



## CHAPTER 17.16

# PROPERTY TAX ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2008

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### **PROPERTY TAX ACT**

Act 3 of 1988 .. in force 2 March 1988

Amended by Act 12 of 2007 .. in force 1 January 2007,

except: Secs..5, 12,-19, 22 and 27 .. in force 1 January 2008;

Secs. 4, 10, 21, 23, 25 .. in force 2 April 2008;

Sec. 3 .. in force 1 January 2009 (S.R.O. 9/2008)

*see also* **Property Tax (Remission) Order 2000 – Section 16**

S.R.O. 29/2000 (footnote to section 45) .. in force 17 March 2000

### **PROPERTY TAX DETERMINATION OF RATE ORDER – Sections 3, 5 and 68**

S.R.O. 8/2005 .. in force 1 January 2005

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MONTSERRAT

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**CHAPTER 17.16**

**PROPERTY TAX ACT**

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**CHAPTER 17.16**

**PROPERTY TAX ACT**

*(Acts 3 of 1988 and 12 of 2007)*

AN ACT TO PROVIDE FOR THE IMPOSITION OF PROPERTY TAX FROM THE YEAR 1988.

**Commencement**

*[2 March 1988]*

PART I

PRELIMINARY

**Short title**

1. This Act may be cited as the Property Tax Act.

**Interpretation**

2. In this Act, unless the context otherwise requires—

“**Authority**” means the Planning and Development Authority established under section 3 of the Physical Planning Act (Cap. 8.03);

“**chattel building**” means any building so erected as not to form part of the land on which it stands;

“**commercial**” means a hereditament used or to be used for the establishment and maintenance of a trade, business or profession;

“**Court of Appeal**” means the Court of Appeal established under and by virtue of the Eastern Caribbean Supreme Court Order;

“**cultural**” means a hereditament used for the development of artistic and related talent;

“**fee simple**” means the estate in fee simple in possession in an hereditament free from any lesser estates or interests therein or any encumbrances thereon, or any burden, charge or restriction other than any restriction created by crown grant or by or under any law;

“**habitable**” means the property is capable of being occupied by a person and provides for normal protection from the elements and intruders whether the building is completed or not;

- “hereditament”** means any real property and all estates, interest, easements and rights whether equitable or legal in, to or out of real property and for the purposes of this Act includes a chattel building;
- “historical”** means an area or site of historical or archaeological interest and includes any monument, ruin or remains located within that area or site;
- “hotel”** means any building or group of buildings within Montserrat as defined in the Hotels Act (Cap. 17.13);
- “improvements”** means those physical additions and alterations thereto and all works for the benefit of land made or done by the owner which have the effect of increasing its value;
- “industrial”** means a hereditament used for manufacturing of goods, materials or other products;
- “Judge”** means a Judge of the Eastern Caribbean Supreme Court;
- “land”** includes any interest in land, and any easement or right in, to or over land;
- “Market Value”** means the price at which a willing seller would sell and a willing buyer would buy in the open market, neither being anxious and each acting prudently and knowledgeably;
- “owner”** means any person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive if the lands or premises were let at a rack-rent;
- “person”** includes a body of persons;
- “prescribed”** means prescribed by regulations made by the Governor in Council;
- “public advertisement”** means publication by advertisement in a newspaper (if any) circulating in Montserrat and by the posting of any notice required by the provisions of this Act to be published by public advertisement by the person authorised so to do in such conspicuous places in Montserrat as such person in his discretion thinks necessary to give publicity thereto;
- “recreational”** means a hereditament used for sports or other leisure activities;
- “site value”** means the price which the fee simple of the hereditament if sold at the time the site value is being ascertained in the open market by a willing seller might be expected to realise if the hereditament were divested of any buildings and improvements including fixed or attached machinery which are appurtenant to or used in connection with any such buildings; and in the case of a developer divested of improvements done by him such improvements being excluded from

the site value until the land is transferred or a building is erected thereon;

“**tax**” shall include interest and penalty;

“**taxable value**” means the value assessed in accordance with the provisions of section 17;

“**unsafe area**” means an area declared as unsafe by Order, made from time to time by the Governor, under the Emergency Powers Regulations;

“**valuation officer**” means any valuation officer appointed pursuant to the provisions of section 66.

*(Amended by Act 12 of 2007)*

## PART II

### PROPERTY TAX

#### **Imposition of property tax**

3. Property tax shall subject to the provisions of this Act be raised levied, collected and paid to the Accountant General at such rates as may be determined by the Governor in Council by Order made in the *Gazette* for every year commencing in the year 1988 on the taxable value of every hereditament.

#### **Rate of tax to be determined annually**

4. (1) The rate of tax shall be determined annually on or before the fifteenth day of December in the year preceding the year for which such rate of tax is applicable and where no rate of tax is determined in respect of any year the existing rate of tax shall be the rate of tax for that year and so on.

(2) Notwithstanding anything in subsection (1) the rate of tax for the year 1988 may be determined on or before March 31, 1988.

#### **Classification of hereditaments**

5. (1) The Valuation Officer shall for the purposes of this Act classify hereditaments into—

- (a) agricultural;
- (b) residential;
- (c) commercial;
- (d) industrial;
- (e) institutional;
- (f) cultural;

- (g) historical;
- (h) recreational;
- (i) hotel;

and different rates may be determined in respect of different classes of hereditaments.

(2) The owner of any hereditament may, where such hereditament has been classified on or before the coming into operation of this Act, apply to the valuation officer for reclassification, if he considers it necessary to do so.

*(Substituted by Act 12 of 2007)*

### **Taxable value**

6. For the purpose of this Act, “**taxable value**” of a hereditament shall be—

- (a) in the case of land without any building the market value of the land (hereinafter referred to as the site value); and
- (b) in the case of land with building—
  - (i) the site value; and
  - (ii) the market value of the building.

### **Property tax to be borne and paid by the owner**

7. (1) The property tax shall be borne and paid by the owner of the hereditament.

(2) Where the owner of a building is not the owner of the land on which such building is erected the tax shall be levied and paid by the owner of the land in respect of the land and by the owner of the building in respect of the building.

(3) Where there is agreement between the owner of the land and the owner of the building on such land that the property tax shall be paid by one or the other, payment by one shall discharge the liability of the other.

### **Change of ownership. Property tax unpaid will be an encumbrance on the hereditament**

8. Property tax for any year shall be borne and paid by the person who is the owner of the hereditament on the first day of January in that year. Where there is a change of ownership the property tax remaining unpaid in respect of the hereditament shall be deemed to be an encumbrance on such hereditament and recoverable from the new owner and the provisions with regard to recovery of property tax shall apply accordingly.

### **Certificate of tax payment**

**8A.(1)** No Deed of Conveyance, lease or assignment may be registered in the Land Registry unless the instrument is accompanied by a Certificate of Tax payment issued by the Comptroller of Inland Revenue certifying that the property contained in the instrument is duly included in the valuation list and that tax, if any, has been assessed and paid up to date.

**(2)** The Certificate must be in Form F of the Schedule.

*(Inserted by Act 12 of 2007)*

### **Liability of co-owners**

**9.** Where a hereditament is owned in common every co-owner shall be liable to the property tax as if each co-owner is a sole owner of the hereditament but payment of the property tax by one co-owner shall discharge the liability of the others.

### **Condominium units to be separate hereditaments**

**10.** Notwithstanding anything in this Act or any other written law where a building regarded as an individual unit in a multiple unit structure or a multiple unit development project within the meaning of the Condominium Act such unit shall be deemed to be a separate hereditament for the purpose of this Act and assessed accordingly.

## **PART III**

### **EXEMPTIONS**

#### **Exempted hereditaments**

**11.** The following hereditaments are exempted from the property tax—

- (a)* hereditaments owned by the Crown or the Government of Montserrat;
- (b)* hereditaments exclusively appropriated to public religious worship;
- (c)* hereditaments owned by or on behalf of any religious body and used by that body for the residence of a Minister of religion;
- (d)* hereditaments lawfully used for the purpose of burial grounds;
- (e)* hereditaments vested in the Land Development Authority established under the Montserrat Land Development Act;

- (f) hereditaments vested in the National Trust;
- (g) hereditaments owned by any charitable organisation or institution approved by the Governor in Council;
- (h) hereditaments belonging to or used by the schools or educational institutions administered under the Education Act;
- (i) hereditaments specially exempted by the Governor in Council for any specified period.

