through company.
5. The request as meant in the first paragraph shall also include details, to be further stipulated by ministerial decree with general effect, regarding the identity of those entitled to a share in the flow-through entity's equity.
6. Incorporation as meant in paragraph 2, under a, also includes the conversion of an entity into a private limited company or limited liability company pursuant to article 303 of Book 2 or article 832 of Book 7 of the Civil Code, if such conversion should lead to a tax liability arising in Curaçao.
7. The choice to be treated as a partnership as meant in the National Ordinance on Partnerships as per the provisions of paragraphs 1 and 2, shall have retroactive effect to the date of incorporation and, insofar as a legal entity as meant in paragraph 2, under b, is concerned, with effect from the financial year meant in paragraph 4.
8. In case the flow-through company no longer meets the requirements meant in the second paragraph or article 3, paragraph 2, the company will no longer be treated as a partnership as meant in the National Ordinance on Partnerships from the beginning of the financial year in which the requirements are no longer met. In such case, the company is not permitted to re-submit a request as meant in paragraph 1.
9. If the limited liability or private limited company submits a written request to the Inspector to no longer be treated as a partnership as meant in article 3, paragraph 1, under c, it will be subject to tax from the beginning of the financial year following the year in which the request was submitted.

Article 3c

Articles 1, 3 and 5 of the General ordinance on periods are similarly applicable to the periods referred to in the tax ordinance.

Article 4

1. Where someone resides or an entity is established is determined on the basis of the circumstances.
2. For the application of the first paragraph, ships and aircraft that have their home port in Curaçao will be considered part of Curaçao with regard to the crew.
3. A trust shall be considered to be domiciled in Curaçao if the trust:
 - a. is organized as per the law of Curaçao;
 - b. is established in Curaçao;
 - c. as per the trust's charter there is only one trustee and same lives in Curaçao or is established there.

If the former is not applicable, the place of residence of a trust, which was organized as per the law of a country other than Curaçao, shall be determined on the basis of facts and circumstances.

Article 5

1. The tax assessment is established by the Inspector of Taxes. The Inspector of Taxes shall transfer the assessment to the Tax Collector for collection. The date on which a tax assessment is issued shall be the date written on the assessment.
2. The taxpayer is obliged to pay the tax assessment within two months from the date the assessment is issued, insofar as the tax ordinance does not stipulate otherwise.
3. In derogation of the second paragraph, a provisional assessment, issued before November 1 of the tax year to which it relates, is payable in as many equal installments as there are months left in the tax year after the month of issuance of the assessment. Each payment term will expire on the last day of each of those months.
4. In derogation of the second paragraph, the supplementary tax assessment is due and payable within one month from the date the assessment is issued.

CHAPTER II Levying of taxes

Section 1 The tax return

Article 6

1. The Inspector can issue a tax return form to anyone who, in his opinion, is presumably subject to taxation or responsible for withholding at source.
2. A tax return form will in any case be issued to whoever requests one.
3. On the tax return form, information is requested, and submission or sending of data carriers, which may be of importance for the levying of the tax can be requested.
4. Anyone, to whom a tax return form has been issued, is obliged to file a tax return, which is completed clearly and without reservation and signed, and is submitted

together with the documents requested therein. The person filing the tax return shall authenticate the documents to be submitted.

5. The model of the tax return forms will be established by ministerial decree with general effect.
6. It can be determined by ministerial decree with general effect that, and under which conditions, it is permitted to file a tax return electronically.
7. The Director can permit filing of a tax return form which was not issued by the Inspector of Taxes. In so doing, he can stipulate conditions.

Article 7

1. With regard to taxes which are levied after an assessment to that effect is raised, the tax return form must be submitted to the Inspector within a term stipulated by the Inspector of at least two months after the tax return form was issued.
2. The Inspector shall demand that the taxpayer, at the end of the term referred to in the first paragraph, file a tax return within a period to be set by him of at least five business days, unless postponement for filing a tax return in accordance with article 9 has been granted.
3. When filing the tax return form, a receipt will be issued on request.
4. The taxpayer, to whom no tax return form was issued within six months after the tax debt originated, is required to request the Inspector to issue a tax return form within fifteen days of the end of this term.
5. The fourth paragraph is not applicable, if it can be reasonably assumed that for the applicable tax period, after set-off of advance levies, no tax is due or no assessment will be raised.
6. If the amount of the tax owed can only be established at the end of the period over which the tax is levied, the tax is considered to have originated at the moment that period ends or when the taxpayer is no longer subject to taxation.

Article 8

1. With regard to taxes or contributions that have to be paid upon filing of a return, the tax return shall be filed with the Inspector of Taxes.
2. If the tax return relates to a stipulated period, it shall be filed within fifteen days from the end of that period. If the tax return relates to a point in time, it shall be filed within fifteen days from the point in time on which the tax debt originated.
3. The stipulated period for filing of the return for the wage and turnover tax is the calendar month.
4. The Minister may issue regulations concerning filing of the tax return for a different period by Ministerial Regulation with general effect.
5. The taxpayer or withholding agent to whom a tax return form has not been issued is required to request the Inspector to issue a tax return form before payment of the tax becomes due.
6. The Director can determine under which conditions the tax return may be filed with the Tax Collector.

Article 9

1. The Inspector can grant, under circumstances to be determined by him, postponement for filing of the tax return and, in doing so, can stipulate conditions. Postponement will not be granted for a period of more than eighteen months after the date on which the tax debt originated.
2. If postponement is granted for filing of a tax return, each term related to the return or the issuance of an assessment shall be prolonged by the duration of the postponement granted.
3. In derogation of the stipulations of this national ordinance, the taxpayer who wishes to emigrate from Curaçao or to establish his domicile to a place situated outside Curaçao is required to file a tax return immediately for income tax, profit tax, wage tax, company turnover and/or sales tax, until the end of the period for which he is subject to tax.

Section 2 **Levying of tax by assessment**

Article 10

1. When raising the assessment, the Inspector can deviate from the return, provided that the reason for any deviation is given, as well as issue an assessment *ex officio* in the event that no return was filed.
2. The authority to raise an assessment ends five years after the point in time on which the tax debt originated.

Article 11

1. In the event that the amount of the tax debt can only be established at the end of the period over which the tax is levied, the Inspector can raise a provisional assessment for the taxpayer after the beginning of that period up to the amount for which the assessment will presumably be issued.
2. The provisional assessment shall be limited to the amount by which the assessment will presumably exceed the advance levies.
3. A provisional assessment may be followed by one or more provisional assessments.
4. The provisional assessment and the advance levies shall be set-off against the assessment.
5. The Inspector can also impose a provisional assessment on taxpayers not residing or established in Curaçao who only temporarily operate a business or practice a profession in Curaçao.
6. A provisional assessment can always be imposed directly after the tax debt has originated, or, in the case of a tax, which is to be paid upon filing a return for a specified period, immediately after the beginning of the period, up to the amount that seems correct to the Inspector, if:
 - a. the taxpayer has been declared bankrupt or, in the case of an entity, in the event of its dissolution, termination or liquidation;
 - b. the taxpayer wants to emigrate from Curaçao or wants to establish his domicile to a place outside Curaçao;

- c. the business of the taxpayer is discontinued or is considerably scaled down, or the taxpayer alienates real estate situated in Curaçao or rights established thereon.
- 7. By ministerial decree with general effect, further rules can be established with regard to the first paragraph.

