

THE REVENUE ADMINISTRATION ACT

ARRANGEMENT OF SECTIONS

PART I—*Preliminary*

1. Short title.
2. Interpretation.

PART II—*Tax Administration Jamaica*

3. Establishment of Tax Administration Jamaica.
4. Commissioner General and staff.
5. Functions of Commissioner General.
- 5A. Delegation of certain functions of Commissioner General.
- 5B. Functions of Deputy Commissioner General.
- 5C. Functions of Deputy Commissioner General—management services.
- 5D. Functions of Deputy Commissioner General—operations.
- 5E. Functions of Deputy Commissioner General—legal support.

PART III—*Revenue Protection Department*

6. Revenue Protection Department.
7. Commissioner of Revenue Protection and staff.
8. Functions of Commissioner of Revenue Protection.

PART IV—*[Repealed by Act 11 of 2011.]*

PART IVA—*[Repealed by Act 10 of 2015.]*

PART IVB—*[Repealed by Act 11 of 2011.]*

PART IVC—*[Repealed by Act 11 of 2011.]*

PART V—*Customs Department*

12. Customs Department.
13. Commissioner of Customs and staff.
14. Functions of Commissioner of Customs.

PART VI—*Land Valuation Department*

15. Land Valuation Department.
16. Commissioner of Land Valuations and staff.
17. Functions of Commissioner of Land Valuations.

REVENUE ADMINISTRATION

PART VIA—*[Repealed by Act 15 of 1998.]*

PART VIB—*Registration of Taxpayers*

- 17D. Registration of taxpayers.

PART VIC—*Enforcement of Tax Collection*

- 17E. Interpretation.
- 17F. Disclosure of information between revenue departments.
- 17FA. Disclosure of information to credit bureaus.
- 17G. Production and inspection orders.
- 17GA. Duty of public officer to supply information.
- 17GB. Power of Commissioner to require returns.
- 17H. Obligation to secrecy.
- 17I. Inspection, audit and examination.
- 17IA. Power to require information and to require attendance.
- 17IB. Arrangements for the supply of information.
- 17J. Power of search and seizure.
- 17K. Power of Commissioner to impound books, *etc.*
- 17KA. Notification of particular taxpayers.
- 17L. Certification of copies of documents.
- 17LA. Retention Period.
- 17M. Offence.
- 17N. Offence by body corporate.

PART VID—*International Tax Compliance*

- 17NA. Interpretation of Part.
- 17NAA. Power of Minister to make order declaring international tax agreement with other territory to be in force.
- 17NB. Regulations to give effect to agreements, *etc.* listed in Schedule.
- 17NC. Power of Minister to amend Schedule by order.

PART VIE—*Electronic Communications*

- 17O. Commissioner General may establish electronic communications system.

PART VII—*General*

- 18. Modification of Laws.
- 18A. Power of Commissioner General to prescribe forms.
- 18B. Power of Minister to amend monetary penalties.
- 19. Regulations.

THE REVENUE ADMINISTRATION ACT

	Acts	16 of 2013,
	12 of 1985,	21 of 2013
	5 of 1991,	S. 16,
	24 of 1991,	9 of 2014
[1st September, 1985.]	29 of 1994,	Sch.,
	15 of 1998,	10 of 2015
	20 of 1999,	2nd Sch.,
	11 of 2011,	19 of 2015,
	10 of 2013	30 of 2015
	S. 35,	Sch.

PART I—*Preliminary*

1. This Act may be cited as the Revenue Administration Act. Short title.

2. In this Act—

Interpreta-
tion.

“Commissioner” means, as the circumstances may require— 11/2011
S. 2(a).

(a) the Commissioner General;

(b) the Commissioner of Customs;

(c) the Commissioner of Land Valuations;

(d) the Commissioner of Revenue Protection;

(e) [*Deleted by Act 10 of 2015, 2nd Sch.*];

10/2013
S. 35.

“Commissioner General” means the Commissioner General of Tax Administration Jamaica appointed under the Tax Administration Jamaica Act;

“functions” includes powers and duties;

21/2013
S. 16(a).

“international tax agreements” means a treaty, convention or other international agreement that is in force and to which Jamaica is a party, the purpose of which is to provide for the exchange of information for tax purposes or to afford relief from double taxation;

“revenue” means all tolls, taxes, imposts, rates, duties, fees, levies, fines, and other charges prescribed by or under any enactment;

11/2011
S. 2(b).

“revenue department” means—

(a) Tax Administration Jamaica;

(b) the Customs Department;

(c) the Land Valuation Department;

(d) the Revenue Protection Department;

and includes for the purposes of Part VIC, the Revenue Appeals Division established under the Revenue Appeals Division Act.

^{10/2015}
2nd Sch.

“taxpayer” includes a person who—

^{16/2013}
S. 2(b).

(a) is liable to pay a tax pursuant to a revenue law of Jamaica whether or not—

REVENUE ADMINISTRATION

- (i) the person is resident in Jamaica;
 - (ii) the tax liability is in question; or
 - (iii) in the event, any payment is waived or remitted or no amount is found to be payable;
- (b) is of relevance to a treaty partner in respect of an international tax agreement;

“treaty partner” means a jurisdiction that is a party to an international tax agreement.

16/2013
S. 2(a).

PART II—[*Repealed by Act 10 of 2013, S. 35.*]

PART III—*Revenue Protection Department*

15/1998
S. 4.

6.—(1) There is hereby established a department of Government to be called the Revenue Protection Department. Revenue
Protection
Department.

(2) It shall be the duty of the Revenue Protection Department to—

- (a) carry out investigations into cases involving fraud against the revenue;
- (b) institute programmes for the detection of fraud against the laws relating to revenue and ensure that such programmes are implemented;

- (c) provide assistance to the Revenue Departments in the planning and conduct of investigations in relation to offences against the laws relating to revenue.

Commissioner
of Revenue
Protection
and staff.

7. For the due administration of the Revenue Protection Department, the Governor-General may appoint—

- (a) a Commissioner of Revenue Protection;
- (b) Deputy Commissioners of Revenue Protection;
- (c) Assistant Commissioners of Revenue Protection; and
- (d) such and so many officers as may be necessary for the efficient operation of the Revenue Protection Department.

8.—(1) The Commissioner of Revenue Protection shall be responsible for the general administration of the Revenue Protection Department and shall have such functions relating to revenue protection as may be assigned to him by or under this Act or any other enactment.

Functions
of Commis-
sioner of
Revenue
Protection.

(2) The Commissioner of Revenue Protection shall be under the operational superintendence of and report directly to the Financial Secretary in all matters relating to the functions of the Commissioner under this Act.

11/2011
S. 4(b).

PART IV—*[Repealed by Act 11 of 2011.]*

PART IVA—*[Repealed by Act 10 of 2015.]*

PART IVB—*[Repealed by Act 11 of 2011.]*

PART IVC—*[Repealed by Act 11 of 2011.]*

PART V—*Customs Department*

Customs
Department.

12. There is hereby established a department of Government to be called the Customs Department.

Commissioner
of Customs
and staff.

13. For the due administration of the Customs Department, the Governor-General may appoint—

(a) a Commissioner of Customs;

(b) Deputy Commissioners of Customs;

(c) Assistant Commissioners of Customs;

(d) such and so many officers as may be necessary for the efficient operation of the Customs Department.