### **Exemption for new houses**

**12. (1)** Where a building is constructed on any land, to be used wholly or mainly as a dwelling house, the property tax in respect of the building shall be exempted for a period of three years.

**(2)** In computing the period of three years the year following the year in which the building becomes habitable as a dwelling house with basic amenities shall be treated as the first year of exemption.

**(3)** Any claim for exemption under the provisions of this section shall be accompanied with a certificate issued by the Chief Valuation Officer after inspection of the building, certifying the date from which the building was deemed to be habitable.

**(4)** The certificate issued under subsection (3) shall be in Form G of the Schedule. *(Inserted by Act 12 of 2007)*

### **Exemption of property tax on commercial building**

**12A. (1)** Where any commercial building is constructed at any time within a period of 3 years immediately before the coming into force of this section or at any time hereafter the property tax in respect of such building shall be exempted for a period of 5 years.

**(2)** Any claim for exemption under the provisions of this section shall be accompanied with a certificate issued by the Chief Valuation Officer after inspection of the building, certifying the date from which the building was deemed to be ready for occupation.

**(3)** In computing the period of 5 years following the year in which the building becomes ready for occupation as commercial building, the period of 12 months commencing January 1st immediately following the date on which the building is declared ready for occupation shall be treated as the first year of exemption.

*(Inserted by Act 12 of 2007)*

### **Rebate of property tax on commercial buildings referred to in section 12A**

**12B.** The property tax recoverable in respect of any commercial building referred to in section 12A shall be rebated by 25 percent for

the 5 years commencing from the year following the year in which the period of exemption ends.

*(Inserted by Act 12 of 2007)*

### **Rebate of property tax on commercial buildings**

**12C.** Subject to sections 12A and 12B the property tax recoverable on any commercial building shall be rebated by 25 percent (25%). The rebated rate shall apply until the year 2012.

*(Inserted by Act 12 of 2007)*

### **Exemption with regard to agricultural land**

**13.** Where the owner of a hereditament classified as agricultural land produces a certificate on or before the fifteenth day of December in any year from the Director of Agriculture certifying that the aforesaid land was utilised effectively for agricultural purpose, property tax payable in respect of such hereditament for the year succeeding the year in which the certificate is issued shall be reduced by 50 percent. In issuing a certificate, the Director of Agriculture shall have regard to whether or not the directions given by the officers of the Department of Agriculture have been complied with by the person who has applied for the certificate and where there was a failure to comply with directions whether it was beyond the control of such persons or not.

### **Exemption from property tax for hereditament in the unsafe area**

**13A.** Where a hereditament, other than a hereditament still being operated as commercial enterprise, is situated in an unsafe area such hereditament will be granted an exemption from property tax:

Provided that where the unsafe area in which the hereditament is situated subsequently becomes a safe area at a date earlier than April 1st in any year, the hereditament will be subject to property tax for that year:

Provided, further that where the area in which the hereditament is situated has been declared an unsafe area at a date later than September 30th, in any year, and where the demand note in respect of that hereditament has been issued such tax shall be payable in respect of that hereditament.

*(Inserted by Act 12 of 2007)*

### **Deduction for dwelling house**

**14.** Notwithstanding anything in this Act, where a hereditament is used wholly or mainly as a dwelling house a sum of \$150,000 shall be deducted from the market value of the building in arriving at the taxable value.

*(Amended by Act 12 of 2007)*

**Remission where tax payable is less than \$10**

15. Where the amount of tax due or penalty or interest chargeable or otherwise payable under the Act is \$10 or less, such amount shall be deemed to have been remitted.

*(Substituted by Act 12 of 2007)*

**Property Taxation Relief Board**

16. (1) The Governor in Council may appoint a Property Taxation Relief Board (hereinafter referred to as “the Board”) to which persons liable to pay property tax may appeal for relief in all the circumstances in which it is just and equitable to claim such relief.

(2) The Board shall consist of three persons of whom one may be a person with experience in matters relating to property tax.

(3) The Board shall consider such appeals hearing, any relevant evidence and studying any relevant documents, and shall advise the Governor in Council as to whether the Board is satisfied that it would be just and equitable in all the circumstance to reduce or remit the property tax including penalty and interest payable by any person in respect of any hereditament for such period as it may specify.

*(Substituted by Act 12 of 2007)*

**PART IV****ASCERTAINMENT OF TAXABLE VALUE****Ascertainment of taxable value**

17. (1) Where a hereditament comprises land and building thereon, the taxable value shall for the purpose of this Act be expressed separately for such land and such building.

(2) The market value of a hereditament shall be as ascertained in accordance with accepted valuation principles. *(Amended by Act 12 of 2007)*

(3) *Deleted by Act 12 of 2007.*

(4) (a) In ascertaining the site value or market value of any hereditament the use capability of such hereditament as determined shall be taken into consideration.

(b) The use capability of any hereditament until determined under the provisions of section 5 shall be ascertained by the valuation officer taking into consideration the existing use at the time when the site value or market value is being ascertained as well as the alternative use capability of such hereditament.



- (c) Where the owner of a hereditament is aggrieved by the classification ascribed to his hereditament under this subsection he may appeal to the Governor in Council for a reclassification stating the grounds of such appeal and the decision of the Governor in Council regarding such appeal shall be final.
- (d) Where two or more adjacent properties are owned by the same person(s) and the improvement to the land or building so constructed thereon has been done in such manner as to render the individual parcels incapable of severance without demolition of the structure thereon, the valuation officer shall treat the said property as one holding or a single hereditament. *(Inserted by Act 12 of 2007)*
- (5) Where a building which is used as a dwelling house on January 1, 1988 is erected on land which ordinarily would be classified as commercial having regard to the situation of such land, notwithstanding anything in any other provision in this Act such land shall be deemed to be residential for the purpose of ascertaining the taxable value of such land. *(Amended by Act 12 of 2007)*
- (6) Where a building designated as residential under the provisions of section 5 is used wholly or mainly as a commercial place such hereditament shall be deemed to be commercial hereditament for the purpose of ascertaining the taxable value. *(Amended by Act 12 of 2007)*

## PART V

### PROPERTY TAX REGISTER AND VALUATION LISTS

#### Property Tax Register

18. The Comptroller of Inland Revenue shall cause to be kept in his office in relation to each year a register, which may be in separate volumes, hereinafter referred to as the "Property Tax Register", in which shall be entered—

- (a) every hereditament within Montserrat in respect of which property tax is payable and such description thereof as may be reasonably necessary for the purposes of identification;
- (b) the taxable value of each such hereditament;
- (c) the name and address of the owner, if known to the Comptroller of Inland Revenue;
- (d) the rate percentum at which property tax is levied;
- (e) the amount of property tax to be paid in respect of each such hereditament;
- (f) the year in respect of which property tax is levied; and

(g) such other information (if any) as may be prescribed:

Provided that if a hereditament is owned by more than one person it shall be sufficient in lieu of entering the names and addresses of all the owners of the hereditament to enter in respect of such hereditament the name and address of any one of such owners with the addition after his name of the words “and another” or “and others” as the case may require.

### **Valuation lists**

**19. (1)** Valuation lists shall be prepared and amended by valuation officers in accordance with the conditions and subject to the rights as to objection and appeal specified in this Act.

**(2)** Subject to the provisions of this Act, there shall be entered in a valuation list the following particulars—

- (a) every hereditament, and such description thereof as may be reasonably necessary for the purposes of identification;
- (b) the name and address of the owner of each such hereditament if the same can be ascertained by the valuation officer;
- (c) the taxable value of each such hereditament;
- (d) such other information (if any) as may be prescribed:

Provided that if a hereditament is owned by more than one person it shall be sufficient in lieu of entering the names and addresses of all the owners of the hereditament to enter in respect of such hereditament the name and address of any one of such owners with the addition after his name of the words “and another” or “and others” as the case may require:

Provided further, that in respect of any hereditament in relation to which an entry is made in accordance with the foregoing proviso the valuation officer shall supply to the Comptroller of Inland Revenue with the valuation list the names and addresses of all the owners of the hereditaments whom the valuation officer is able to ascertain.

*(Amended by Act 12 of 2007)*

### **Valuation list to come into force on such day as may be appointed by the Governor**

**20. (1)** A valuation list made under this Act shall come into force on such day as the Governor shall appoint by proclamation published in the *Gazette*.

**(2)** The Governor may from time to time by proclamation declare that a new valuation list shall be prepared and any such new valuation list so prepared shall replace the list prepared previously to such proclamation and shall come into force on such day as the Governor may appoint by proclamation published in the *Gazette*.