Article 12

- 1. The Inspector determines not to issue an assessment to the person who has filed a tax return by means of an appealable decision, which states the reason for same.

Article 13

- 1. If any fact presents grounds for presuming that an assessment has not been raised by error or has been issued for too low an amount, or that a reduction, dispensation or refund provided for in the tax legislation has been granted wrongly or for too high an amount, the Inspector can raise an additional tax assessment for the insufficiently levied tax. A fact that was known to or should have reasonably been known to the Inspector cannot provide grounds for an additional tax assessment, except in cases where the taxpayer, with regard to this fact, acted in bad faith.
- 2. An additional tax assessment can also be issued in all cases in which too little tax was levied, on account of the fact that:
 - a. a provisional assessment, or an advance levy was set-off wrongly or up to an incorrect amount;
 - b. a component of the taxable object of any type of tax to be considered in the case of the taxpayer was incorrectly allocated with respect to him or his spouse;
 - c. the standard deduction for income tax, the single-wage earner allowance, the old age allowance and child benefits applicable thereto were granted incorrectly or for too high an amount.
- 3. The authority to raise an additional tax assessment, as meant in the first and second paragraphs, ends ten years or five years, respectively, after the tax debt originated.
- 4. If too little tax was levied on the component of the taxable object of any type of tax, which is held or has arisen abroad, in derogation of the third paragraph, the authority to raise an additional tax assessment will end, fifteen years after the point in time on which the tax debt originated.

Section 3

Levying of tax by means of payment of tax upon filing of a return

Article 14

- 1. In the event that the tax ordinance prescribes payment of tax due over a specific period or payment of tax withheld in a period, the taxpayer or the withholding agent is required to pay the tax to the Tax Collector in accordance with the tax return within fifteen days from the end of that period.

2. The stipulated period for filing of the return for the wage and turnover tax is the calendar month
3. The Minister may issue regulations concerning filing of the tax return for a different period by Ministerial Regulation with general effect
4. If no tax is due over a tax period, a tax return must be filed with the Inspector within fifteen days from the end of that period.
5. The Inspector can demand of the taxpayer or withholding agent who has to pay tax over a period of more than a month that he make a monthly provisional payment within fifteen days from the end of each month.
6. In the cases not referred to in the first paragraph, the tax return has to be filed and the tax paid in accordance with the tax return within fifteen days after the point in time at which the tax debt originated.

Article 15

1. For taxpayers subject to profit tax, the provisions of this article are applicable in derogation of the provisions of articles 8 and 14.
2. Annually the taxpayer is required to file a provisional tax return and pay the tax due in accordance therewith to the Tax Collector, no later than the last day of the third month following the end of the fiscal year.
3. The tax declared as due on the provisional tax return must be at least the amount calculated by applying the tax rate, which is applicable for the year for which the provisional return is being filed, to the profit declared on the most recent final tax return filed. If the taxpayer wishes to declare a lower amount, he may submit a substantiated petition to that effect to the Inspector.
4. The taxpayer is required to file a final tax return and pay the tax in accordance therewith, no later than the last day of the sixth month following the end of the fiscal year to the Tax Collector.
5. The Inspector makes a reasoned decision in writing within fifteen days of receiving a petition, as meant in the third paragraph. The date on which the decision is mailed shall be the date of the decision. If the Inspector has not rejected the petition in writing within fifteen days, the petition shall be deemed to have been granted.
6. The Inspector makes a reasoned decision in writing within fifteen days of receiving a petition for postponement of filing a final tax return. If a decision is taken, the date on which the decision is mailed shall be the date of the decision. If the Inspector has not rejected the petition within fifteen days, the period for filing the final tax return shall be prolonged by three months.
7. Article 11, third, fourth and sixth paragraphs, are applicable by analogy.
8. If, pursuant to the final tax return, the calculation of tax due results in a tax refund being owed to the taxpayer, the Inspector shall raise an assessment within six months from the date the final tax return was filed.
9. If the Inspector does not raise the assessment referred to in the eighth paragraph within six months from the date the final tax return was filed, the taxpayer will be informed hereof in writing and supported by the reasons for same.

Article 16

1. If the tax that must be paid upon filing of a tax return was not paid or was only paid in part, the Inspector can raise a supplementary tax assessment for the tax that was not paid or was insufficiently paid in the name of the person who should have paid the tax. If no tax return was filed either, the Inspector will issue the assessment *ex officio*.
2. Not being fully paid, as meant in the first paragraph, will equally mean the case in which, pursuant to a petition made based on the tax ordinance, a tax exemption or a reduction in withholding of taxes or a refund of taxes was granted wrongly or to too high an amount.
3. The withholding agent is entitled to recover the amount of the supplementary tax assessment from his employee, if it is the employee's fault that too little tax was withheld.

Article 17

1. The authority to issue a supplementary assessment ends five years from the end of the calendar year in which the tax debt originated or the refund was granted.
2. If, with regard to the facts referred to in article 16, the taxpayer or withholding agent acted in bad faith, the authority to issue a supplementary assessment ends, in derogation of the first paragraph, ten years after the end of the calendar year in which the tax debt originated or the refund was granted.

CHAPTER III

Administrative penalties

Section 1

Omission and offence penalties

Article 18

1. If a taxpayer has not filed the tax return on the basis of which tax is levied by assessment, or has not filed it within the period prescribed by article 7, second paragraph, this will constitute an omission for which the Inspector can impose a penalty of at most NAF. 2,500.00, simultaneously with the issuance of the assessment.
2. If the taxpayer or the withholding agent did not file the tax return pursuant to which tax has to be paid upon filing of same, or did not file it within the period prescribed, this will constitute an omission for which the Inspector can impose a penalty of at most NAF. 2,500.00, simultaneously with the issuance of the assessment.
3. The authority to impose the penalty referred to in the second paragraph ends one year after the end of the term within which the return had to be filed.

Article 19

1. If the taxpayer or the withholding agent did not pay, did not fully pay, or did not pay the tax, which is to be paid upon filing a return, within the prescribed period,

this will constitute an omission for which the Inspector can impose a penalty of at most NAF. 10,000.00.

2. In the event of non-payment or partial payment, the Inspector shall impose the penalty simultaneously with the issuance of the supplementary tax assessment.
3. The authority to impose the penalty referred to in the first paragraph ends five years after the end of the calendar year within which the tax debt originated.

Article 20

1. If, with regard to a tax that is levied by means of an assessment, it is due to the malicious intent or gross negligence of the taxpayer that the amount of the assessment issued was too low or otherwise too little tax was levied, this will constitute an offence for which the Inspector can impose a penalty, simultaneously with the issuance of the assessment, of at most 100% of the basis for the penalty described in the second paragraph.
2. The basis for the penalty is:
 - a. the amount of the additional tax assessment, or
 - b. if losses are or were taken into account, the amount for which the additional tax assessment would have been issued without taking those losses into account.
3. The authority to impose the penalty ends after expiration of the period, which is applicable for raising the additional assessment.