Functions of
Commissioner
of Customs.

14.—(1) The Commissioner of Customs shall be responsible for the general administration of the Customs Department and shall have such other functions relating to customs or other sources of revenue as may be assigned to him by or under this Act or any other enactment.

(2) The Commissioner of Customs shall be responsible for the collection throughout the Island of— 15/1998 S. 5.

(a) all customs duties and other revenue relating to customs; and

(b) such other sources of revenue as may be assigned to him by or under this Act or any other enactment.

(3) The Commissioner of Customs may, where he considers it expedient to do so, authorize the Commissioner of Inland Revenue in any particular circumstances to collect customs duties for and on behalf of the Commissioner of Customs. 15/1998 S. 5.

(4) The Commissioner of Customs shall be under the operational superintendence of and report directly to the Financial Secretary in all matters relating to the functions of the Commissioner under this Act. 11/2011 S. 7.

PART VI—*Land Valuation Department*

15. There is hereby established a department of Government to be called the Land Valuation Department. Land Valuation Department.

16. For the due administration of the Land Valuation Department, the Governor-General may appoint— Commissioner of Land Valuations and staff.

(a) a Commissioner of Land Valuations;

(b) Deputy Commissioners of Land Valuations;

(c) Assistant Commissioners of Land Valuations; and

(d) such and so many valuers and other officers as may be necessary for the effective operation of the Land Valuation Department.

17. The Commissioner of Land Valuations shall be responsible for the general administration of the Land Valuation Department and shall perform such functions relating to land valuation as may be assigned to him by or under this Act or any other enactment. Functions of Commissioner of Land Valuations.

PART VIA [Repealed by Act 15 of 1998.]

PART VIB—*Registration of Taxpayers*

29/1994 S. 2.

Registration
of
taxpayers.
11/2011
S. 8.

17D.—(1) In this section—

“Registration Authority” means the Tax Administration Jamaica or such other body as the Minister may, by order, designate;

“taxes” has the same meaning as in section 2 of the Tax Collection Act.

(2) Every person (hereafter in this section referred to as the taxpayer) who, pursuant to any enactment, is liable to pay taxes or to do any acts, matters or things in relation thereto, shall apply in the prescribed form and manner to the Registration Authority for registration under this Part.

(3) Where the Registration Authority thinks necessary, it may require an applicant for registration to furnish such additional information as the Registration Authority may specify.

(4) The Registration Authority shall, on receipt of an application under subsection (2), register the taxpayer and assign a registration number to that taxpayer.

(5) Every taxpayer who transacts with a revenue department any matter pertaining to taxes shall, for the purposes of that transaction, supply the registration number assigned to that taxpayer and the registration number of any other person in respect of whom he has an obligation to withhold taxes in relation to that transaction.

(6) Notwithstanding subsection (2), where—

- (a) a taxpayer has not applied for registration under this Part; and
- (b) the Registration Authority is in possession of the information required for registration of that taxpayer,

the Registration Authority shall register that taxpayer and shall notify that taxpayer in writing of such registration and of the registration number assigned.

(7) Where there is any change in the information relating to a taxpayer’s registration, the taxpayer concerned

shall as soon as practicable after the occurrence of the change, inform the Registration Authority thereof.

(8) Any person who, without reasonable cause or lawful excuse—

(a) neglects or fails to apply for registration; or

(b) neglects or fails to furnish any information which he is required to furnish pursuant to this section,

commits an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding ten thousand dollars in the case of an individual or fifty thousand dollars in the case of any other person and in default of payment of such fine to imprisonment for a term not exceeding thirty days.

16/2013
S. 3.

PART VIC—*Enforcement of Tax Collection*

20/1999
S. 2.

17E. In this Part—

Interpreta-
tion.

(a) “authorized person” means the Commissioner General, or any other officer of a revenue department, a member of the Jamaica Constabulary Force or any other person authorized by the Commissioner General, a Commissioner or a Deputy Commissioner General, an officer of the Financial Investigations Division and any person acting in aid of such officer, member or person.

11/2011
S. 9.

16/2013
S. 4(a).

(b) “Financial Investigations Division” means the body of that name established by the *Financial Investigations Division Act*.

16/2013
S. 4(b).

(c) “relevant law” means any enactment relating to revenue.

16/2013
S. 4(b).

17F.—(1) No obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise shall prevent—

Disclosure
of informa-
tion between
revenue
departments.

- (a) a Commissioner; or
- (b) an officer of a revenue department who has, in any particular case, been authorized by the Commissioner of that department,

from disclosing information or producing documents to another Commissioner or officer of another department so authorized for the purpose of assisting that Commissioner or other officer, as the case may be, in the performance of his duties under this Act.

16/2013
S. 5.

(2) [*Deleted by Act 16 of 2013, S. 5.*]

(3) Information obtained pursuant to this section shall not be disclosed except—

- (a) to the Commissioner or the officer of a revenue department on whose behalf it was obtained; or
- (b) for the purpose of any proceedings connected with a matter in relation to which the Commissioner or the other officer performs duties.

Disclosure
of
information
to credit
bureaus.
9/2014
Sch.

17FA.—(1) Subject to subsection (2), a Commissioner, or an officer of a revenue department who has in any particular case been authorized by the Commissioner of that department for the purposes of this section, may disclose the following information in respect of a tax debtor to a credit bureau for the purposes of the *Credit Reporting Act*—

- (a) the identity of the tax debtor; and
- (b) any amount owed by the tax debtor to the Commissioner General.

(2) Information may not be disclosed pursuant to subsection (1) earlier than five days after—

- (a) the tax debtor has acknowledged in writing the amount owed, including by way of filing a return of tax, and has not paid the amount;
- (b) the time for making any objection or appeal in respect of the amount owed has expired, and the amount has not been paid;
- (c) in the event of an objection or appeal in respect of the amount owed, the objection or appeal has been finally determined in accordance with the enactment under which the tax was imposed, and the amount has not been paid; or
- (d) the amount owed has been finally determined by a court, otherwise than pursuant to an objection or appeal referred to in paragraph (c), and the amount has not been paid.

(3) For the purposes of this section—

“credit bureau” means a credit bureau within the meaning of section 2(1) of the *Credit Reporting Act*;

“tax” means tax within the meaning of section 2(1) of the *Tax Collection Act* and includes a penalty within the meaning of that provision;

“tax debtor” means a tax debtor within the meaning of section 2(1) of the *Tax Collection Act*.

(4) For the purposes of the *Credit Reporting Act*—

- (a) information that is provided by a Commissioner or an officer under subsection (1) is deemed to be credit information within the meaning of section 2(1) of that Act; and
- (b) a Commissioner or officer who provides information pursuant to subsection (1) is deemed to be a credit information provider within the meaning of section 2(1) of that Act.

Production
and inspection
orders.

17G.—(1) Where a Commissioner has reasonable grounds for suspecting that a person mentioned in subsection (3) has possession or control of any information, document or record which is relevant to the duties of the Commissioner in relation to—

- (a) making an assessment in relation to a taxpayer under any relevant law;
- (b) making an investigation into any case involving tax evasion or for the prevention of fraud on the revenue;
- (c) determining the tax liability of a taxpayer under a relevant law;

- (d) collecting any outstanding amount owed by a taxpayer on account of tax, penalty, interest or fine under any relevant law; or

16/2013
S. 6(a)(ii).