(3) Every valuation list prepared in accordance with the provisions of this Act shall remain in force until it is superseded by a new valuation list.

(4) The valuation list in force from time to time shall be conclusive evidence of the taxable values of the several hereditaments at that time included in such list.

### Draft lists

21. (1) Where a valuation list is to be made, the valuation officer shall—

- (a) prepare a draft valuation list, and transmit a copy thereof to the Comptroller of Inland Revenue;
- (b) upon the completion of the draft valuation list forthwith publish notice by public advertisement of such completion and the address of the place or places at which such list or any part thereof is open to inspection;
- (c) send as soon as possible to the owner of every hereditament mentioned in the list, a notice of the taxable value of his hereditament as inserted in the draft list.

(2) For a period of 21 working days after the date on which the notice of the completion of the draft list is published as aforesaid, a copy of the draft list shall be open to inspection at the place or places specified in the notice referred to in section (1)(b) at such times as may be specified in such notice:

Provided that, the valuation officer may divide a list into parts and deposit different parts at different places for the convenience of the public.

*(Amended by Act 12 of 2007)*

### Objections to draft lists

22. (1) The owner of a hereditament who is aggrieved—

- (a) by the inclusion of his hereditament in the draft list; or
- (b) by any value ascribed in the draft list to his hereditament; or
- (c) by the classification ascribed to his hereditament,

may at any time before the expiration of 40 working days from the date of the publication of notice of the completion of the draft list, serve on the valuation officer notice of objection to the draft list so far as it relates to his hereditament.

(2) Every notice of objection under this section shall be made in writing and, if a form is prescribed, in the prescribed form and shall state the precise grounds on which the objection is made and the amendment desired to remove the objection.

*(Amended by Act 12 of 2007)*

### Revision of draft lists

**23. (1)** After the expiration of the period limited for the lodging of notices of objection to a draft valuation list, the valuation officer may revise the draft and may on that revision make such alterations in the list, whether for the purpose of meeting an objection or for any other reason, as he thinks proper.

**(2)** Where, on his revision, the valuation officer makes any alteration in the list, whether for the purpose of meeting an objection or for any other reason, he shall forthwith serve notice of the alteration on the owner of the hereditament to which the alteration relates:

Provided that no notice need be served on the owner under this subsection where the owner has not served notice of objection under the last preceding section with respect to the hereditament and the alteration consists only in reduction in any value ascribed to the hereditament.

**(3)** Where notice of objection has been served under the last preceding section, then, whether or not the valuation officer makes, on his revision, any alteration in the list for the purpose of meeting the objection, he shall, on the completion of the revision, forthwith serve on the person who made the objection a notice stating whether he has made any and if so what alterations in the list with respect to the hereditament to which the objection relates:

Provided that no notice need be served under this subsection on any person on whom a notice with respect to the hereditament falls to be served under subsection (2).

**(4)** Any person on whom a notice is served under subsection (2) or (3), may, by notice of appeal served on the valuation officer, appeal to the Magistrate with respect to the hereditament in question.

**(5)** A notice of appeal shall be in writing and shall contain a statement of the grounds of appeal and shall be served—

- (a)* in the case of a person on whom notice has been served under subsection (3), before the expiration of the 21 working days following that of the service on him of that notice;
- (b)* in any other case, before the expiration of 21 working days following that of the service on the owner of the hereditament of the notice specified in subsection (2).

*(Amended by Act 12 of 2007)*

### Settling of valuation list

**24. (1)** Not later than the end of the month of August preceding the date on which a new valuation list is to come into force, or if in any particular case the Governor, either before or after the end of that month allows an extended period, then not later than the end of that period, the valuation officer shall settle and sign the list and transmit it, as soon as practicable, to the Comptroller of Inland Revenue and, until the said list is so transmitted,

a copy shall be kept on deposit at such places in Montserrat to be specified in a notice published by public advertisement by the Comptroller of Inland Revenue.

(2) Before settling and signing the list, the valuation officer shall make such alterations therein as are necessary to give effect to any decisions given on appeal with respect to the list before the date of the settling thereof and, where a notice of appeal has been given with respect to a hereditament and has been withdrawn as the result of an agreement made between the valuation officer, the applicant, and any other person entitled to be heard on appeal, make such alterations, if any, as are necessary to give effect to the agreement.

(3) Save as aforesaid, and subject to any alterations made for the purpose of correcting any clerical or arithmetical error, the list as settled and signed shall be identical with the draft list so revised under the last preceding section.

(4) The valuation officer shall not be required to await the hearing and determination of all appeals before settling and signing the list, and if any appeal is not heard and determined before the list is settled and signed, it shall, unless withdrawn, be heard and determined as soon as possible thereafter and with the like consequences as if it had been an appeal against an objection to a proposal duly made in accordance with the subsequent provisions of this Act for the alteration of the current valuation list and served on the valuation officer on the date on which that list comes into force.

(5) The list settled and signed as aforesaid shall, as from the date when it comes into force and subject to any alterations made in accordance with this Act, be the valuation list, and any omission from the list of any matter required by law to be included therein, shall not of itself render the list invalid; and until the contrary is proved, the list shall be deemed to have been duly made in accordance with the provisions of this Act.

### **Duty of the Comptroller of Inland Revenue as respects valuation list**

25. (1) The Comptroller of Inland Revenue on receiving a valuation list shall deposit it at his office or at such other place as may be specified by him in a notice published within seven days of the receipt of the list by public advertisement.

(2) The Comptroller of Inland Revenue shall give effect to any directions which may from time to time be given to him by the Valuation Officer in pursuance of the provisions of this Act authorising or requiring the valuation officer to cause alterations to be made in valuation lists.

### **Proposals for alteration of current lists**

26. (1) The owner of a hereditament who is aggrieved—

(a) by the inclusion of this hereditament in a list; or

(b) by the value ascribed in a list to his hereditament or by any statement made or omitted to be made in a list with respect to his hereditament; or

(c) by the classification ascribed to his hereditament,

may at any time make a proposal for the alteration of the list so far as it relates to his hereditament:

Provided that no proposal for an alteration of the list shall be made, pursuant to this section, seeking relief which might have been obtained by means of an objection to the draft valuation list on which a list is based or by an appeal against the draft list.

(2) The valuation officer may at any time make a proposal for any alteration of a valuation list.

(3) Any such proposal as is mentioned in the previous provisions of this section is in this Act referred to as “a proposal”.

### **Proceedings on proposals**

**27. (1)** Every proposal shall be in writing and shall state the grounds on which the proposed alteration is supported and, except where it is made by the valuation officer, be served on the valuation officer.

(2) A proposal shall comply with any requirements prescribed pursuant to this Act with respect to the form of the proposal or otherwise with respect to the making thereof.

(3) The valuation officer shall within fourteen days after the date on which a proposal is made by him transmit a copy thereof to the owner of the hereditament to which the proposal relates.

(4) The owner of a hereditament to which a proposal relates may, within 21 days from the date on which notice is served on him under the last preceding subsection, serve on the valuation officer notice in writing of objection to the proposal.

(5) The valuation officer may, within 21 days from the date on which a proposal is served on him by the owner of a hereditament, serve on such owner notice in writing of objection to the proposal.

(6) Where, on the expiration of the times limited by subsections (4) and (5) for the service of notice of objection, no such notice has been served or where every such notice has been served or where every such notice is unconditionally withdrawn, the valuation officer shall cause such alteration to be made in the list as will give effect to the proposal.

(7) Where notice of objection is made and is not unconditionally withdrawn—

(a) the owner of the hereditament may, by notice of appeal served within the time hereinafter mentioned, appeal to the

Magistrate against the proposal, or the objection, as the case may be, made by the valuation officer;

- (b) no alteration shall be made in the list in pursuance of a proposal except where notice of appeal is given as aforesaid and then only either—
  - (i) in pursuance of the directions of the Magistrate; or
  - (ii) by agreement between all the persons entitled to be heard on appeal.

(8) A notice of appeal under this section shall be in writing and shall be served on the valuation officer within 21 days from the date when a copy of the notice of objection is served on or by the valuation officer as the case may be.

### **Effect of alterations made in pursuance of proposals**

**28. (1)** Subject to the provisions of this section, an alteration made in the valuation list in pursuance of a proposal (whether under the last preceding section or under the directions of the Magistrate given by virtue of the subsequent provisions of this Act) shall in relation to the property tax payable for the year during which the alteration was made be deemed to have had the effect as from the commencement of that year, and shall, subject to the provisions of this section, continue to have effect until a new valuation shall be made.