Article 21

1. If it is due to malicious intent or gross negligence of the taxpayer or the withholding agent that tax which has to be paid upon filing of a tax return, was not paid, not fully paid or not paid within the period prescribed in the tax ordinance, this will constitute an offence for which the Inspector can impose a penalty of at most 100% of the basis for the penalty described in the second paragraph.
2. The basis for the penalty is the amount of tax that was not paid or was not paid in time, insofar as that amount was not paid or not paid in time as a consequence of the malicious intent or gross negligence of the taxpayer or withholding agent.
3. The basis for a penalty for a supplementary assessment for profit tax is:
 - a. the amount of the supplementary assessment, or
 - b. if losses are or were taken into account, the amount for which the additional tax assessment would have been issued without taking those losses into account.
4. In the event of non-payment or partial payment, the Inspector will impose the penalty simultaneously with the issuance of the supplementary tax assessment.
5. The authority to impose the penalty ends after expiration of the period, which is applicable for raising the additional assessment.

Article 21a

1. If the declaration as meant in article 45, second and third paragraph, is not provided or is not provided in time or in full by the person required to maintain an administration this will constitute an omission for which the Inspector can impose a penalty of at most NAF. 5,000.00.

2. The authority to impose the penalty referred to in the first paragraph ends one year after the end of the term within which the declaration as meant in article 45, second and third paragraph had to be provided.

Section 2
Instructions concerning the imposition of administrative penalties

Article 22

1. Before imposing a penalty for an offence, the Inspector shall inform the taxpayer or withholding agent of his intention thereto, mentioning the grounds on which the intention is based.
2. The Inspector shall give the taxpayer or withholding agent the opportunity to contest the grounds mentioned in that notice, supported by reasons, within a period to be determined by him, being at least two weeks.
3. If the provisions of the first or second paragraph are not complied with, this will not result in the penalty being null and void.

Article 23

1. The Inspector shall impose the penalty by means of an appealable decision.
2. Without prejudice to the provisions of article 22, first and second paragraphs, the Inspector shall inform the taxpayer or withholding agent of the grounds on which the imposition of the penalty is based, at the latest with the decision meant in the first paragraph.
3. In derogation of the first and second paragraphs, the Inspector can impose a penalty within six months after issuing an additional or supplementary tax assessment, if the facts or circumstances upon which the additional or supplementary tax assessment are based first become known within six months before the end of the periods referred to in article 13, third paragraph and article 17, respectively, and there are indications that it is due to the malicious intent or gross negligence of the taxpayer or withholding agent that the assessment was issued for too low an amount or otherwise too little tax was levied. In that case, the Inspector shall inform the taxpayer or withholding agent before or simultaneously with the issuance of the additional or supplementary tax assessment that it is being investigated whether, in connection with the additional or supplementary tax assessment, it is justified to impose an offence penalty.
4. At the request of the taxpayer or withholding agent who insufficiently understands the notice due to his faulty knowledge of Dutch, the Inspector will see to it as much as possible that the grounds mentioned therein are made known to the taxpayer or withholding agent in a language that he understands.
5. If the penalty is imposed simultaneously with the issuance of a tax assessment, the amount of the penalty will be mentioned separately on the notice of assessment.
6. The penalty will be collected in accordance with the provisions applicable to the collection of the tax with respect to which the penalty was imposed.

Article 24

Chapter VI is applicable by analogy to the imposition of administrative penalties, with the understanding that the taxpayer or withholding agent against whom the investigation to impose an administrative penalty is directed is only required to permit the Inspector to consult data carriers or their contents or to provide access to buildings or grounds.

Article 25

1. The Inspector can summon the taxpayer or withholding agent about whom there is a reasonable expectation that an offence penalty may be imposed on him for an interview. In this summons, the Inspector shall inform him that he may be assisted, if he wishes.
2. Before the interview begins, the Inspector shall inform the taxpayer or withholding agent that he is not obligated to answer.
3. At the request of the taxpayer or withholding agent who does not understand Dutch, Papiamentu or English sufficiently, the Inspector can permit that he be assisted by an interpreter during the interview.

Article 26

In the event that a taxpayer or withholding agent as yet files a correct and complete tax return or provides correct and complete information, data or indications before he knows or reasonably should presume that the tax authority knows or will know of such incorrectness or incompleteness, an omission penalty instead of an offence penalty will be imposed of at most 15 %.

Article 27

1. An imposed penalty will become null and void, if the taxpayer or withholding agent, on account of the offence for which the penalty is due, has been acquitted, discharged from further prosecution or sentenced by an irrevocable court ruling.
2. The Inspector shall not impose an offence penalty, as meant in this section, insofar as it is not due to malicious intent or gross negligence of the taxpayer or withholding agent that too little tax was levied.
3. If, after imposing an offence penalty, it appears that the grounds therefor are lacking, but there are sufficient grounds to impose an omission penalty, this lower penalty can be substituted for it. The already imposed penalty will then be reduced to the amount of the omission penalty.
4. If the basis for a penalty is reduced, the Inspector will reduce the penalty accordingly *ex officio*.

Article 28

1. No penalty will be imposed on the taxpayer or withholding agent who is deceased.

2. If a penalty is not yet irrevocable at the moment of decease of the taxpayer or withholding agent, the Inspector will cancel the decision by which the penalty was imposed at the request of an interested party, by means of an appealable decision.
3. If a penalty has become irrevocable at the moment of decease of the taxpayer or withholding agent, but has not yet been paid or fully paid, the Inspector will reduce the penalty to the amount that was paid at the moment of decease at the request of an interested party, by means of an appealable decision.

Section 3
Administrative sanctions

Article 28a

1. On a taxpayer who does not observe the obligations imposed by a national decision containing generally applicable measures, as meant in article 43, paragraph 10, or article 44a, paragraph 8, an administrative sanction may be imposed.
2. The administrative sanction consists of closure for at most one year of a business location, which delivers goods or performs services, as meant in article 2, under a, of the Company Turnover Tax Ordinance 1999.
3. In order to carry out the provision of paragraph 2, the Inspector is authorized to seal off buildings, land and everything, which is therein or thereon.
4. The Inspector shall impose the administrative sanction by appealable decision as meant in article 3, paragraph 1 of the National Ordinance on Administrative Proceedings.
5. A protest or appeal of the administrative sanction meant in this article will not cause the sanction to be suspended.
6. Further regulations as to the application and implementation of the administrative sanction may be established by national decision containing generally applicable measures.

CHAPTER IV
Objection and appeal

Article 29

1. The person, who objects to a tax assessment imposed on him or to an appealable decision made by the Inspector pursuant to this ordinance, can submit a reasoned notice of objection to the Inspector within two months of the date of issuance of the notice of assessment or of the mailed or delivered copy of the issued decision. The Inspector shall immediately note the date of receipt on the notice of objection. The Inspector shall immediately send the petitioner a receipt, in which the date of receipt is mentioned.
2. The person who objects to the amount of tax that he has paid upon filing of a tax return or that has been withheld from him as tax by a withholding agent can

submit a reasoned notice of objection to the Inspector within two months from the date of the payment or the withholding, respectively.