- (e) an international tax agreement.

16/2013
S. 6(a)(iii).

the Commissioner may apply to a Judge in Chambers in accordance with subsection (2) for an order under subsection (4) in relation to the person suspected of having possession or control of the information, document or record.

(2) An application under subsection (1) shall be made *ex parte* and shall be in writing and be accompanied by an affidavit.

(3) The person referred to in subsection (1) is—

- (a) a bank licensed under the Banking Act;
- (b) a financial institution licensed under the Financial Institutions Act;
- (c) a person registered under the Public Accountancy Act;
- (d) a building society registered under the Building Societies Act;
- (e) a society registered under the Cooperative Societies Act or the Industrial and Provident Societies Act, as the case may be;

(f) [*Deleted by Act 16 of 2013, S. 6(b).*]

16/2013
S. 6(b).

(4) Subject to subsection (4A), where an application is made for an order in relation to any person, the Judge in Chambers, if satisfied that the Commissioner concerned has requested the information, document or record from the taxpayer without success and that in all the circumstances of the case, there are reasonable grounds for making the order, may make an order requiring the person to—

16/2013
S. 6(c).

- (a) produce to the Commissioner or an authorized person named in the order, any information, document or record of the kind referred to in subsection (1) that is in the person's possession or control; or
- (b) make any such document or record available to the Commissioner or that authorized person, as the case may be, for inspection.

16/2013
S. 6(d).

(4A) For the purposes of an application under subsection (1), the Commissioner is not required to make any prior request of the taxpayer in any of the following circumstances—

- (a) where any revenue department is satisfied that documents or other evidence will be destroyed or concealed or treated in a manner which would inhibit the work of that or any other revenue department; or
- (b) where the information relates to an international tax agreement.

(5) A person referred to in subsection (3)(c) shall only be required to furnish information, documents or records which form part of a taxpayer's accounting records.

(6) An order under subsection (4) shall specify the time when and the place where the information, document or record shall be produced or made available, as the case may require.

(7) Any obligation to maintain secrecy or any restriction on the disclosure of information or the production of any document or record imposed on any person by or under any of the Acts referred to in subsection (3) shall not apply to the disclosure of information or the production of any document or record pursuant to a requirement under this section.

16/2013
S. 6(e).

(7A) Notwithstanding any duty of confidentiality or secrecy under any relevant law or any law of a treaty partner

to the contrary, the provisions of this section shall prevail in relation to the disclosure of information or the production of any document or record pursuant to a requirement under this section.

(8) A person who—

(a) refuses to comply with an order made in relation to that person under this section; or

(b) knowingly provides false or misleading information in purported compliance with such order,

is guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars.

16/2013
S. 6(f).

17GA.—(1) Subject to subsection (4) every public officer shall furnish information or produce documents required by a Commissioner for the purposes of this Act, and which may be in his possession or which he may be able to lawfully procure.

Duty of
public
officer to
supply
informa-
tion.
16/2013
S. 7.
9/2014
Sch.

(2) Information or documents referred to in subsection (1) shall be in such form and shall be supplied at such times or frequency and in such manner as the Commissioner may direct or prescribe.

9/2014
Sch.

(3) Subject to subsection (4), no obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise shall prevent a public officer from disclosing information or producing documents to the Commissioner in accordance with this section.

9/2014
Sch.

(4) Nothing in this section requires a public officer to furnish information or produce documents which a person would be entitled to refuse to furnish or produce on the grounds of legal professional privilege.

(5) In this section—

“Government company” means a company registered under the *Companies Act*, being a company wholly owned by the Government or an agency of Government or in which the Government or an agency of Government holds more than fifty per cent of the shares;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the *Kingston and St. Andrew Corporation Act*;
- (b) in relation to any other parish, the Parish Council of that Parish as constituted under the *Parish Councils Act*; or
- (c) in relation to a municipality, a Municipal Council established under the *Municipalities Act*;

“public body” means—

- (a) a Ministry, Department, Executive Agency or other agency of Government;
- (b) a local authority;
- (c) a statutory body or authority; or
- (d) a Government company;

“public officer” means a person employed in the service of a public body.

Power of
Commissioner
to require
returns.
16/2013
S. 7.
9/2014
Sch.

17GB.—(1) Notwithstanding the provisions of any other law, a Commissioner may, subject to subsections (2) and (3), require any person (whether in his own behalf or as agent or trustee of another person and whether he is or is not liable to pay tax or is the subject of, audit or other tax related action) to furnish a

Commissioner with such return whether on a periodic basis or not, as a Commissioner considers necessary. 9/2014 Sch.

(2) A return under subsection (1) shall be in such form and may be supplied in such manner as the Commissioner may direct or prescribe, and without limiting the scope of information required under subsection (1), may— 9/2014 Sch.

(a) include information in respect of—

(i) any payment, credit, accrual or accretion, for the benefit of any person of any sum of money, interest, units in any fund, assets or other form of value;

(ii) any receipt, debit, accrual or other liability; or

(iii) any other transactions performed in connection with matters specified in subparagraph (i) or (ii); or

(b) relate to the person on whom the notice is served or any other person (whether identified or not) and may be in respect of the administration or enforcement of any relevant law; or

(c) relate to any other person (whether identified or not) who may be of interest to the Commissioner in connection with the administration or enforcement of any relevant law. 9/2014 Sch.

(3) Subsection (1)—

(a) does not require a person referred to in that subsection to furnish information which a person would be entitled to refuse to produce on the grounds of legal professional privilege; and

(b) shall, subject to paragraph (a), prevail notwithstanding any restriction from disclosure under any other law.

(4) A person who fails to comply with a requirement of the Commissioner under subsection (1), whether the non-compliance involves— 9/2014 Sch.

(a) the submission of returns that are incomplete, incorrect or submitted after the time required; or

(b) other failure,

commits an offence and is liable to the penalty specified in subsection (5).

(5) The specified penalty is—

(a) on summary conviction in a Resident Magistrate's Court—

(i) for a first offence, a fine not exceeding two million dollars or imprisonment for a term not exceeding one year or both such fine and imprisonment; or

(ii) for a second or subsequent offence, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years or both such fine and imprisonment; or

(b) on conviction on indictment in a Circuit Court, a fine or imprisonment for a term not exceeding ten years or both such fine and imprisonment.

Obligation
to secrecy.
19/2015
S. 2(a)(i).

17H.—(1) Subject to subsections (3A) and (3B), every person having an official duty or being employed in the administration of this Act shall—

19/2015
S. 2(a)(ii).

(a) regard and deal with as secret and confidential all documents, information and records obtained pursuant to section 17F or 17G or regulations made under section 17NB relating to the income or items of income of any person; and

(b) make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every person referred to in subsection (1) having possession of or control over any documents, information or records, who at any time communicates or attempts to communicate such information or anything contained in such documents or records to any person—

(a) other than a Commissioner or an officer of a revenue department or any other person to whom he is authorized by the Minister to communicate it pursuant to any other law; or

(b) otherwise than for the purposes of this Act,

is guilty of an offence under this Act and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment. 16/2013 S. 8(a).