(2) Notwithstanding anything contained in subsection (1), an alteration in the valuation list which—

- (a) consists of the inclusion in the valuation list of a newly erected or newly constructed hereditament;
- (b) is made by reason of a change in the value of a hereditament caused by the making of structural alterations or by the total or partial destruction of any building or other erection by fire or any other physical cause;
- (c) is made by reason of any hereditament becoming or ceasing to be a hereditament in respect of which no person shall be liable to pay tax;
- (d) is made by reason of any property previously taxed as a single hereditament becoming liable to be taxed in parts; or
- (e) is made by reason of any property previously taxed in parts becoming liable to be taxed as a single hereditament, shall have effect only as from the happening of the event by reason of which the alteration is made.

(3) Where in pursuance of a proposal an alteration is made in a valuation list which affects the amount of any property tax levied in respect of any hereditament in accordance with the list, the difference, if too much

has been paid, shall be repaid, or allowed or, if too little has been paid, shall be paid and may be recovered as if it were arrears of property tax.

### **Power of valuation officer to make alterations to valuation list**

**29.** The valuation officer may at any time cause to be made in a valuation list any alteration which is necessary—

- (a) to correct any clerical or arithmetical error therein, and the list shall have effect accordingly, but if any such alteration is made in respect of any matter other than totals the officer shall, before causing the alteration to be made, send notice thereof to the owner of the hereditament affected and shall allow fourteen days to elapse during which any person concerned may object to the proposed alteration; or
- (b) by reason of any change in the ownership or occupation of any hereditament.

### **Sitting, procedure and powers of the Magistrate**

**30. (1)** Where notice of appeal to the Magistrate is served under the preceding provisions of this Act by or on the valuation officer the valuation officer shall forthwith notify the Magistrate who shall arrange for the hearing of the appeal as speedily as possible.

**(2)** The procedure of the hearing of appeals under this Act shall, subject to the provisions of section 31 be such as the Magistrate may determine and the Magistrate shall with respect to the summoning of the parties and their witnesses and the production of documents have the same powers conferred on him by the Magistrate's Court Act.

**(3)** On the hearing of an appeal by the Magistrate under this Act—

- (a) the appellant; and
- (b) the valuation officer when he is not the appellant,

shall be entitled to appear and be heard as parties to the appeal and to examine any parties before the Magistrate and call witnesses.

**(4)** After hearing the persons mentioned in subsection (3) or such of them as desire to be heard, the Magistrate shall give directions with respect to the manner in which the hereditament in question is to be treated in the valuation list as appears to him to be necessary to give effect to the contention of the appellant if and so far as that contention appears to him to be well founded, and the valuation officer shall incorporate in the list as settled, or, as the case may be, cause to be made in the list, such alterations as are necessary to give effect to those directions.

### **Sittings of the Magistrate and discretion to award costs**

**31. (1)** The Magistrate shall sit at such places and at such times as in his discretion he may think fit and such sittings shall be open to the public.



(2) On determination of the appeal the Magistrate may award such costs not exceeding \$50 as he shall think fit and he may direct to whom, by whom and in what manner such costs or any part thereof shall be paid.

### **Appeals against decisions of the Magistrate**

**32. (1)** Any person aggrieved by a decision of the Magistrate may appeal to the Court of Appeal on any ground of appeal which involves a question of law by notice in writing stating the precise ground of his appeal to be lodged with the Registrar of the Court not later than fourteen days after the announcement of the decision of the Magistrate, and the person lodging the notice of appeal shall on the same day it is lodged serve copies thereof on every person who appeared as a party before the Magistrate against the decision of which the appeal is lodged.

(2) If on the hearing of an appeal the Court of Appeal is satisfied that the Magistrate did not err in law on the ground stated in the notice of appeal given pursuant to subsection (1) it shall confirm the decision of the Magistrate but if not so satisfied it shall refer the matter back to the Magistrate with a direction as to the law to be applied.

## **PART VI**

### **GENERAL PROVISIONS AS TO TAXING AND VALUATION**

#### **Property tax to be levied notwithstanding appeal against valuation**

**33. (1)** All property tax in respect of which a valuation list is conclusive shall be assessed and levied in accordance with the valuation list in force for the time being and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to the list:

Provided that, subject to the provisions of subsection (2), where in the case of a hereditament the value questioned by the appeal exceeds the value of that hereditament as last previously determined, the amount recoverable pending the decision of the appeal shall not unless the hereditament has been substantially altered since its value was last determined, exceed the amount which would have been recoverable if its value had not been increased.

(2) Where in the case of any hereditament the value questioned on appeal is the value ascribed in the first valuation list to the hereditament, the proviso to subsection (1) shall not apply.

#### **Amendment of property tax**

**34. (1)** Subject to the provisions of this section, the Comptroller of Inland Revenue may, within 7 years of the issue of an assessment, make

such amendments in any property tax as appear to him necessary in order to make the amount of property tax conform with the provisions of this Act relating thereto, and in particular may—

- (a) correct any clerical or arithmetical error in amount of property tax; or
- (b) correct any erroneous insertions or omissions or misdescriptions; or
- (c) make such additions to or corrections in property tax as appears to the Comptroller of Inland Revenue to be necessary by reason of—
  - (i) any newly erected hereditament;
  - (ii) any change in the ownership of any hereditament;
  - (iii) any property previously taxed as a single hereditament becoming liable to be taxed in parts;
  - (iv) any property previously taxed in parts becoming liable to be taxed as a single hereditament; or
  - (v) tax becoming or ceasing to become payable in respect of any hereditament.

(2) Where the effect of the amendment would be either—

- (a) to alter, otherwise than by way of correction of a clerical or arithmetical error, the value on which a hereditament is taxed; or
- (b) to tax a hereditament not shown or not separately shown in the valuation list,

the Comptroller of Inland Revenue shall not make any amendment of tax unless either the amendment is necessary to bring the property tax in conformity with the valuation list or a proposal for a corresponding alteration of the valuation list has been made by the valuation officer; and, if effect, or full effect is ultimately not given to such a proposal, and the amount of property tax levied in pursuance of the amendment is affected, the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be recovered as if it were arrears of property tax.

(3) Every amendment made under paragraph (a) or paragraph (b) of subsection (1) shall have effect as if it had been contained in the Property Tax Register when originally compiled.

*(Amended by Act 12 of 2007)*

### **Powers of valuation officer to require returns**

**35. (1)** In every case where a new valuation list is to be made, the valuation officer may serve a notice in Form H of the Schedule on the occupier, owner or lessee of any hereditament, or on any one or more of

them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling the valuation officer accurately to compile the list.

(2) The valuation officer may at any time, in connection with a proposal which has been made for the alteration of the valuation list, or with a view to the making of such a proposal, serve a notice in Form H of the Schedule on the occupier owner or lessee of any hereditament, or on any one or more of them, requiring him or them to make a return containing such particulars as may be reasonably required for the purpose of enabling him to decide whether or not to make, or as the case may be, to object to, the proposal.

(3) Every person on whom a notice to make a return is served in pursuance of the provisions of this section, shall within fourteen days after the date of the service of the notice make a return in such form as is required by the notice, and deliver it in manner so required to the valuation officer.

(4) If any person on whom notice has been served under the provisions of this section fails without reasonable excuse to comply with the notice, he shall for each offence be liable on summary conviction to a fine of \$100.

(5) Where a person is convicted under subsection (4) in respect of a failure to comply with a notice and the failure continues after the conviction, then, unless he has reasonable excuse for the continuance of the failure, he shall be guilty of a further offence under subsection (4) and may, on summary conviction, be punished accordingly.

(6) If any person, in a return made under this section, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, he shall be liable on summary conviction to a fine of \$500.

*(Amended by Act 12 of 2007)*

### **Powers of valuation officers to enter hereditaments**

**36. (1)** The valuation officer and any person authorized by him in writing in that behalf shall have powers, at all reasonable times and after giving not less than 24 hours notice in writing, and in the case of a person authorized as aforesaid, on production, if so required of his authority, to enter on, survey and value any hereditament.

(1A) The notice given under subsection (1) shall be in Form I of the Schedule. *(Inserted by Act 12 of 2007)*

(2) If any person wilfully delays or obstructs any person in the exercise of any of his powers under this section, he shall be guilty of an offence and liable on summary conviction to a fine of \$300. *(Amended by Act 12 of 2007)*

### **Evidence of valuation list**

**37.** A valuation list as for the time being in force, or an extract from any such list, may be proved by the production of a copy of the list, or of the extract, purporting to be certified by the valuation officer or the Comptroller of Inland Revenue to be a true copy or extract.