3. If a notice of objection concerns more than one tax assessment or decision concerning imposition of a penalty, the Inspector shall provide the interested party the opportunity to replace the document, within a period to be determined by him, by as many notices of objection as there are tax assessments or decisions. If the interested party makes use of this opportunity, the new notices of objection will be considered to have been received on the same day as the original document was received by the Inspector.
4. For the application of the second paragraph, the tax as meant in the Dividend Tax Ordinance 2000 (P.B. 2000, no. 246) will be deemed to have been withheld on the day upon which the notice, as meant in article 9 of said ordinance, is dated.

Article 30

1. The Inspector shall render a decision on the notice of objection.
2. Refusal to render a decision or not rendering a decision in the time prescribed will be equated with a decision. A decision is considered not to have been rendered in the time prescribed if the Inspector has not rendered a decision within nine months from the date the notice of objection was received.
3. If the Inspector will not be able to render a decision on the notice of objection within the period referred to in the second paragraph, he shall notify the interested party thereof in writing, mentioning the reason why a decision cannot yet be rendered. The period referred to in the second paragraph will be prolonged by this postponement in the cases to be determined by the Minister. The Inspector is required to render a decision as soon as it can reasonably be expected of him.
4. If the interested party expresses the desire to that end in his notice of objection, he shall be heard before the Inspector renders his decision. He can also be summoned *ex officio* to give information or to hear the grounds upon which the assessment was issued. All summons shall be advised with notice of at least seven days.
5. If the objection is not honored or not fully honored, the decision will be substantiated.
6. If the notice of objection is directed against a tax assessment in connection with a tax return, which contrary to the law, was not filed, the return was not filed as required, or the obligations pursuant to articles 40, 40a, 41, 42 and 43 were not complied with, the tax assessment will be upheld, unless it appears that, and if so, to what extent, it is incorrect.

Article 31

1. The interested party, who objects to a decision rendered by the Inspector pursuant to this ordinance, can lodge an appeal within two months from the date of issuance of the copy of the decision with the Tribunal. In the case referred to in article 30, second paragraph, the interested party can also lodge an appeal within twelve months from the moment:
 - a. on which nine months have lapsed since the notice of objection was received by the Inspector; or
 - b. on which the prolongation of the period, as meant in article 30, third paragraph, second sentence, has lapsed.

2. In case the appeal is directed to the fact that the Inspector did not render a decision in the time prescribed, the Tribunal can request that the Inspector render his decision on the notice of objection and at that time shall determine that Chapter VI shall be analogously applicable during a term to be determined.
3. The Tribunal shall reject the appeal if contrary to the law no tax return was filed, the return was not filed as required, or the obligations pursuant to articles 40, 40a, 41, 42 and 43 were not complied with, unless it appears that, and if so, to what extent, the decision is incorrect.

Article 32

The obligation to pay will not be suspended by lodging a notice of objection or a notice of appeal with regard to a tax assessment.

Article 32a

1. Expenses reasonably incurred by the taxpayer in connection with the processing of a notice of objection upon request of the taxpayer will be reimbursed by the exchequer exclusively insofar as the appealable decision was issued in contravention of the law through gross negligence.
2. The request shall be made before the Inspector renders a decision on the notice of objection. The Inspector shall decide on the request when rendering a decision on the notice of objection.
3. Further rules can be stipulated by ministerial decree with general effect regarding the sole expenses to which the reimbursement referred to in the first paragraph is applicable and the manner in which the amount of such expenses is fixed.

CHAPTER V **Special provisions**

Section 1 **Representation**

Article 33

1. Representation is possible on the basis of a written power of attorney. Upon demand of the Inspector, the document attesting to the power of attorney has to be submitted.
2. The person who has been summoned to provide the Inspector with information and data orally and is represented is required, upon demand of the Inspector, to accompany his representative.
3. The Inspector may refuse the representation by a certain person, supported by reasons.

Article 34

1. The authority and the obligations of a minor, a person placed under control of a guardian or a person who has been declared bankrupt, or whose assets have been

put under administration, can be exercised and complied with by their legal representative, curator or administrator. If requested, the latter are required to meet those obligations.

2. The authority of an entity can be exercised and its obligations can be fulfilled by any director. If so requested, any one of them is required to meet those obligations.
3. If someone is deceased, his heirs, in exercising the authority and fulfilling the obligations which the deceased would have had, had he been alive, can be represented by any one of them, the executor, the administrator or the court appointed curator of the estate. If so requested, any one of the persons mentioned is required to meet those obligations.
4. Documents concerning tax matters of a deceased person can be addressed to any one of the persons referred to in the third paragraph.

Article 35

The Inspector can exclude representation in the fulfillment of an obligation of a person who is himself able to meet that obligation.

Article 36

The provisions of this section do not apply in the case of criminal prosecution.

Section 2 Choice of domicile

Article 37

In notices of objection and notices of appeal, the person who does not have a permanent residence or registered office in Curaçao is required to choose domicile within Curaçao.

Article 38

If, pursuant to the tax ordinance, a tax return form or other document has to be issued to a person who does not have a permanent residence or registered office in Curaçao, such issuance can also take place:

- a. by means of delivery or handing over at the address of the permanent establishment within Curaçao for his trade or business or for the practice of his profession.
- b. at the residence or office of his representative, residing or established in Curaçao.

Section 3 Conferring of authority

Article 39

1. The Minister is authorized:

- a. insofar as not otherwise provided for in the tax ordinance, to further stipulate rules for the implementation of the tax ordinance by ministerial decision having general effect;
 - b. to remedy unfairness of a dominant nature that may occur when applying the tax ordinance to certain cases or groups of cases;
 - c. to stipulate rules for granting complete or partial remission of imposed penalties.
2. The Inspector is charged with the implementation of the Minister's decision.

Article 39a

1. An incorrect tax assessment or appealable decision can be reduced by the Inspector *ex officio* within ten years after the tax debt originated. A reduction, exemption or refund contemplated in the tax ordinance may be provided by him *ex officio*.
2. The first paragraph is applicable by analogy with regard to the person who has paid or remitted an incorrect amount upon filing a tax return or from whom an incorrect amount has been withheld.

CHAPTER VI **Obligations for the purpose of levying tax**

Article 40

1. Every person is obliged, at the Inspector's request:
 - a. to provide him with the data and information that can be of importance with regard to his own taxation;
 - b. to make available for this purpose, at the Inspector's discretion, data carriers or their contents the review of which can be of importance for the establishment of the facts that can be of influence with regard to his own taxation.
2. The obligations as meant in the first paragraph shall also be applicable to the flow-through company with regard to the taxation of those entitled to a share in its equity.
3. The obligation mentioned in the first paragraph, under b, also applies to third parties who are in possession of such data carriers. The Inspector shall inform the person whose data carriers are being reviewed at the third party's location thereof as soon as possible.
4. In the event that the tax ordinance deems tax matters of a third party to be matters of the presumed taxpayer, the third party shall be subject to analogous obligations.
5. Every person is obliged, if such can be of importance for the levying of tax owed by him, to identify himself at first request of the Inspector by providing the Inspector with a valid passport, valid identity card or valid driver's license for inspection.