(3) Any person to whom information is communicated pursuant to an authority of the Minister in that behalf shall regard and deal with such information as secret and confidential and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(3A) The obligation as to secrecy and confidentiality imposed by this section, in relation to documents, records or information obtained pursuant to regulations made under section 17NB, continues to apply to a person despite the person having ceased to be appointed under or employed in carrying out the provisions of this Act. 19/2015 S. 2(b).

(3B) Nothing in this Act or in any other enactment prevents the disclosure to any person in accordance with the requirements of regulations made under section 17NB of information, which, by law is to be regarded and dealt with as secret and confidential. 19/2015 S. 2(b).

(4) Information, the disclosure of which is permitted or required by this Act or regulations made under this Act, shall be treated as information to which paragraph (1) of the Ninth Schedule to the Banking Services Act applies. 19/2015 S. 2(c).

(5) Any person referred to in subsection (3) who at any time communicates or attempts to communicate any information referred to in that subsection to any person otherwise than for the purposes of this Act, is guilty of an offence under this Act and liable on summary conviction in a

16/2013
S. 8(b). Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment.

Inspection,
audit and
examina-
tion.

17I.—(1) A Commissioner or authorized person may, for the purposes of exercising any power under a relevant law, enter during office hours the business premises of a taxpayer and may—

16/2013
S. 9(a).

- (a) carry out, on his own or jointly with another Commissioner or the Financial Investigations Division, an audit or examination of any accounts, books, records, invoices, contracts or any other documents relating to the business or other activities of the taxpayer;
- (b) inspect any property or goods described in the inventory of the property and goods of that business and any other assets which in the opinion of the Commissioner or the authorized person, are relevant for the purposes of the power being exercised as aforesaid.

16/2013
S. 9(b).

(1A) Information received by the Financial Investigations Division pursuant to an audit or examination under subsection (1) may for the purposes of that subsection be disclosed by the Division to any Commissioner.

(2) Any person who is responsible for the operation of any business in relation to which entry on the premises is made under this section shall, when required by a Commissioner or the authorized person, as the case may be—

- (a) furnish that Commissioner or the authorized person, as the case may be, with such information, within such time not being less than seven days, and in such form as may be specified; or
- (b) produce or cause to be produced to that Commissioner or authorized person for inspection, any document or record relating to the income of the business and, if so required, permit the Commissioner or authorized person to make copies of or extracts from the document or record.

(3) Where an inspection is being carried out under this section and no records are available for the purpose of assessing the tax liability of a taxpayer for—

- (a) a year of assessment as defined in the Income Tax Act; or
- (b) any previous period for which a taxpayer is liable to tax under any other enactment,

a Commissioner or authorized person may require the production of current documents or records for inspection under this section, so, however, that no such documents or records shall be removed from the premises.

(4) A person who contravenes subsection (2) is guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars and in default of payment thereof to imprisonment for a term not exceeding nine months. 16/2013 S. 9(c).

17IA.—(1) Every person, whether that person is or is not liable to pay any particular tax or is the subject of an audit or other tax related action, upon whom a Commissioner may cause a notice to be served requiring that person to supply in writing any information and, as the case may require, produce for inspection any documents specified in subsection (2), shall, within thirty days after the date of the service of the notice, provide the information or documents requested. Power to require information and to require attendance. 16/2013 S. 10. 9/2014 Sch.

(2) The information and documents referred to in subsection (1)—

- (a) may relate to the person on whom the notice is served or any other person and may be in respect of the administration or enforcement of any relevant law;
- (b) may relate to a person (whether identified or not) who may be of interest to a Commissioner in connection with the administration or enforcement of any relevant law; and

9/2014
Sch.

9/2014
Sch.

- (c) shall be in such form and may be supplied in such manner as the Commissioner may direct or prescribe.

9/2014
Sch.

(3) The Commissioner may—

- (a) by not less than fourteen days' notice in writing, require any person to attend before him and give evidence with respect to that person or any other person in respect of the administration or enforcement of any relevant law; and
- (b) examine the person on the evidence, on oath or otherwise.

(4) A person who fails to comply with a requirement under—

- (a) subsection (1), whether the non-compliance involves—

(i) the furnishing of information or the production of documents that is incomplete, incorrect or done after the time required; or

(ii) other failure;

- (b) subsection (3),

commits an offence and is liable to the penalty specified in subsection (5).

(5) The specified penalty is—

- (a) on summary conviction in a Resident Magistrate's Court—

(i) for a first offence, a fine not exceeding two million dollars or imprisonment for a term not exceeding one year or both such fine and imprisonment; or

- (ii) for a second or subsequent offence, a fine not exceeding five million dollars or imprisonment for a term not exceeding five years or both such fine and imprisonment; or

- (b) on conviction on indictment in a Circuit Court, a fine or imprisonment for a term not exceeding ten years or both such fine and imprisonment.

17IB.—(1) A Commissioner may enter into a contract, memorandum of understanding or other agreement or arrangement with any public body for the supplying to the Commissioner of information or the production of documents in connection with the administration or enforcement of any relevant law, at such intervals and in such manner as the Commissioner may determine.

Arrange-
ments for
the supply
of
information.
16/2013
S. 10.
9/2014
Sch.

(2) In this section public body has the meaning assigned to it under section 17GA(5).

16/2013
S. 10.

17J.—(1) Where a Judge of the Revenue Court is satisfied on information on oath by a Commissioner that there are reasonable grounds for suspecting that—

Power of
search and
seizure.

- (a) fraud has been committed by a taxpayer and evidence of such fraud is to be found on premises specified in the information; or
- (b) a taxpayer has failed to comply with any requirement of a relevant law relating to—
 - (i) the furnishing of information or the production of any documents or records; and
 - (ii) the payment of any tax which that taxpayer is liable to pay under that law; and

- (iii) any notice served on that taxpayer by the Commissioner or any requirement made by the Commissioner in relation to the furnishing of information, the production of documents or records or the payment of any such tax,

and that evidence of such failure is to be found on any premises specified in the information, the Judge of the Revenue Court may grant a search warrant authorizing the Commissioner or authorized person named in the warrant to enter, at any time within one month from the date of the warrant, the premises specified in the information and to search those premises.

(2) A warrant issued under this section may empower the person named therein—

- (a) to make copies of any books, records or other documents relevant to the tax liability of the taxpayer;
- (b) if the circumstances so warrant, to detain and remove such books, records or other documents for the purpose of making copies thereof, so, however, that any period of detention authorized by the warrant shall not exceed seven days.

(3) Where, upon the execution of a warrant issued under this section, any books, records or other documents are detained and removed as provided in subsection (2)(b), the Commissioner or the authorized person named in the warrant shall prepare an inventory of such books, records or other documents and shall give a copy thereof, certified by the Commissioner or the authorized person to be a true copy of the inventory, to the taxpayer concerned or, as the case may be, to the owner or occupier of the premises who is present at the time of execution of the warrant.

(4) An inventory prepared in accordance with subsection (3) shall, in any proceedings under any relevant law, be admissible as *prima facie* evidence of the matters stated therein.