### **Production of plans to subdivision to valuation officer**

**38. (1)** Where a person has been granted permission by the Authority to subdivide any land pursuant to the Physical Planning Act, or undertake any improvement the Authority shall within 28 days after granting the permission forward to the Valuation Officer a certified copy of the approved plan.

**(2)** The Valuation Officer may at anytime request from the owner of a parcel of land a copy of a plan of any land development programme in progress whether the programme has been approved or not.

**(3)** The Registrar of Lands, the Chief Surveyor, the Chief Physical Planner, shall supply the Valuation Officer with any information for the purpose of this Act which the Valuation Officer may from time to time require.

*(Substituted by Act 12 of 2007)*

### **Inspection of documents**

**39. (1)** Any taxpayer may at all reasonable times on payment of such fee as may be determined by the Comptroller of Inland Revenue inspect and take copies of any extracts from any property tax register (whether current or closed) any draft valuation list or valuation list which is still available:

Provided that the information sought is relevant to an objection or appeal made in accordance with the provisions of this Act.

**(2)** If any person having the custody of any document to which this section applies, obstructs any person in making any inspection or copy thereof or extract therefrom which he is entitled to make under this section shall be guilty of an offence and liable on summary conviction for each offence to a fine of \$200.

**(3)** The provisions of this section shall apply in relation to any valuation officer save that no fee shall be required of any valuation officer.

### **Inclusion in one proceeding of separate hereditaments**

**40.** Any person may include in the same objection, proposal or appeal all or any hereditaments comprised in the same valuation list as respects which he has right to make or bring any such objection, proposal or appeal although they are separately assessed in that list.

### **Service of notices and documents on valuation officers**

**41.** Where in pursuance of the provisions of this Act any notice or other document is required to be served on or forwarded to a valuation officer such notice or other document may be handed to the Chief Valuation Officer or forwarded to him by post or left at his office.

### **Services of notices and other documents on other persons**

**42. (1)** Save as otherwise expressly provided by this Act any notice or other documents required to be served under this Act on any person may be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by sending it in a prepaid registered letter or ordinary letter addressed to that person at his usual or last known place of abode;
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at that office; or
- (e) if it is not practicable after reasonable enquiry to ascertain the name or address of an owner of the premises on whom it should be served, by addressing it to him by the description of “owner” of the premises (describing them) to which it relates and by delivering it to some person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

**(2)** A notice served by post in accordance with this section shall be deemed to have been served in the case of—

- (a) a person resident in Montserrat, fourteen days; and
- (b) a non-resident person, thirty days;

after the date the notice was posted.

*(Amended by Act 12 of 2007)*

## **PART VII**

### **COLLECTION AND RECOVERY OF TAXES**

#### **Collection and recovery of property tax**

**43. (1)** As soon as is practicable after the beginning of every year, the amount of the property tax payable in respect of any hereditament for that year shall be demanded by or on behalf of the Comptroller of Inland

Revenue from the owner of such hereditament and such property tax shall be payable on or before the 31st day of March in that year, or within two calendar months of the date of such demand, whichever shall be the later.

(2) Every demand note may be served in accordance with the provisions of section 42, or by sending it by post in a prepaid letter addressed to the owner at his usual or last known place of abode and in any case where the name of any person is not known to the Comptroller of Inland Revenue, it shall be sufficient to address the demand to such person by the description of “owner” of the hereditament (naming it).

(3) Every demand note shall contain in addition to a statement of the amount demanded (which shall be approximated to the nearest dollar disregarding any fraction of a dollar) the following particulars—

- (a) the situation of the hereditament in respect of which the demand is made and such description thereof as may be necessary for the purposes of identification;
- (b) the taxable value of the hereditament;
- (c) the year in respect of which the property is levied;
- (d) the classification of the hereditament;
- (e) the rate of tax;
- (f) the date of issue of the note;
- (g) the date payment is due;
- (h) the discount allowed or surcharge imposed if there is any;  
and
- (i) any other information as may be necessary.

### **Property tax to be a first charge**

**44. (1)** Property tax due under the provisions of this Act shall until paid, be a first charge on the hereditament in respect of which such tax is due and payable and such charge shall be prior and preferable to all other liens and demands affecting the hereditament:

Provided that the charge created by this subsection shall not take precedence and preference to any lien or demand affecting the hereditament which by virtue of any Act or Agreement is made a first charge in favour of the Crown or the Government of Montserrat or any statutory body or authority in receipt of funds payable out of the Consolidated Fund.

(2) Subject to the provisions of subsection (1) of this section, in all cases in which any hereditament which is liable to property tax shall be or shall have been levied on by the Comptroller of Inland Revenue under any execution, the amount of any property tax due in respect of such hereditament and future property tax which may accrue or be levied and become payable in respect thereof during any time such hereditament shall remain unsold in the office of the said Comptroller of Inland Revenue shall

be a charge on the same prior and preferable to all other liens and demands affecting the same; and when any such hereditament shall be sold by the Comptroller of Inland Revenue the amount of property tax shall be paid out of the purchase money thereof prior and in preference to any mortgages, judgements, executions or other liens against the hereditament so sold:

Provided that the Comptroller of Inland Revenue shall from time to time pay and allow the amount of any property tax already due in respect of any hereditament remaining unsold out of any moneys currently in his hands or which may hereinafter come to his hands out of or in respect thereof.

(3) Subject to the provisions of subsection (1), in all cases in which any hereditament has been or shall be placed under the control of the High Court of Justice, and no receiver shall be appointed, any unpaid property tax shall, until paid, be a first lien on the same.

### **Penalty for late payment of property tax**

45. (1) Notwithstanding anything contained in this Act, where any property tax is not paid within 60 days from the date on which such tax becomes due and payable, there shall be added to the amount of such tax by way of penalty an amount equal to 5% of the tax, and if the amount of tax and penalty is not paid by the end of the calendar month during which the penalty was imposed, a further penalty at the rate of 5% per annum shall be recoverable on the unpaid tax.<sup>1</sup>

(2) The provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of any penalty imposed pursuant to the provisions of subsection (1).

*(Amended by Act 12 of 2007)*

### **Power to sue for unpaid property tax**

46. (1) The amount of any property tax due and payable under this Act including any penalty and interest charged may be recovered from the owner for the time being of the hereditament in respect of which they are due as a civil debt by the Comptroller of Inland Revenue.

(2) Where any person, other than the person originally liable to pay the amount charged on any land pursuant to subsection (1) makes any payment in satisfaction of such charge, he shall be entitled to recover the amount paid by him from the person originally liable to make such payment.

(3) Where property tax payable by any person remains unpaid notwithstanding anything in any other written law, it shall be lawful for the Comptroller of Inland Revenue to collect it from any person who owes

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<sup>1</sup> See S.R.O.29/2000 which provides "The penalty under section 45 of the Ordinance on arrears of property tax will, because of the hardship caused by the volcanic eruptions, be remitted on arrears that are paid within twelve months of the date of this Order."

money to the defaulter or holds money for or on account of the defaulter or his agent or from the tenant or occupier of the hereditament belonging to the defaulter and any person who has made payment in pursuance of this section shall be deemed to have acted under the authority of the defaulter and is hereby indemnified in respect of such payment against all proceedings civil or criminal notwithstanding the provisions of any written law, contracts, or agreements.

### **Service of writ of summons**

**47. (1)** Subject to subsection (2) service of any writ of summons issued under section 46 of this Act shall be in accordance with the provisions of any Act or Rules of Court relating to the service of such document.

**(2)** If the defendant named in any writ of summons issued under section 46 is absent from Montserrat or cannot after reasonable enquiry be found, service of such writ may be effected with the leave of the Court—

- (a)* by posting a duplicate copy thereof in a registered letter addressed to the defendant at his present or last known place of abode whether in Montserrat or elsewhere; or
- (b)* if the registered letter referred to in paragraph *(a)* is returned undelivered, by posting a duplicate copy of the writ or summons in a conspicuous place on the premises in respect of which the property tax has been levied.

### **Power to distrain for property tax**

**48. (1)** If any property tax due and payable be not paid within 60 days of being demanded, it shall be lawful for the Comptroller of Inland Revenue to issue a warrant of distress in the form specified in Form A in the Schedule or a form to the like effect to a person named therein, to levy by distress upon any goods and chattel house-found on the hereditament in respect of which such property tax is due and payable or any property tax in arrears and unpaid.