Article 40a

1. With regard to an entity with a capital wholly or partially divided into shares in which an entity not resident in Curaçao or an individual not resident in Curaçao

has an interest of more than 50% and with regard to another entity in which that entity not resident in Curaçao or that individual has control, article 40, paragraph 1 shall be applicable analogously with regard to data and information as well as data carriers that are in the possession of that non-resident entity or that individual. The first sentence is also applicable in cases in which two or more entities or individuals of which at least one is a non-resident of Curaçao, by means of a mutual arrangement for cooperation, have an interest of more than 50% in an entity with a capital wholly or partially divided into shares or have control of another entity. In regard to the data carriers meant it is sufficient to provide access to the contents thereof by means of photocopies, legible prints or extracts.

2. With regard to the entities as meant in the first paragraph, article 40, paragraph 1 is equally applicable analogously to the data and information and data carriers, which are in the possession of a non-resident entity with a capital wholly or partially divided into shares in which a non-resident entity or individual as meant in paragraph 1 has an interest of more than 50% or which are in the possession of another non-resident entity of which that entity not resident in Curaçao or that individual has control. In regard to the data carriers meant it is sufficient to provide access to the contents thereof by means of photocopies, legible prints or extracts.
3. The first and second paragraph are not applicable if the entity not resident in Curaçao meant therein or the individuals meant therein are established in or are residents of a state with which Curaçao has a mutual agreement for the exchange of information with regard to the levy of tax for which the Inspector requires the data, information or data carriers.
4. Contrary to the third paragraph, the Minister may allow the Inspector to apply the first and second paragraph if it becomes apparent that by applying the third paragraph the requested information cannot be obtained.
5. An entity may not successfully cite the non-cooperation of the entity not resident in Curacao or the individual not resident in Curaçao as a reason not to comply with the obligations stipulated in this article.

Article 41

1. The data and information must be provided clearly, with certainty and without reservation, orally, in writing or in any other manner - at the discretion of the Inspector - and within a period to be established by the Inspector. The requested data and information must be provided free of charge.
2. It must be permitted that copies, readable prints or extracts are made of the data carriers or their contents that have been made available for review. If copies or readable prints cannot be made on location, the Inspector will be authorized to take along the data carriers for that purpose during a short while.
3. Review of the data carriers must be allowed at the office of the Inspector within a period to be established by him. The Inspector may agree to inspection at another site, insofar as this does not obstruct the progress of the investigation.

Article 42

1. The person occupying for use a building or plot of land is obliged to give access to all parts of that building or land upon request for an investigation to be conducted pursuant to the tax ordinance by the Inspector or the experts appointed by him.

2. The requested access shall be granted between eight o'clock in the morning and six o'clock in the evening, with the exception of Saturdays, Sundays and public holidays.
3. If the building or land is used for the operation of a business or for the practice of an independent profession, the requested access shall also be granted during the hours in which the business operations or practice of that independent profession actually take place.
4. The user of the building or the land is required upon request to give such indications as may be necessary for the investigation.
5. The officials authorized to access premises shall not enter a private residence without the express permission of the occupant other than with due observance of the provisions of the sixth paragraph.
6. Access to private residences is subject to the provisions of Title X of the Third Book of the Criminal Procedure Code, applicable by analogy, with the exception of articles 155, paragraph four, 156, paragraph two, 157, paragraphs two and three, 158, paragraph one, the last clause, and 160, paragraph one, and with the understanding that the authorization referred to shall be given by the Attorney General, the public prosecutor or the deputy public prosecutor.

Article 43

1. Those liable to keep an administration are:
 - a. individuals operating a business or practicing a profession;
 - b. individuals who are responsible for withholding of taxes and contributions at source;
 - c. legal entities.
2. Those liable to keep an administration are required to document the state of their assets and liabilities and of everything concerning their business in accordance with the requirements of that business and keep the corresponding data carriers in such a manner that their rights and obligations and also the information that is of importance for the levying tax clearly appear from this administration at all times.
3. The administration shall be conducted in Dutch, Papiamentu, English or Spanish, while making use of the figures customary thereto.
4. To the contents of the administration belongs that which is established pursuant to the tax ordinance.
5. The organization, updating and filing of the administration should make review thereof by the Inspector possible within a reasonable period of time. The person liable to keep an administration shall give the necessary cooperation to this end and shall provide the necessary insight into the set-up and the operation of the administration.
6. Those liable to keep an administration are required to keep their administration and the corresponding data carriers during ten years.
7. The person liable to keep an administration who does not provide or does not fully provide the data carriers or their contents for review upon demand, shall be deemed not to have fully met an obligation imposed on the basis of this article, unless it is demonstrated that the absence or incompleteness of the data carriers or their contents is the consequence of *force majeure*.

8. Every person liable to keep an administration is required to apply to the Inspector for a CRIB-number.
9. At the request of an interested party, the Inspector will issue to him a CRIB-number, or will notify the interested party at his request of an already assigned CRIB-number. In order to establish his identity, the interested party is required to provide a valid passport, valid driver's license or a valid identity card for inspection.
10. By national decree containing generally applicable measures, further regulations can be stipulated with regard to persons liable to keep an administration or groups of persons liable to keep an administration in connection with the manner in which the administration and the corresponding data carriers are kept and secured.

Article 44

1. The person liable to keep an administration, referred to in article 43, first paragraph, under a and c, is required to emit an invoice to the purchaser with respect to their deliveries of goods and performance of services as meant in article 2, under a of the Turnover Tax Ordinance 1999.
2. The invoice shall be emitted within fifteen days from the end of the month in which the delivery was made or the service was provided.
3. In the event that the person liable to keep an administration has agreed that the payment for the performance of the delivery or service to be carried out by him will be paid in advance in full or in installments, with respect to such payment or partial payment an invoice in accordance with the fifth paragraph shall be emitted before the payment falls due.
4. The person liable to keep an administration is required to make and keep a copy of the invoice issued.
5. The invoice as meant in the first paragraph, must clearly and legibly contain the following information:
 - a. the date upon which the invoice was issued;
 - b. it must be consecutively numbered and bear a unique number;
 - c. the name or trade name, address, CRIB-number and registration number of the Chamber of Commerce assigned to the person liable to keep an administration delivering the goods or providing the service;
 - d. the name or trade name and address of the customer obtaining the goods or service;
 - e. a clear description of the goods delivered or the services provided;
 - f. the quantity of the goods delivered and the extent of the services provided;
 - g. the unit price excluding turnover tax;
 - h. the date upon which the goods were delivered or the service provided, in the case such date differs from the date upon which the invoice is issued;
 - i. the applied turnover tax rate or, in the case an exemption of turnover tax is applicable or the turnover tax is levied from the customer, mention thereof;
 - j. the remuneration, as also any discount applied not included in the unit price;
 - k. the amount of turnover tax which has become due pursuant to the delivery of goods or provision of services;
 - l. the total amount to be paid by the customer.

6. In addition to the information mentioned in the fifth paragraph, the invoice provided to the customer must be labeled “invoice” and the copy thereof as meant in the fourth paragraph must be labeled “copy invoice”.
7. Amounts invoiced may be expressed in any random currency as long as the amount of turnover tax due is expressed in Antillean guilders. The applicable exchange rate is determined based on the most recent sale price as fixed by the Central Bank of Curaçao and St. Maarten at the time the tax becomes due.
8. In the case of a continuous performance, the invoice may mention the period to which the invoice is applicable instead of the date upon which the performance takes place. This period may not exceed one calendar year.
9. If an invoice amends a previously issued invoice, such invoice must contain a reference to the previous invoice and mention at least the date upon which such previous invoice was issued and its unique number.
10. By ministerial decree containing generally applicable measures, services and deliveries of goods may be indicated for which, under certain circumstances, no invoice need be issued.