(5) For the purposes of the exercise of any power under this section it shall be lawful for the Commissioner or authorized person, as the case may be, to—

- (a) open the lock of a door, box, safe or other receptacle which the Commissioner or authorized person has reasonable grounds to believe is relevant to the search, using such force as may be necessary;
- (b) search any person found at the premises in question if the Commissioner or authorized person has reasonable cause to suspect that the person has, on his person, any books, records or other documents which are so relevant;
- (c) record a statement on oath or affirmation of a person found on the premises who is in possession of or has custody or control of, any books, records or other documents or anything mentioned in paragraph (b);
- (d) seek the assistance of any member of the Jamaica Constabulary Force;
- (e) take an inventory of any money, bullion, jewellery, stocks or other valuables found at the premises.

(6) Where an inventory is taken in accordance with paragraph (c) of subsection (5), the Commissioner or authorized person shall give a copy thereof certified by the Commissioner or authorized person as a true copy, to the taxpayer or the owner or occupier of the premises on which the search is carried out.

(7) Where, in the exercise of any powers under subsection (5) (a) the lock of any door is broken, the Commissioner or an authorized person, as the case may be, shall forthwith take such steps as are necessary to ensure that the premises are restored to the same level of security as existed immediately before the exercise of those powers.

Power of
Commissioner to
impound
books, etc.

17K.—(1) Where, during a search of any premises carried out under section 17J or in the course of any audit, inspection or examination carried out under section 17I, a Commissioner or authorized person is of the opinion that it is necessary, for the protection of the revenue, to impound any books, records or other documents found on those premises, the Commissioner or authorized person—

- (a) may, subject to the provisions of section 17I (3) relating to current records, take such books, records or other documents into his custody; and
- (b) shall give to the person from whose custody such books, records or other documents were taken, a receipt therefor signed by the Commissioner or authorized person.

(2) Where any books, records or other documents are taken into the custody of a Commissioner or authorized person pursuant to this section—

- (a) the taxpayer concerned shall, during any period in which they are in the custody of the Commissioner or authorized person, be permitted upon request, to make copies thereof or to take extracts therefrom at such times as may be agreed between that taxpayer and the Commissioner or authorized person;
- (b) the Commissioner or authorized person shall—
 - (i) take such steps as may be necessary to

ensure the safekeeping of such books, records or other documents; and

- (ii) unless the Judge of the Revenue Court permits otherwise, return such books, records or other documents to the taxpayer concerned within thirty days after the date on which such books, records or other documents are so taken into custody.

17KA.—(1) Notwithstanding any other provision of law, a Commissioner may, in addition to any publication that may be required in the *Gazette*, issue to any particular group of persons, notices required for the purposes of this Act, other than notices of assessment or any communication containing information on the income of any person, by any one or more of the following means, namely publication—

Notification
of particular
taxpayers.
16/2013
S. 11.
9/2014
Sch.

- (a) in a daily newspaper in nationwide circulation in Jamaica;
- (b) by announcement on national radio or television in Jamaica; or
- (c) by electronic mail distribution to addressees provided by a body recognized by the Commissioner as representing or regulating the relevant group of persons.

9/2014
Sch.

(2) Publication of a notice specified in subsection (1) by any means specified in that subsection shall be deemed to be service of the notice on the particular group of taxpayers on the date of such publication.

17L. Where, pursuant to any provision of this Part, a Commissioner or authorized person makes copies of any document, book or record, such copies shall be certified by a Justice of the Peace as true copies and shall be admissible in evidence as proof of the matter therein recorded.

Certifica-
tion of
copies of
documents.

Retention
Period.
16/2013
S. 12.
21/2013
S. 16.

17LA.—(1) Every person in possession of any book, record or other document (including an underlying document such as an invoice or contract) that is relevant to the tax liability of any person shall—

(a) keep every such document, in order to facilitate ascertainment by a Commissioner of the tax liability of any person; and

(b) retain the document so kept for a period of not less than seven years.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars and in default of payment thereof to imprisonment for a term not exceeding one year.

(3) It is a defence to a prosecution for an offence under subsection (2) if the accused proves that he took reasonable steps to preserve any book, record or document in relation to which the prosecution has been instituted.

Offence.

16/2013
S. 13.

17M. Any person who obstructs, hinders or prevents a Commissioner or authorized person in the exercise of any powers conferred upon the Commissioner or authorized person by this Act, is guilty of an offence and liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding nine months or to both such fine and imprisonment.

Offence by
body cor-
porate.

17N. Where an offence against this Act is committed by a body corporate, the liability of whose members is limited, then notwithstanding and without prejudice to the liability of that body, any person who at the time of such commission was a

director, general manager, secretary or other similar officer of that body or was purporting to act in any such capacity shall be liable to be prosecuted as if he had personally committed the offence and shall, if on such prosecution it is proved to the satisfaction of the court that he consented to, or connived at, or did not exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions in that capacity and to all the circumstances, be liable to the like conviction and punishment as if he had personally been guilty of that offence.

PART VID—*International Tax Compliance*

17NA. In this Part, “Competent Authority” means the Minister responsible for finance or such other person as the Minister may, in writing, designate.

19/2015
S. 3.

Interpretation
of Part.
19/2015
S. 3.

17NAA. If the Minister by order declares that an international tax agreement specified in the order has been made with the Government of any territory outside the Island, and that it is expedient that the agreement should have effect, the agreement shall have effect notwithstanding anything contained in section 83(1) of the Income Tax Act or any other enactment.

Power of
Minister to
make order
declaring
international
tax agreement
with other
territory to be
in force.

30/2015
S. 9.

17NB.—(1) The Minister may make regulations for, or in connection with, giving effect to, or enabling effect to be given to, any international agreement, convention or arrangement entered into by the Government of Jamaica and listed in the First Schedule, as amended from time to time, for the exchange of financial or other information which will be used for tax purposes.

Regulations
to give
effect to
agreements,
etc. listed in
Schedule.

(2) Regulations made under this section may in particular—

- (a) authorize the Competent Authority to require persons specified therein to provide the Competent Authority with information specified therein;
- (b) require that information to be provided at such times and in such forms as may be specified;

- (c) impose obligations on persons relating to the exchange of financial or other information which will be used for tax purposes (including obligations to obtain from third parties details of their place of residence for tax purposes); and
- (d) impose pecuniary penalties for failure to comply with obligations thereunder.

(3) A penalty imposed under these Regulations—

- (a) may be enforced as if it were income tax charged in an assessment and due and payable by the person on whom the penalty is imposed; and
- (b) shall, for the purposes of appeals, be treated as being imposed by a Revenue Commissioner and comprising a revenue liability.

(4) Regulations made under this section may—

- (a) make different provisions in relation to different periods of time;
- (b) make different provisions for different cases or circumstances;
- (c) contain incidental, supplemental, transitional, transitory or saving provisions.

(5) Regulations made under this section are subject to affirmative resolution.

(6) The power conferred by this section is without prejudice to any other powers conferred by or under this or any other enactment.

17NC. The Minister may, by order subject to affirmative resolution, amend this Schedule.

PART VI—*Electronic Communications*19/2015
S. 3.

170.—(1) The Commissioner General may establish an electronic communications system (in this section referred to as the “system”), including provision for any or all of the following operations—

Commissioner
General may
establish
electronic
communi-
cations
system.
9/2014
Sch.