**(2)** It shall not be necessary to issue a separate warrant in respect of every sum to be recovered by distress for rates, but the direction to levy by distress any sums due for property tax in arrears and unpaid, may be given by one warrant, the sums to be so levied by distress to be specified in a list to be attached to and to form part of the warrant.

### **Authority to levy**

**49. (1)** A warrant of distress issued pursuant to section 4 shall be sufficient authority to the person named therein and his assistants to levy by distress the amount of property tax specified in such warrant in like manner as if a separate distress warrant had been issued for the recovery of such property tax.



(2) No misdescription or error in the name of any owner shall in any way invalidate such warrant or any distress levied under the authority thereof.

### **Goods distrained or claimed by any person other than the person liable for the repayment of property tax**

50. In case any goods shall be distrained on by any person authorized to do so under a warrant of distress issued to him pursuant to section 48 and such goods shall be claimed within seven days after such distress by any person other than the person liable for the payment of the property tax or any part thereof due and unpaid and on satisfactory proof of such claim of such goods shall be restored to the person claiming the same:

Provided always that if it should happen that any goods so distrained on shall be sold without any claim as aforesaid, the owner thereof shall be barred of all remedy for recovery thereof or compensation in respect thereof against the purchaser thereof, the Comptroller of Inland Revenue by whom the warrant of distress was issued, the person named in the warrant of distress or any of such person's assistants or against any person, who shall have sold the same at public auction.

### **Remedy in case of irregularity of levy**

51. (1) Where any distress shall be made under a warrant of distress issued pursuant to section 48 of this Act and any irregularity or unlawful act shall be afterwards done by the Comptroller of Inland Revenue by whom the warrant was issued, the distress itself shall not be deemed to be unlawful, nor the party making it be therefore deemed a trespasser *ab initio*; but the party aggrieved by such unlawful act or irregularity may recover from the Comptroller of Inland Revenue by whom such irregularity or unlawful act was done, due satisfaction for special damages he shall have sustained thereby and no more.

(2) Where any party shall pursuant to the provisions of subsection (1) recover any sum payable by way of special damages, he shall be paid his full costs of suit and have all the like remedies for the same as in other case of costs:

Provided that no person distrained on under a warrant of distress issued pursuant to section 48 shall recover any such sum if the court by which an action for recovery of such special damages is entertained is satisfied that before the commencement of the hearing of the action tender of reasonable amends was made by or on behalf of the person against whom the action was lodged.

(3) In all actions for the recovery of special damages sustained as a result of any irregularity or unlawful act done after a distress made under a warrant issued pursuant to section 48, it shall be lawful for the defendant in such action to plead the general issue and give the special matter in evidence any law or usage to the contrary notwithstanding, and in case the

plaintiff in such action shall become nonsuit, discontinue his action, or have Judgement against him, and the defendant shall recover costs of suit.

### **Distress may be sold**

**52.** The distress taken pursuant to the provisions of section 48 shall be kept by the person authorized to levy the distress for at least seven days, and if at the expiration of that time the property tax in respect whereof such distress is levied, and the costs and charges of and incident to the distress and the keeping thereof are not paid, such distress may at any time thereafter be sold at public auction to the highest bidder.

### **Application of proceeds of sale**

**53.** Out of the proceeds of such sale there shall be paid in the first place the costs and charges of and incidental to the sale and keeping of the distress which shall include any costs and charges incurred in relation to any previous endeavours to sell the distress under the provisions of this Act, and in the next place property tax in arrears and unpaid, and the residue, if any shall be payable on demand to the owner of the goods and chattels distrained upon.

### **Power of sale**

**54. (1)** Where any property tax is due and payable the Comptroller of Inland Revenue shall have power to sell any premises in respect of which such property tax is due and payable for the recovery of such property tax:

Provided that the power of sale conferred by this section shall not be exercised until such property tax shall have been in arrears and unpaid for more than three years after the same became due.

Provided further where the property in respect of which any property tax remains unpaid for three (3) years or more is in excess of 2 acres, the Comptroller shall cause a notice to be served on the owner of the property granting him a grace period of one year, or such further time as the Governor in Council may determine, from the date of service of the notice, to settle the outstanding taxes in full.

**(2)** Where a notice is served under the proviso to subsection (1) the Crown shall have a lien on the property which shall be enforced by seizure and sale at the end of the grace period, if the owner fails to pay the outstanding amounts within the grace period.

**(3)** The Crown shall have the opportunity to purchase the property for a public purpose.

**(4)** In this section public purpose includes a purpose that is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community.

*(Amended by Act 12 of 2007)*

### **Warrant for sale to be signed by the Comptroller of Inland Revenue**

**55. (1)** Where any premises are liable to be sold under the powers conferred by the last preceding section, the Comptroller of Inland Revenue may, at any time after the power of sale has become exercisable, by warrant under his hand addressed to some officer in the service of the Government of Montserrat or to any other person named in such warrant, order the sale of such premises or any of them on such day and at such place as may be named and appointed in such warrant.

**(2)** The warrant for sale may be according to the form set forth in Form B in the Schedule and, if the Comptroller of Inland Revenue thinks fit, may contain the names of the owners or reputed owners of the respective hereditaments as entered in any Property Tax Register in force at the date of the warrant.

### **Sale to be by public auction**

**56. (1)** Every sale under this Act shall be by public auction held at such time and place as the Comptroller of Inland Revenue may direct.

**(2)** A notice of an intended sale shall be given in 3 publications in the *Gazette* and in at least 3 issues of a newspaper circulating in Montserrat but in no case shall a sale take place before the expiration of 90 calendar days from the date of publication of the first notice:

Provided that the Comptroller of Inland Revenue may at any time before the sale of any premises so advertised, postpone either generally or to some day specified, the sale of all or any of such premises.

**(3)** The proceeds of a sale under this Act shall be applied to the payment of the tax due and the expenses of levy and sale, and the surplus, if any, shall be paid on application to the person entitled thereto.

**(4)** There shall be paid to the Bailiff in respect of the duties performed by him under this Act, a commission of two and a half per centum—

(a) on arrears collected by him; or

(b) on the net proceeds of any sale over and above all other expenses of the levy and sale under this Act;

whichever be the greater.

**(5)** All sums of money received or recovered by the Bailiff shall be paid into the Treasury.

*(Substituted by Act 12 of 2007)*

### **Procedure of sale after postponement**

**57. (1)** Whenever and so often as any of the premises advertised for sale are not sold on the day appointed for the sale thereof, either by reason of the postponement of the sale thereof, under the last preceding section or by

reason of the absence of any bids for the same, or for any other cause, such premises may be again put up for sale, and notice of such sale shall be given by public advertisement once at least in each of the three consecutive weeks before the day of such sale.

(2) The warrant for such sale may be according to the form set forth in Form C in the Schedule.

### **Comptroller of Inland Revenue may declare highest bidder to be purchaser**

**58. (1)** The officer or other person conducting the sale shall report to the Comptroller of Inland Revenue the result of such sale, stating in such respect the amount of the highest bid received for each of the hereditaments for which any bids were made, the name and address of the highest bidder, and the Comptroller of Inland Revenue may declare the highest bidder for each hereditament mentioned in the report as the purchaser thereof, and direct that, upon payment of the purchase money or of the balance thereof in cases where any prescribed deposit on account thereof has been made by the highest bidder, the premises be conveyed to such purchaser:

Provided that where the Comptroller of Inland Revenue, upon consideration of such report, is satisfied that there has been some fraud or improper conduct with reference to the sale of any of the premises, or that there is some material error in the description of the premises or that the property tax or charge for the non-payment of which such premises were offered for sale had been paid at the time when the bid for such premises were made or that the reserve price, if any, had not been reached, the Comptroller of Inland Revenue may declare such sale to be, and such sale shall thereupon be, null and void.

(2) Where the sale of any premises has been declared null and void under this section, the Comptroller of Inland Revenue may issue a fresh warrant for the sale thereof.