Article 44a

1. Contrary to the stipulations of article 44, by ministerial decree containing generally applicable measures, groups of persons liable to keep an administration may be indicated who are required to provide a cash-register receipt with respect to their deliveries of goods and services as meant in article 2, under a of the Turnover Tax Ordinance 1999.
2. A cash-register receipt shall be provided at the time the goods are delivered or the service is provided.
3. The person liable to keep an administration is required to make and keep a copy of the cash-register receipt provided.
4. The cash-register receipt as meant in the first paragraph, must clearly and legibly contain the following information:
 - a. the date and time upon which the cash-register receipt was provided;
 - b. a unique number assigned by the Inspector;
 - c. the cash register-identification number;
 - d. a tax logo established by the Minister;
 - e. the name or trade name, address and CRIB-number of the person liable to keep an administration delivering the goods or providing the service;
 - f. a clear description of the goods delivered or the services provided;
 - g. the quantity of the goods delivered or the extent of the services provided;
 - h. the unit price including turnover tax;
 - i. the applied turnover tax rate or, in the case an exemption of turnover tax is applicable, mention thereof;
 - j. the total amount to be paid by the customer, as also any discount applied not included in the unit price;
 - k. the amount of turnover tax which has become due pursuant to the delivery of goods or provision of services.
5. In addition to the information mentioned in the fourth paragraph, the cash-register receipt provided to the customer must be labeled “cash-register receipt” and the copy thereof as meant in the third paragraph must be labeled “copy cash-register receipt”.

6. Cash-register receipts may only be denominated in Antillean guilders. In addition, the total amount due by the customer may also be expressed in United States dollars.
7. By ministerial decree containing generally applicable measures, persons liable to keep an administration may be indicated who, under certain circumstances, need not provide cash-register receipts.
8. By national decree, setting forth generally applicable principles, further rules can be stipulated for the execution of this stipulation.

Article 45

1. With regard to the persons liable to keep an administration, as meant in article 43, first paragraph, the obligations described in articles 40, 40a, 41, 42 and 43 shall be applicable by analogy for:
 - a. the taxation of third parties;
 - b. The collection of taxes for which they have been designated as withholding agent.
2. In the month of January of each year, all persons liable to keep administration are required to provide the Inspector with a statement concerning third parties who are not themselves liable to keep an administration, who have provided services or labor to or for said person in the previous year, other than as an employee.
3. In the month of January of each year, all persons liable to keep administration are required to provide the Inspector with a statement concerning all persons who have been employed by said person in the previous year, including directors, supervisory directors and persons employed solely on a commission basis.
4. Flow-through companies shall provide the Inspector, within twelve months from the end of the financial year, with:
 - a. a statement, regarding all third parties who have had shares in the flow through company during the past financial year as well as a declaration that at no time during the year were there bearer shares outstanding;
 - b. a starting and ending balance sheet and a profit and loss statement regarding the past financial year.
5. The statement referred to in the second and third paragraphs must be made on a form which can be obtained from the Inspector.
6. The person liable to keep an administration as meant in article 43, first paragraph, under c, is required to record in his administration who the ultimate beneficial owners are of its equity. All individuals who on the basis of the Articles of Association or contractually or otherwise are entitled to receive distributions from its equity are considered to be the entity's ultimate beneficial owners. In the case of a limited partnership, or a similar legal form, the general partner must record in the administration who the ultimate beneficial owners of the partnership's equity are.
7. The person liable to keep an administration as meant in article 43, first paragraph, under c is furthermore required to keep in his administration a copy of the valid passport, valid driver's license or valid identity card of the ultimate beneficial owners.

8. By ministerial decree with general effect cases may be stated where the obligation of the sixth paragraph need not be observed.
9. In derogation of the provision of the sixth paragraph, the contributor of the assets of a discretionary trust shall be registered in lieu of the ultimate beneficiary.

Article 45a

1. In accordance with rules set forth in or pursuant to the tax ordinance, the persons liable to keep an administration indicated by or pursuant to the tax ordinance, with respect to those persons to whom the information and data as meant in the second paragraph is applicable, are required to:
 - a. demand that person's ID-number or CRIB-number;
 - b. ascertain that person's identity based on his valid passport, driver's license or identity card;
 - c. record in his administration that person's ID-number or CRIB-number, a copy of the document meant under letter b, and, insofar as the copy of the document does not contain a number or indication of the type of document concerned, also the type of document or its number.
2. The persons liable to keep an administration indicated by or pursuant to the tax ordinance are required to voluntarily provide to the Inspector, in accordance with rules set forth in or pursuant to the tax ordinance, the information and data specified in or pursuant to the tax ordinance, which may be of consequence for the collection of taxes,
3. The persons liable to keep an administration meant in the first paragraph are required to provide together with the information and data the ID-number or CRIB-number of the person to whom the information and data as meant in the second paragraph pertains.

Article 46

1. For a refusal to meet the obligations described in articles 40, 40a, 41, 42 and 43, no one can invoke the circumstance that, for whatever reason, he is required to maintain confidentiality, even if this has been imposed by a national ordinance.
2. For a refusal to meet the obligations with regard to third parties, as meant in article 45, first paragraph, only clergymen, civil law notaries, lawyers, medical doctors and pharmacists can invoke the confidentiality that they, by reason of their state, office or profession are obliged to maintain.

Article 47

1. For the review of data carriers, experts and interpreters can be appointed by the Inspector.
2. Before assuming his task, the expert or the interpreter shall take the oath or make a solemn promise before the Lieutenant-Governor, that he will perform the duties that he has been charged with honestly, accurately and to the best of his knowledge.

3. The experts and interpreters referred to in the first paragraph may be granted remuneration in accordance with rules to be stipulated by national decree, setting forth generally applicable principles.

Article 48

Institutions and agencies of the Central Government are required to provide , in writing if so requested, the data and information that the Inspector considers necessary for the implementation of the tax ordinance free of charge.