- (a) filing of electronic documents with the Commissioner General;
- (b) service or issue of electronic documents by the Commissioner General;
- (c) payment or collection of tax by electronic means.

(2) For the purposes of subsection (1), the Commissioner General may make rules providing for any or all of the following—

- (a) registration of persons as participants in the system, including provision for the issuance and cancellation of authentication codes;
- (b) the type of documents that may be sent through the system, including the format and manner of sending them, and the issuance and cancellation of registration numbers for documents;
- (c) the format for, and the content of, information that is to be included in documents sent through the system;
- (d) the manner of dealing with situations arising upon any breakdown or interruption in the operation of the system, including the correction of any errors, or the amendment of any documents, information or procedures, that may be required as a result of the breakdown or interruption;
- (e) secrecy to be maintained, whether by persons using the system on their own behalf or using the system on behalf of other persons;

- (f) the determination of when a document that is filed through use of the system is received by the Commissioner General;
- (g) the determination of when a document that is served through use of the system is considered to have been served on a person by the Commissioner General;
- (h) any other matter for the better administration or operation of the system.

(3) The filing, service or issuance of documents, or the payment or collection of tax by means of the system shall be valid and effective for all purposes, subject to any rule of law to the contrary.

(4) An electronic document that is communicated by means of the system is deemed to have been received by the person to whom it is communicated, unless the contrary is shown.

(5) In this section, “electronic”, “electronic communication system” and “electronic document” have the meanings assigned to them respectively under section 2 of the Electronic Transactions Act.

PART VII—*General*

Modifica-
tion of laws.

18.—(1) The Minister may, by order, with effect from any date specified in the order, not being earlier than the 1st day of September, 1985, alter any law if he considers such alteration to be necessary or expedient on account of anything contained in this Act.

(2) An order made pursuant to subsection (1) shall be subject to affirmative resolution.

(3) In this section—

“alter” includes adapt or repeal;

“law” includes any instrument having the force of law,
but does not include this Act.

18A. Without limiting the powers of the Minister under section 19, the Commissioner General may, by order published in the *Gazette* prescribe forms of returns and other forms that the Commissioner General considers to be necessary for the various purposes of this Act, whether for general use or use in any particular case or for the use of any particular person or group of persons.

Power of
Commissioner
General to
prescribe
forms.
16/2013
S. 14.

18B. The Minister may, by order, subject to affirmative resolution, amend or vary any monetary penalties prescribed in this Act.

Power of
Minister to
amend
monetary
penalties.
16/2013
S. 14.

19.—(1) The Minister may make regulations generally for giving effect to the objects and purposes of this Act.

Regulations.
16/2013
S. 15.

(2) Notwithstanding section 29(b) of the Interpretation Act, regulations made under this Act may provide in respect of a breach of any provision thereof for the imposition of penalties on summary conviction in a Resident Magistrate’s Court of a fine not exceeding two million dollars or imprisonment for a term not exceeding twelve months or of both such fine and imprisonment.

16/2013
S. 15.
19/2015
S. 4.

(3) Until amended or replaced by regulations made under section 17NB, the regulations specified in the Second Schedule shall have effect as being made under that section.

Second
Schedule.
19/2015
S. 4.

19/2015
S. 5.

FIRST SCHEDULE

(Section 17NB)

*List of International Agreements, Conventions
and Arrangements*

1. Agreement between the Government of Jamaica and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, signed on May 1, 2014 and published in the *Jamaica Gazette Extraordinary* as General Notice No. 19A³ on the 1st day of May 2014.

19/2015
S. 5.

SECOND SCHEDULE

(Section 19)

*The Revenue Administration (International Tax Compliance
Agreement (Jamaica and the United States of America))
Regulations, 2015*

Citation.

1. These Regulations may be cited as the Revenue Administration (International Tax Compliance Agreement (Jamaica and the United States of America)) Regulations, 2015.

Interpretation.

2.—(1) In these Regulations, unless the context otherwise requires—

“Agreement” means the Agreement between the Government of Jamaica and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, signed on May 1, 2014, as amended from time to time, and listed as item 1 of the First Schedule to the Act;

“Competent Authority” means the Minister responsible for finance or such other person as the Minister may, in writing, designate;

“controlling person” means an individual who is one of the controlling persons (as defined in subparagraph 1 (mm) of Article 1 of the Agreement) over an entity;

“new entity account” means a reportable account held by an entity and opened on or after July 1, 2014;

“new individual account” means a reportable account held by an individual and opened on or after July 1, 2014;

“pre-existing entity account” means a reportable account held by an entity that has been open as of June 30, 2014;

“pre-existing individual account” means a reportable account held by an individual that has been open as of June 30, 2014;

SECOND SCHEDULE, *cont'd.*

“reportable account” means a U.S. Reportable Account (as defined in subparagraph 1 (cc) of Article 1 of the Agreement) that is maintained by a reporting financial institution;

“reporting financial institution” means a Jamaican Financial Institution (as defined in subparagraph 1(1) of Article 1 of the Agreement), and which is not a Non-Reporting Jamaican Financial Institution (as defined in sub-paragraph 1(q) of Article 1 of the Agreement);

“U.S. TIN” means a U.S. federal taxpayer identifying number.

(2) In these Regulations, references to a person’s U.S. status are to whether or not the person is a “Specified U.S. Person” as defined in subparagraph 1(ff) of Article 1 of the Agreement.

(3) Any expression that is defined in the Agreement but not in these Regulations has, with such modifications as the circumstances may require, the same meaning in these Regulations as in the Agreement.

Obligation in relation to Financial Accounts

3.—(1) A reporting financial institution shall establish and maintain arrangements, that are to be documented in writing, that are designed to identify reportable accounts.

Obligation to identify reportable accounts.

(2) Such arrangements shall—

- (a) identify the holder of a reportable account or a controlling person, as the case may be;
- (b) meet the due diligence procedures set out in this regulation; and
- (c) ensure that the evidence obtained in accordance with this regulation, or a record of the steps taken to comply with this regulation in relation to any financial account, is kept for a period of seven years after the evidence is obtained or the record is made.

(3) The due diligence procedures for a calendar year are set out in the following table—

Case	Type of Account	Balance or Value U.S. Dollars	Procedures in Annex I of Agreement to be applied
Case 1	Pre-existing individual account	Not exceeding \$1,000,000 as of June 30, 2014	Section II, paragraphs B and C

REVENUE ADMINISTRATION

SECOND SCHEDULE, *cont'd.*

Case	Type of Account	Balance or Value U.S. Dollars	Procedures in Annex I of Agreement to be applied
Case 2	Pre-existing individual account	Exceeding \$1,000,000 as of June 30, 2014, or December 31, 2015 or December 31 in any subsequent year	Section II, paragraphs D and E
Case 3	New individual account	Any	Section III, paragraph B
Case 4	Pre-existing entity account	Not exceeding \$250,000 as of June 30, 2014, but exceeding \$1,000,000 as of December 31, 2015 or December 31 in any subsequent year	Section IV, paragraphs D and E 2 and 3
Case 5	Pre-existing entity account not within Case 4	Any	Section IV, paragraphs D and E 1 and 3
Case 6	New entity account opened after July 1, 2014 and before January 1, 2015	Any	Section IV, paragraphs D and D 1 and 3
Case 7	New entity account not within Case 6	Any	Section V, paragraph B

SECOND SCHEDULE, *cont'd.*

(4) If, as a result of this regulation, a person's U.S. status is required to be certified, a reporting financial institution may require the person to supply to the institution such documentary evidence mentioned in section VI, paragraph D of Annex I of the Agreement, as the institution considers appropriate in support of the certification.