### **Conveyance to purchaser and application of proceeds of sale**

**59. (1)** Upon the execution of the deed of conveyance or of assignment to the purchaser in accordance with the direction of the Comptroller of Inland Revenue in respect of land not brought under the provisions of the Registered Land Act, the premises described in such deed shall become vested in the purchaser freed and discharged from all estates, charges and encumbrances whatsoever save and except any charges thereon in respect of any debts due to the Crown and save and except also any property tax due or accruing due; and the purchase money shall in each case be applied in the first place in or towards payment of any costs incidental to the sale of the hereditaments, which shall include any costs or charges incurred in relation to any previous endeavours to sell the hereditaments and in the next place in or towards payment of any property tax at the date of such conveyance or assignment, and the surplus, if any, shall, subject to the provisions of section 61, be paid to the person who shall be entitled thereto.

(2) Notwithstanding anything contained in the Registered Land Act, where any lands brought under the operation of that Act are sold for non-payment of property tax (including any penalty or interest thereon) the Registrar shall, upon the certificate of the Comptroller of Inland Revenue stating the fact of such sale and the name of the purchaser, cancel the Certificate of Title in the name of the registered owner, and grant to the purchaser a new Certificate of Title in respect of the lands subject to such sale as aforesaid.

*(Amended by Act 12 of 2007)*

### **Issue of new certificates of title pursuant to power or sale for property tax**

**60. (1)** Notwithstanding anything contained in the Registered Land Act, in any case where the land of any registered proprietor under the Registered Land Act is sold by the Comptroller of Inland Revenue pursuant to the provisions of section 56 or by virtue of any law for the time being in Montserrat, the Comptroller of Inland Revenue shall forward to the Registrar such particulars as would enable the Registrar to identify and register such land, together with a plan in triplicate drawn by a licensed Surveyor, showing the extent of such land, such particulars to be in Form E in the Schedule.

(2) On receipt of such particulars and plans the Registrar shall—

- (a) have the right to demand the duplicate certificate of title from the possessor thereof, for cancellation or noting as the case may be and if not received within 3 months of such demand shall file the particulars and cancel the original certificate as is hereafter provided;
- (b) make out in duplicate a new certificate of title of the land contained therein, in favour of the purchaser and he shall, before delivering the new registered proprietor or the person entitled thereto, cancel the previous certificate of title by writing across the registered duplicate thereof the word “CANCELLED” in ink different from the writing, printing or lithography of the certificate of title itself, with a reference to the folio and volume of the new certificate of title which is to come in place thereof, and he shall number and mark the duplicate of the new certificate to be placed in the register as well as that to be given to the new registered proprietor, with the proper folio and volume in which the new certificate is registered and shall also make on both duplicates a reference to the certificate of title which has been cancelled, by the folio and volume in which it was recorded.

(3) Mark on the new certificate of title the mortgages and encumbrances on the former certificate which are undischarged, and any new mortgage or encumbrance which may have to be added thereto, if any, on the occasion of the transfer. He shall also mark the day and year and

hour of the change from one registered proprietor to another and that date shall be the time of presenting to the Registrar of Titles the particulars specified by this section.

*(Amended by Act 12 of 2007)*

### **Disposal of surplus proceeds of sale**

**61. (1)** Where, upon any sale pursuant to the powers conferred by this Act, there remains in the hands of the Comptroller of Inland Revenue any surplus after applying the proceeds of such sale in or towards payment of any property tax, charges, debts, costs and expenses to which such proceeds are applicable, the Comptroller of Inland Revenue may, in any case where there are proceedings pending before the High Court in respect of land the subject of the sale, pay such surplus into the High Court and the High Court may, on the petition of any person entitled or claiming to be entitled to such money or any part thereof, make an order for the payment of the moneys or any part thereof to the person or persons entitled thereto.

**(2)** For the purpose of having such surplus proceeds of sale deposited in the High Court under this Act, a formal request according to Form D in the Schedule shall be addressed by the Comptroller of Inland Revenue to the Registrar of the High Court.

### **Power to annul sale on application of highest bidder**

**62.** It shall be lawful for the Comptroller of Inland Revenue upon the application of the highest bidder at any sale, to rescind and annul such sale upon such terms and conditions as the Comptroller of Inland Revenue may think proper.

### **Saving of certain rights when hereditaments are sold for arrears of property tax**

**63.** Notwithstanding anything contained in this Act authorizing the Comptroller of Inland Revenue to sell any hereditament for the recovery of property tax, such sale and the conveyance or assignment executed to give effect thereto shall not affect any estate, interest, right or property of the Crown in such hereditament.

### **Powers of distress and sale may be exercised independently**

**64.** The powers of sale and of distress conferred by this Act may be exercised independently of each other, and either simultaneously or consecutively, and shall be in addition to any remedy by action or otherwise which the Comptroller of Inland Revenue may have under the provisions of this Act or otherwise at law or in equity.

### **Power to make conditions with respect to procedure at sales**

**65.** The Comptroller of Inland Revenue may make conditions with respect to the procedure on sale by public auction under the power of sale

conferred on him by this Act, and may by such conditions fix the amount of the deposit to be made by the highest bidder, a reserve price, and may prescribe the time within which such deposit shall be made and the events in which such deposit shall be forfeited, and he may further provide that in the event of the highest bidder in respect of any hereditament failing to make the prescribed deposit or to complete the purchase within the time fixed therefor respectively, the next highest bidder shall be deemed to be the highest bidder and purchaser of such premises.

### **Provisions relating to the Chief Valuation Officer and valuation officers**

**66. (1)** For the purpose of this Act the Governor in Council may appoint such persons as he shall think fit to be Chief Valuation Officer and valuation officers and may appoint as temporary valuation officers such additional number of persons as he shall consider necessary from time to time.

**(2)** A person shall not be disqualified to act as Chief Valuation Officer or as a valuation officer by reason only that he is the owner or occupier of any property in Montserrat.

**(3)** Nothing contained in subsection (2) shall authorize any person to whom this section applies to act in relation to any hereditament which or any part of which he himself owns or occupies.

### **Write-off of losses, etc.**

**66A.** The Comptroller may, write-off as loss any tax including any interest or penalty outstanding for more than 6 years from the end of year of assessment.

## **PART VIII**

### **SPECIAL PROVISIONS**

#### **Rebate for early payment**

**67.** Notwithstanding anything in this Act where the property tax payable is paid on or before the due date, a rebate of five percent shall be allowed.

#### **Surcharge on property tax**

**68.** Where a hereditament being a parcel of land classified as residential under section 5 or under section 17(4)(b) is owned by a person who is not a national of Montserrat or not deemed to be a belonger of Montserrat within the meaning of the Immigration Act is not used for the erection of his dwelling house for a period of five years where such hereditament was acquired by purchase, exchange or inheritance by such person such hereditament shall from January 1, 1988 until his dwelling house is erected

and certified to be habitable under section 12 shall be subject to a surcharge on the property tax at such rate as may be determined by the Governor in Council:

Provided that where the land owned is an acreage in excess of two acres and contiguous to a lot where his dwelling house is situated such land shall be subject to a surcharge:

Provided that his dwelling house is erected on a parcel of land in a sub-division approved by the Planning and Development Authority then such land shall not be subject to the surcharge.

*(Amended by Act 12 of 2007)*

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**SCHEDULE**

**FORM A**

*(Section 48(1))*

**DISTRESS WARRANT**

TO: *(here insert name of officer or person directed to levy)*

I, ....., by virtue of the powers vested in me by the Property Tax Act do hereby authorize you and your assistants to collect and recover the several amounts respectively due for property tax in respect of the several premises contained in the list hereto attached; and for the recovery thereof I further authorize you and your assistant to distrain on such goods and chattels (including chattel houses) as are liable to be distrained on, and for the levying of such distress and for the sale thereof this shall be your warrant.

Given under my hand at ..... this ..... day of ....., 20 .....

COMPTROLLER OF INLAND REVENUE

**LIST ATTACHED TO THE  
DISTRESS WARRANT**

Issued by the Comptroller of Inland Revenue  
..... dated ....., 20.....

<i>Premises</i>	<i>Owner</i>	<i>Property tax in respect of which levy is to be made</i>	<i>Amount</i>

FORM B

(Section 55(1))

**WARRANT FOR SALE**

TO

I, ....., Comptroller of Inland Revenue of Montserrat, do hereby order you, ....., to sell or cause to be sold by public auction at ..... on the ..... day of ....., 20....., the several premises described in the Schedule hereto attached and marked A in respect of which the sums set off opposite the description of such premises are respectively due for property tax and have been for more than three years in arrears and unpaid, save and except those of the said premises in respect whereof there shall have been paid to the Comptroller of Inland Revenue for ..... before the day of such sale the sums due and payable and the proportionate cost of public advertisement.