CHAPTER VII

Provisions concerning penal law and prosecution

Article 49

1. Imprisonment of at most six months or a fine of the fourth category. or, if the punishable fact caused the amount of tax, which was insufficiently levied to be higher than a fine of the fourth category, a fine of at most once the amount of the insufficiently levied tax, or both penalties will be imposed, on the person who, pursuant to this ordinance, is required to:
 - a. file a tax return within a stipulated period, and does not do so within the stipulated period, or does it incorrectly or incompletely;
 - b. provide information, data or directions, and does not do so within the stipulated period, or does it incorrectly or incompletely;
 - c. provide data carriers or their contents for inspection, and makes them available for this purpose in a false or falsified form;
 - d. conduct an administration in accordance with the requirements stipulated in the tax ordinance, and does not conduct such an administration;
 - e. keep data carriers, and does not keep them;
 - f. observe an administrative sanction as meant in article 28a, second paragraph, and does not do so;
 - g. submit identification documents as meant in article 40, fifth paragraph, and does not do so;
 - h. render cooperation as meant in article 43, fifth paragraph, and does not render it;
 - i. to issue an invoice as meant in article 44 and does not do so or does not do so in accordance with the requirements;
 - j. to issue a cash register receipt as meant in article 44a and does not do so or does not do so in accordance with the requirements;
 - k. provide a statement as meant in article 45, paragraphs two, three, and four and does not provide such statement.
 - l. register the information regarding the ultimate beneficiary of beneficiaries, as meant in article 45, paragraph 6, and keep the proof of identification, as meant in article 45, paragraph 7 and does not do so or does not do so in accordance with the requirements;
 - m. observe the obligations as meant in article 45a, paragraphs 1 and 2 and does not do so or does not do so in accordance with the requirements;

- n. record the identity of the employee, as meant in article 19, paragraph 1, under b of the Wage Tax Ordinance 1976 and does not do so;
 - o. Observe the stipulations of article 19A, first paragraph of the Wage Tax Ordinance 1976 and does not do so.
2. The person who intentionally commits an offence as described in the first paragraph, will be sentenced to imprisonment for at most four years or a fine of the fifth category or, if the punishable fact caused the amount of tax, which was insufficiently levied to be higher than a fine of the fifth category, a fine of at most twice the amount of the insufficiently paid tax, or to both penalties.
 3. The first and second paragraphs will not be applicable, if the person on whom the obligation lies, as yet files a correct and complete tax return or provides correct and complete information, data or indications before he knows or reasonably should presume that the Inspector knows or will know of such incorrectness or incompleteness.
 4. The legal entity or individual who is not a resident of Curaçao who does not comply with the obligation meant in article 40a, because of the existence of a legal or court imposed prohibition to cooperate in providing data or information or to make available for inspection books, documents, other data carrier or the contents thereof, is not punishable.

Article 50

1. Anyone who is involved with the implementation of this tax ordinance and thereby acquires information of which he knows or should reasonably presume the confidential character, and to whom an obligation to maintain confidentiality does not already apply by reason of office, profession or statutory provisions with respect to such data, is required to maintain confidential such information except insofar as any statutory provision obliges him to divulge such information or the necessity to do so arises from his duties.
2. The first paragraph is not applicable with respect to the offences described in articles 198 and 200 of the Criminal Procedure Code.
3. The Minister can grant dispensation, or exemption by means of a ministerial decree with general effect, from the obligation contained in the first paragraph.
4. The person, who intentionally violates the confidentiality requirement of the first paragraph, shall be sentenced to imprisonment of at most two years or to payment of a fine of the fifth category or to both penalties.
5. The person, who is to blame for the violation of the confidentiality requirement, will be sentenced to imprisonment of at most six months or payment of a fine of the fourth category.
6. Prosecution of a violation of the confidentiality requirement will only be instituted pursuant to a complaint by him with respect to whom confidentiality was not maintained.

Article 51

The person who does not comply with the obligations imposed on him pursuant to articles 41, second paragraph, 42, first paragraph and 45a, third paragraph, shall be fined to payment of a fine of the third category.

Article 52

1. Violation of provisions established pursuant to the tax ordinance by national decree, setting forth generally applicable measures, shall be punished, insofar as such violation has been designated an offence, with payment of a fine of the third category
2. Violation of ministerial decrees with general effect, issued pursuant to the tax ordinance, shall be punished, insofar as such violation has been designated an offence, with payment of a fine of the second category.

Article 53

1. The offences punishable under this ordinance carrying imprisonment are criminal offences. The other punishable facts pursuant to this ordinance are minor offences.
2. The criminal legislation of Curaçao is also applicable to anyone who commits a punishable offence designated as a criminal offence by or pursuant to this ordinance outside of Curaçao.

Article 54

1. In addition to the persons referred to in article 184 of the Code of Criminal Procedure, the Inspector and the officials and persons of the Tax Department, appointed to that end by national decree, are charged with tracing the offences made punishable pursuant to the tax ordinance. Such appointment shall be announced in the journal in which official notices are placed by the governmental authorities.
2. The Inspector as well as the officials and persons of the Tax Department referred to in the first paragraph, are at all times authorized to seize objects that are susceptible to seizure, pursuant to the Code of Criminal Procedure. To that end, they can demand their surrender.
3. When tracing an offence made punishable under the tax ordinance, the officials and persons referred to in the first paragraph will have access to any place, insofar as such is reasonably necessary for executing their task. They are authorized to have themselves accompanied by certain persons to be appointed by them. For the entry into private residences, article 155 of the Code of Criminal Procedure shall remain fully applicable.
4. By national decree, setting forth generally applicable measures, rules may be stipulated as to the requirements, which officials and persons appointed pursuant to the first paragraph have to satisfy.

Article 55

1. The officials and persons referred to in article 54, first paragraph, shall make an official report of their findings and shall provide a copy thereof to the person receiving a fine.
2. All official reports concerning offences made punishable pursuant to this national ordinance shall be sent to the Director. The Director shall immediately hand over the official reports concerning offences, with respect to which police custody or pre-trial detention was applied or a private residence was entered without the

express permission of the occupant, together with the seized objects to the public prosecutor. The Director shall send the remaining official reports together with the seized objects to the public prosecutor, if he considers prosecution desirable.

3. The public prosecutor is authorized to return the case for settlement to the Director, who can then proceed in accordance with article 56 with regard thereto.
4. The provisions of article 14, second paragraph, of the Code of Criminal Procedure are not applicable to cases in which the Director has not sent the official report to the public prosecutor.

Article 56

1. With respect to facts, in connection with which the official report was not placed in the hands of the public prosecutor, the right to prosecution will become null and void, if the conditions that the Director sets to avoid such prosecution are voluntarily complied with.
2. The conditions that can be set are:
 - a. Payment to the public legal entity Curaçao of a sum of at least NAF. 100.00 and at most the maximum fine that can be imposed for the offence;
 - b. surrendering title to objects that have been seized and which are subject to sequestration or withdrawal from circulation;
 - c. delivery or payment to the public legal entity Curaçao of the estimated value of objects that are subject to sequestration;
 - d. payment to the public legal entity Curaçao of a sum equal to or less than the estimated advantage - including the saving of expenses - obtained by the suspect by means of or from the offence;
 - e. as yet meeting an obligation stipulated by the tax ordinance.
3. The Director will determine each time the period within which the stipulated conditions must be met, and, if necessary, the place where this has to be done.

Article 57

Upon request, the Clerk of the Common Court of Justice of Aruba, Curaçao, St. Maarten and of Bonaire, St. Eustatius and Saba and Aruba shall issue free of charge to the Director copies or extracts of judgments given in tax matters.

CHAPTER VIII

Provisions concerning international law

Section 1

Preventing double taxation

Article 58

By national decree, setting forth generally applicable measures, rules can be stipulated to prevent double taxation in cases for which there are no other provisions, in order to grant full or partial exemption or reduction of tax, insofar as the object of the tax is subject to a tax that is levied in the name of another country of the Kingdom, another power or an international organization.