(5) The due diligence procedures set out in this regulation shall be applied by reference to the special rules and definitions at section I, paragraph B, 1 to 3 and section VI of Annex I of the Agreement.

(6) In applying the relevant due diligence procedures, a reporting financial institution may rely on evidence of a person's U.S. status obtained in relation to another financial account if the due diligence procedures referred to in section VI, paragraph F of Annex I of the Agreement would allow such reliance.

4.—(1) A reporting financial institution shall, in respect of the calendar year 2014 and every calendar year thereafter, prepare a return for each such year (hereinafter called "the calendar year in question") setting out—

Obligation to prepare and send return regarding reportable accounts.

- (a) subject to paragraph (6), the required information, as set out in paragraph (4), in relation to every reportable account that is maintained by the institution at any time during the calendar year in question;
- (b) the institution's Global Intermediary Identification Number; and
- (c) a statement of whether paragraph 5 of Article 4 of the Agreement applies to the institution and, if it does, whether the requirements in subparagraphs (a) to (c) of that paragraph have been met.

(2) If during the calendar year in question the reporting financial institution maintains no reportable accounts, the return shall state that fact.

(3) The institution shall send a return under this regulation to the Competent Authority on or before May 31 of the year following the calendar year in question; however, in relation to the calendar year 2015, this paragraph shall apply as if the word and numerals "August 31" were substituted for the word and numerals "May 31".

(4) The required information is—

- (a) the name and address of the account holder;
- (b) the account holder's U.S. TIN;
- (c) if an account is identifiable by an account number, that number or, if not, its functional equivalent;

REVENUE ADMINISTRATION

SECOND SCHEDULE, *cont'd.*

- (d) the balance or value of the account (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) as of the end of the calendar year in question or, if the account was closed during the year, the balance or value on the date that the reporting financial institution closed the account;
- (e) the relevant total gross credits, or if there are none, a statement of that fact; and
- (f) if the account holder is a Non-US entity that has a controlling person who is a specified US person, that person's name, address and US TIN.

(5) For the purposes of paragraph (4)(e), "relevant total gross credits" means—

- (a) in the case of a custodial account—
 - (i) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to assets held in the account which is paid into, or with respect to, the account during the calendar year in question; and
 - (ii) the total gross proceeds from the sale or redemption of property, paid into the account during the calendar year in question if the institution acted as a custodian, broker, nominee or otherwise as an agent for the account holder;
- (b) in the case of a depository account, the total gross amount of interest paid into the account during the calendar year; and
- (c) in the case of any other account, the total gross amount of sums paid by the institution under a legal obligation to the account holder with respect to the account, during the calendar year.

(6) For the purposes of this regulation—

- (a) references to the balance or value of an account include a nil balance or value; and
- (b) references to paying an amount include crediting an amount.

(7) If a reporting financial institution has an established practice for the periodic valuation of accounts of a particular description otherwise than at the end of a calendar year, the institution may report amounts referred to in paragraph (5)(a) or (c) by reference to a period of 12 months ending with the date (or, if more than one, the latest date) in the calendar

SECOND SCHEDULE, *cont'd.*

year on which the institution values accounts of that description (instead of by reference to the calendar year).

(8) For pre-existing accounts, in relation to returns for the calendar year 2017 and subsequent calendar years, if a reporting financial institution does not hold a U.S. TIN that it is required to report under paragraph (4)(b) or (f), the institution shall obtain that number from the account holder.

5.—(1) A reporting financial institution shall establish and maintain arrangements, to be documented in writing, to obtain the U.S. TIN of every specified U.S. person who is the account holder of a reportable account.

Obligation to obtain taxpayer identification number of specified US persons.

(2) Paragraph (1) has effect—

- (a) from January 1, 2017, in the case of pre-existing individual and pre-existing entity accounts; and
- (b) with immediate effect, in the case of new individual accounts opened on or after July 1, 2014, and new entity accounts opened on or after July 1, 2014.

6.—(1) In the case of custodial accounts—

Modifications for 2014 to 2016.

- (a) there is no requirement to include in the return for the calendar year 2014 information about relevant total gross credits under regulation 4(4)(e); and
- (b) there is no requirement to include in the return for the calendar year 2015 any information set out in regulation 4(5)(a)(ii).

(2) In the case of pre-existing accounts—

- (a) there is no requirement to include in the return for calendar years before 2017 a U.S. TIN if the reporting financial institution does not hold that number; but
- (b) if the account holder is an individual whose date of birth the institution does hold, the institution shall include the account holder's date of birth instead.

SECOND SCHEDULE, *cont'd.**Obligations in relation to Payments to
Nonparticipating Financial Institutions*

Obligation to
identify and
disclose
payments to
non-
participating
financial
institutions.

7.—(1) A reporting financial institution shall establish and maintain arrangements, there are to be documented in writing, that are designed to identify payments made by the institution to a nonparticipating financial institution in each of the calendar years 2015 and 2016.

(2) If a reporting financial institution has, in respect of a payment to a financial institution, taken the steps referred to in section IV, paragraphs D(3)(a) or D(3)(c) of Annex I of the Agreement, that reporting financial institution is entitled to regard the payment as having been made by it to someone who is not a non-participating financial institution.

(3) In respect of any case in the calendar years 2015 and 2016 when a reporting financial institution is within the terms of sub-paragraph 1(e) of Article 4 of the Agreement, the institution shall make a disclosure of such information as is necessary to comply with that sub-paragraph.

(4) For the purposes of this regulation—

- (a) “nonparticipating financial institution” includes any person who is required to be treated as a nonparticipating financial institution as a result of sub-paragraph 5(a) of Article 4 of the Agreement; and
- (b) “payment” includes amount credited by a reporting financial institution to a non-participating financial institution but does not include consideration given by the reporting financial institution, for the provision of goods or services to it.

Obligation to
prepare and
send return
regarding
payments to
non-
participating
financial
institutions.

8.—(1) A reporting financial institution shall in respect of each of the calendar years 2015 and 2016 prepare a return setting out—

- (a) the names of the nonparticipating financial institutions to whom payments identified in accordance with regulation 7(1) have been made in the calendar year in question; and
- (b) the total amount of those payments made to each of the nonparticipating financial institutions in question.

(2) In determining the total amount of the payments referred to in paragraph (1)(b), the special rules and definitions at section 1, paragraph B(1) and section VI, paragraph C of Annex 1 of the Agreement shall be applied.

(3) If for a calendar year no payments are identified as referred to in paragraph (1), the reporting financial institution shall prepare a return for the calendar year stating that fact.

SECOND SCHEDULE, *cont'd.*

(4) The reporting financial institution shall send a return under this regulation to the Competent Authority on or before May 31 of the calendar year following the calendar year to which the return relates.