Given under my hand at ..... this ..... day of ....., 20..... .

COMPTROLLER OF INLAND REVENUE

\_\_\_\_\_

FORM C

*(Section 57(2))*

**WARRANT FOR SALE AFTER POSTPONEMENT**

TO:

I, ....., Comptroller of Inland Revenue of Montserrat, do hereby make order that you ..... do sell by public auction at ..... on the ..... day of ....., 20....., the premises contained in the list attached to the warrant for sale dated the ..... day of ....., 20....., save and except those of the said premises which were sold at the sale held on the ..... day of ....., 20....., and save and except also those in respect of which there shall be paid before the sale the sums mentioned in such warrant as being then due and the proportionate cost of public advertisement of the same premises under any previous warrants of sale.

Given under my hand at ..... this ..... day of ....., 20..... .

COMPTROLLER OF INLAND REVENUE

\_\_\_\_\_

## FORM D

*(Section 61(2))***FORM OF REQUEST TO THE REGISTRAR OF THE HIGH COURT**

In the matter of the Property Tax Act, and of the hereditament (*describe it*) sold under the provisions of the said Act.

TO: THE REGISTRAR OF THE HIGH COURT

Please place to the account of a special fund the sum of \$ .....  
being the surplus proceeds of sale of the hereditament described above which was sold on the ..... day of ....., 20....., under the provisions of the said Act.

COMPTROLLER OF INLAND REVENUE

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FORM E

*(Section 60)*

TO: THE REGISTRAR OF TITLES

In accordance with section ..... of the Property Tax Act, situated at .....  
and registered in Book ..... folio ..... of .....  
and registered in the name of ..... of .....  
was sold by public auction on the ..... (for non-payment of  
property tax) to ..... of .....  
for the sum of .....

I hereby request you to cancel the original certificate of title in the name of the  
aforesaid ..... and issue a new certificate of title to .....  
of .....

Given under my hand this ..... day of ....., 20..... .

COMPTROLLER OF INLAND REVENUE

\_\_\_\_\_





FORM H

(Section 35)

(Inserted by Act 12 of 2007)

PROPERTY TAX ACT

**NOTICE TO MAKE A RETURN**

To: .....

Address: .....

Description of Property: .....

Office Reference: .....

**TAKE NOTICE** that in pursuance of section 35 of the above Act the Valuation Officer hereby requires you to answer the questions set out in this form, and to sign it and return it to him (together with a plan) to the address set out below within 14 days after the date of service of this notice on you.

**Note:** Plan required/not required.

Date ....., 20.....  
*Valuation Officer*

Address

.....

.....

Served on: .....

at/by: .....

Date: .....

Time/Reg. No.: .....

Recipient's Signature: .....

Issuing Officer's Signature: .....

**NOTE**

Section 35 of the Property Tax Act provides inter alia that:  
Any person who fails without reasonable excuse to comply with this notice is guilty of an offence and liable to a fine, and any person who makes a return which he knows to be false in any material particular is liable to a fine.



**BEFORE COMPLETING THIS FORM PLEASE READ THE  
INSTRUCTIONS AT THE END OF THE FORM**

**PARTICULARS OF OCCUPANCY**

1. Give the name and address of:
  - (a) The tenant/s, if the property  
is let for rent.
  - (b) The person/s actually occupying  
the property at the date of  
completing this form.

---
  
2. If the building is let:
  - (a) What is the yearly rent?  
(See Instruction 3)
  - (b) When was this rent first paid?  
(See Instruction 3)
  - (c) Is there any relationship  
between the landlord and the tenant?
  - (d) What is the amount of any premium  
or lump sum paid by the tenant  
for the tenancy?
  - (e) What additional sums (if any)  
does the tenant pay for fire,  
insurance, water, electricity,  
property tax etc?

---
  
3. If the building is let furnished:  
How much of the rent do you  
allow for furnishings?  

---

4. If the building is not let and is  
occupied by the owner or related party:

What yearly rent would you expect to get if you let your building to a stranger?

---

5. If the land only is let:  
What is the yearly rent?
- 

### PARTICULARS OF BUILDING

6. State the number of storeys or floors (including ground floor)
- 

7. What is the type of construction?  
(See Instruction 5)
- 

8. What is the age of the building?  
(See Instruction 6)
- 

9. For what purpose is the building used?  
(See Instruction 7)
- 

10. What is the estimated value of the building?
- 

11. State the amount for which the building is insured.
-

**PARTICULARS OF PLANT AND MACHINERY**

- 12.** Describe the plant, machinery  
or other equipment permanently  
installed or fitted for the  
purpose of or in connection with  
any trade business or industrial process.
- 

- 13.** When were these bought?
- 

- 14.** What was their value at the  
date of purchase or installation?
- 

**PARTICULARS OF LAND**

- 15.** State, as under the Registered Land Act:
- (a) The Registration Section.
  - (b) Block Number.
  - (c) Parcel Number.
- 

- 16.** What is the area of the land  
in square feet or acres?
- 

- 17.** For what purpose is the  
land used?
-

18. Has the land a frontage to any road or street?
- 

19. When was the property bought and what was the purchase price?
- 

20. If the land alone was purchased: What was the price and the date of purchase?
- 

### DECLARATION

I/(We) declare that I/(we) have read each and every one of the foregoing answers and prescribed particulars relating to the above property and that the said answers and particulars are in every respect fully and truly stated to the best of my/(our) judgement and belief.

Date .. .. .

*Signature of person*

*Name of person making the return.*

### INSTRUCTIONS

1. This form should be completed in ink or be typewritten.
2. The person signing the declaration must read carefully every page of the completed form before he makes the declaration.
3. Question 2(a) and 2(b). Yearly Rent. Where one building is let to several persons, or there are several buildings let on one parcel of land, please supply a separate list of the names of the tenants in the building or buildings, the yearly rent paid by each tenant and the date on which the rents were first paid.
4. Particulars of Building. Where there are several buildings on one parcel of land, please give separate particulars for all buildings, in reply to questions 6 to 11, inclusive.

5. Question 7. Type of Construction. Where the building is of several types of construction, mention the various types (e.g. First storey – concrete block, second storey - wood).

6. Question 8. Age of Building. Where the building is over 30 years, state "over 30 years". Where it is under 30 years, state age or date of construction. Where the building has been reconstructed or added to, state the date of the reconstruction or the addition, as the case may be. If there is more than one building, please give detailed information on all the buildings.

7. Question 9. Use of Building. Where the building is used for several purposes, state all purposes. (eg. Ground floor - Rental shop and office; First Floor - Residential).

8. Question 12. Plant and Machinery. If space is inadequate, please supply a separate list.

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FORM I

(Section 36)

(Inserted by Act 12 of 2007)

**PROPERTY TAX ACT**

*Notice to enter hereditaments for the purpose of Survey and Inspection*

To: .....

Address: .....

Description of Property: .....

Office Reference: .....

**TAKE NOTICE** that in pursuance of section 36 of the above Act the Valuation Officer intends on the ..... day of ..... 20 ..... and on subsequent days, during ordinary business hours, to exercise the power to enter the abovementioned property for the purpose of survey and inspection.

Date ....., 20.....  
*Valuation Officer*

Served on: .....

at/by: .....

Date: .....

Time/Reg. No.: .....

Recipient's Signature: .....

Issuing Officer's Signature: .....

**NOTE**

Section 36 of the Property Tax Act, provides *inter alia* that:

Any person who wilfully delays or obstructs a Valuation Officer in the exercise of his powers and responsibilities under this section is liable to a fine on conviction.

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**PROPERTY TAX DETERMINATION OF RATE ORDER**

– SECTIONS 3, 5 AND 68

(S.R.O. 8/2005)

**Commencement**

[1 January 2005]

**Short title**

1. This Order may be cited as the Property Tax Determination of Rate Order.

**Property tax rate**

2. The property tax rate determined for the year 2005 in respect of hereditaments falling under the classification shown in Column I of the Schedule hereto are shown in the corresponding entry in Columns II and III of the Schedule, and the rate of surcharge on property tax determined for the year 2005 is shown in the corresponding entry in Column IV thereto.

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**SCHEDULE**

COLUMN I	COLUMN II <i>Land</i>	COLUMN III <i>Building</i>	COLUMN IV <i>Surcharge</i>
1. Residential	0.8%	0.25%	0.8%
2. Agriculture	0.4%	–	–
3. Commercial	2.00%	0.6%	–
4. Institutional	1.00%	0.75%	–

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