Article 59

By national decree, setting forth generally applicable measures, rules can be stipulated on account of which diplomatic, consular and other representatives of a foreign power residing in Curaçao, as well as their family members, their assigned officials and the persons employed by them living on their premises are granted an exemption from tax.

Article 60

If part of an income is received from an international organization and this part, pursuant to provisions of international law, is exempt from taxation in Curaçao, the income tax - except insofar as in those provisions another manner of calculation has been prescribed - due on the remaining part of the income shall be set at the difference between the tax calculated without due observance of the exemption and the tax which, according to the rules to be established by ministerial decree with general effect, must be attributed to the exempt part of the income.

Section 2 **International assistance**

Article 61

The stipulations of this section serve to ensure compliance with the obligations pursuant to the Tax Arrangement for the Kingdom, treaties for the avoidance of double taxation, treaties for the exchange of information or rules of international law for the provision of mutual assistance with regard to levying and collecting of the taxes referred to in article 1 as well as the taxes comparable thereto, levied by a foreign power.

Article 62

1. At the request of a competent authority, the Minister can provide the foreign power with the information requested which can be of importance for the levying and collection of the taxes referred to in article 1 as well as taxes comparable thereto.
2. The Minister shall inform the person, with respect to whom a request for information was made of his decision to comply with such request and when doing so will give a description of the information to be given, mentioning the competent authority having made the request.
3. The person whose information is being requested and who lives in Curaçao or is established there can submit a request to the Minister within ten days from the date of the notice meant in the second paragraph to reconsider his intention to grant the request for information.
4. Unless urgent reasons oppose same, the Minister shall not decide before 15 days have lapsed from the date of the notice, as meant in the second paragraph, to grant the request for information. When making a decision the Minister shall take into account a possible request to reconsider granting the request for information as meant in the third paragraph. The decision to grant the request for information

shall be communicated in writing to the person whose information is concerned and who is a resident of Curaçao..

5. If urgent reasons give rise to such, the Minister can grant the request for information and proceed with same before the person whose information is concerned is notified. In that case the notification, as meant in the second paragraph will not be sent and notice of the decision meant in the fourth paragraph will be sent as soon as possible, but no later than four months from the date the supply of the requested information commenced. What qualifies as an urgent reason can be established by ministerial decree with general effect.
6. A decision, as meant in the fourth paragraph, can be appealed to the Tribunal by the person with respect to whom information is supplied and who is a resident of Curaçao, within two months from the date of the decision. A filed appeal does not lead to suspension of the exchange of information.
7. Requests for information in aid of investigations into offences in connection with taxation or related facts will not be complied with without consulting the Minister of Justice.

Article 63

1. If necessary, the Minister can charge the Inspector to have an investigation done in order to comply with a request for information by the competent authority.
2. The Minister can agree with the competent authority of another state that officials of the tax department and other interested parties of the other state may be present in Curaçao in connection with the investigation meant in the first paragraph.
3. The Minister, in consultation with the competent authority of the other state, can establish further rules as to the manner in which the second paragraph shall be implemented, as well as the authority and obligations of the officials concerned and other interested parties..
4. In connection with the levying and collection of the taxes referred to in article 1, paragraph 1, the Minister can instruct the Inspector, the Tax Collector or the Director of the Government Foundation for Tax Audits to be present at an investigation taking place in another state which has been initiated by or on behalf of the competent authority of that other state pursuant to a request for information made by Curaçao.
5. For the application of this article, the provisions of chapter VI shall be applicable by analogy.

Article 63a

1. In consultation with the competent authority of another state, the Minister can designate instances or groups of instances in which he shall provide information without prior request for same, as well as stipulate the conditions under which such providing of information shall take place.
2. The designation and conditions referred to in the first paragraph shall be published in the Official Gazette.

Article 63b

1. The Minister can provide information of his own accord to the competent authority of another state which can be of importance to it for the calculation of a tax debt in the cases in which:
 - a. it is suspected that contrary to the law in the state of the competent authority a reduction, dispensation, refund or exemption would be granted or no tax would be levied if the information were not provided;
 - b. in Curaçao a reduction, dispensation, refund or exemption was granted which could impact taxation in the state of the competent authority;
 - c. in Curaçao legal or other acts were performed with the objective to make taxation in the state of the competent authority partially or completely impossible;
 - d. such is warranted in the Minister's opinion.
2. For the application of this article, article 62, the second through seventh paragraphs will be applicable by analogy.

Article 63c

1. At the request of a competent authority of another state, the Minister may decide to notify documents.
2. If a competent authority of another state, requests that documents be notified, the Minister will make a decision regarding the follow up to be given to the request.
3. The request to notify documents shall contain, in connection with the addressee, both his name and his address as well as the documents as meant in article 2, paragraph 2, under i, attached to the request.
4. The competent authority referred to in the first paragraph is notified forthwith by the Minister of the reasons opposing the granting of the request to notify documents.
5. A request to notify documents will in any case not be granted if the request does not comply with the requirements stipulated in the third paragraph.
6. If a request for notification of documents can be granted, the Minister shall notify the competent authority referred to in the first paragraph thereof forthwith. In view of the carrying out of the request, the Minister will be responsible for compliance with the request to notify documents pursuant to the legal regulations regarding notification of official government documents.
7. The competent authority referred to in the first paragraph shall be notified forthwith of the carrying out of the request for notification of documents. In any case the said authority will be informed of the date upon which the notification of documents took place.

Article 64

1. The Minister will not provide any information, if providing of same does not serve the purpose of complying with regulations of international or inter-regional law with regard to mutual assistance with the levying of taxes, as well as interest and administrative sanctions and fines connected therewith.
2. The Minister is not required to provide information if:
 - a. the public order of Curaçao opposes such;

- b. that information could not be obtained in Curaçao on the basis of existing legislation or administrative practice for the levying of a tax mentioned in article 1;
- c. it is likely that the competent authority in its own state did not make use of the customary possibilities to obtain the information requested, which it could have used in the situation at hand without harming the envisaged result;
- d. the competent authority for whom the information is intended is not authorized or able to give the Minister similar information;
- e. providing the information would contravene generally accepted principles of taxation or other limits, which follow from applicable provisions of international and inter-regional law.
- f. the legislation of the state of the competent authority for whom the information is intended does not impose any confidentiality requirements on officials of the tax administration of that state in connection with information made available to them or which results from implementing the tax laws of that state;
- g. a commercial, industrial or professional secret would be revealed by doing so.

Article 65

1. Unless a competent authority determines otherwise, the information given by it to the Minister can only be used for levying of the taxes referred to in article 1, paragraph 1.
2. Only with permission of the competent authority, can the Minister provide the information received by him from it to the competent authority of another state.
3. Upon a request to that effect, the Minister can grant a competent authority permission to provide the information received from him to a competent authority of another state. The provisions of article 62 are applicable by analogy to the request.
4. The Minister can grant a competent authority permission to use the information for an investigation into punishable offences.

CHAPTER IX **Transition and final provisions**

Article 66

The documents concerning the application of the tax ordinance or that arise from it are exempt from stamp-duty and are registered free of charge insofar as they are subject to the formality of registration, unless otherwise stipulated by national ordinance.

Article 67

By national decree, setting forth generally applicable principles, it may be determined to compensate the Director's cost of counseling and information material to be published by him concerning the levying of taxes.