Obligations to Notify Competent Authority

9.—(1) A financial institution that has obligations under these Regulations shall notify the Competent Authority of that fact and shall provide to the Competent Authority—

Notification
by financial
institution to
Competent
Authority.

- (a) the name of the financial institution;
- (b) the categorization or categorizations of the financial institution as determined in accordance with sub-paragraph 1(g) of Article 1 of the Agreement; and
- (c) where the financial institution has registered with the Internal Revenue Service of the United States of America for the purposes of the Agreement, the Global Intermediary Identification Number allocated to that financial institution by the Internal Revenue Service of the United States of America.

(2) The notification, and the information specified in paragraph (1)(a) to (c), shall be submitted to the Competent Authority in the manner and form that the Competent Authority may require.

(3) A financial institution shall provide the notification and the information specified in paragraph (1)(a) to (c) to the Competent Authority no later than March 31 in the first calendar year in which the financial institution is required to comply with reporting obligations to the Competent Authority under these Regulations; however, in relation to the calendar year 2015, this paragraph shall apply as if the word and numerals “August 31” were substituted for the word and numerals “March 31”.

(4) A financial institution that is required to notify the Competent Authority pursuant to this regulation shall, at the time of notification, provide to the Competent Authority the full name, address, designation and contact details of an individual identified and authorized by the financial institution to be the principal point of contact for the financial institution for all purposes of compliance with these Regulations.

(5) A financial institution shall notify the Competent Authority immediately of any changes to the information provided to the Competent Authority under paragraph (1)(a) to (c) and of any changes in respect of the principal point of contact referred to in paragraph (4).

SECOND SCHEDULE, *cont'd.*

(6) Where a financial institution ceases to be registered with the Internal Revenue Service of the United States of America for whatever reason, it shall notify the Competent Authority.

Powers of Competent Authority

Powers of Competent Authority to obtain information and carry out inspection.

10.—(1) For the purposes of verifying compliance with these Regulations, the Competent Authority may require a reporting financial institution to do either or both of the following—

- (a) to provide to the Competent Authority, within such reasonable time as the Competent Authority may in writing specify, the information, including copies of any relevant books, records or other documents, or any electronically stored information, that the Competent Authority may reasonably require;
- (b) to make available to the competent Authority for inspection, at the time specified by the Competent Authority, all copies of books, documents or other records, or any electronically stored information, in the possession or under the control of the reporting financial institution, that the Competent Authority may reasonably require.

(2) A reporting financial institution shall retain for a period of seven years all books, records and other documents, including those stored by electronic means, which relate to the information required to be reported to the Competent Authority for the purposes of these Regulations.

Penalties for Breach of Obligations

Penalties for failure to report payments to non-participating financial institution.

11. A person is liable to a penalty of ten thousand dollars for—

- (a) each failure to set out a payment in a return under regulation 8; and
- (b) each failure to set out a payment accurately in a return under regulation 8.

Penalty for providing inaccurate information.

12.—(1) A person is liable to a penalty not exceeding five hundred thousand dollars if—

- (a) in complying with an obligation under regulation 4, the person provides inaccurate information; and
- (b) Condition A, B or C, as specified in paragraphs (2), (3) or (4), respectively, is met.

(2) Condition A is that the inaccuracy is deliberate on the part of the person.

SECOND SCHEDULE, *cont'd.*

(3) Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform the Competent Authority at that time.

(4) Condition C is that the person—

- (a) discovers the inaccuracy some time later; and
- (b) fails to take reasonable steps to inform the Competent Authority.

(5) A person is liable to a penalty of five hundred thousand dollars if, in complying with an obligation under regulation 4, the person provides inaccurate information, and the inaccuracy is due to an inadvertent failure to comply with regulation 3.

13.—(1) Liability to a penalty under regulation 11(a) does not arise if the person concerned satisfies the Competent Authority, or the Revenue Appeals Division or the Revenue Court in the case of an appeal to that Division or Court, that there is a reasonable excuse for a failure to comply with obligations referred to in the applicable regulation.

Reasonable
excuse in
relation to
liability.

(2) For the purposes of this regulation, neither of the following is a reasonable excuse—

- (a) that there is an insufficiency of funds to do something; or
- (b) that a person relies upon another person to do something.

(3) If a person had a reasonable excuse for a failure but the excuse has ceased to apply, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased to apply.

14.—(1) If a person becomes liable to a penalty under regulation 11 or 12, the Commissioner General shall, in writing, notify the person concerned of the penalty.

Assessment
of penalties.

(2) The determination of liability to a penalty under regulation 11(a) shall be made within the period of twelve months beginning with the date on which the person became liable to the penalty.

(3) The determination of liability to a penalty under regulation 11(b) or 12 shall be made—

- (a) within the period of twelve months beginning with the date on which the inaccuracy first came to the attention of the Competent Authority; and
- (b) within the period of six years beginning with the date on which the person became liable to the penalty.

SECOND SCHEDULE, *cont'd.*Enforcement
of penalties.

15.—(1) A penalty under these Regulations shall be paid to the Commissioner General before the end of the period of thirty days beginning with the date mentioned in paragraph (2).

(2) The date referred to in paragraph (1) is—

- (a) the date on which notification under regulation 14(1) was given in respect of the penalty; or
- (b) if a notice of an appeal is lodged with the Revenue Appeals Division or the Revenue Court, the date on which the appeal is finally determined or withdrawn.

*Miscellaneous*Accounts
with a
negative
value.

16. For the purpose of applying section VI, paragraph C of Annex 1 to the Agreement as required by these Regulations, an account balance that has a negative value is treated as having a nil value.

Anti-
avoidance.

17. If—

- (a) a person enters into any arrangements; and
- (b) the purpose, or one of the purposes, of the person entering into the arrangements is to avoid or circumvent any obligation or requirement under these Regulations,

these Regulations shall have effect as if the arrangements had not been entered into.

Secrecy.

18.—(1) Subject to this regulation, any person employed in carrying out the provisions of, or having any official duty under, these Regulations shall regard and deal with as secret and confidential all information, records and other documents that—

- (a) come into the possession or control of, or to the knowledge of, the person in the course of performing any duties under these Regulations; and
- (b) relate to the administration of these Regulations.

(2) Every person referred to in paragraph (1) who, having possession or control of any information, records and other documents, communicates or attempts to communicate such information or anything contained in such records or documents to any person otherwise than for the purposes of this Act, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding nine months, or to both such fine and imprisonment.

SECOND SCHEDULE, *cont'd.*

19. Any person who discloses confidential information that is subject to an obligation of secrecy or confidentiality and that is required to be disclosed for the purposes of these Regulations shall be immune from any civil action in respect of that disclosure.

Immunity
from civil
actions.

20.—(1) The Competent Authority may issue guidance from time to time, in such manner and form as determined by it, for the purposes of facilitating compliance with these Regulations.

Guidance
and forms.

(2) The Competent Authority may specify the manner and form for the provision of information, records and other documents under these Regulations.

21. The Competent Authority shall cause to be published in the *Gazette*—

Publication in
Gazette of
amendment
to Agreement
and notifica-
tion of more
favourable
terms.

- (a) any amendment to the Agreement under paragraph 2 of Article 8 of the Agreement; and
- (b) any notification under paragraph 2 of Article 7 of the Agreement of more favourable terms that apply under the Agreement.