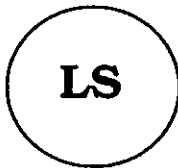


COMMONWEALTH OF DOMINICA

ACT No. 5 of 1992.

I assent

C.A. SEIGNORET
President.

11th June, 1992.

AN ACT TO AMEND THE INCOME TAX ACT, CHAP. 67:01.

(Gazetted 18th June, 1992.)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

1. This Act may be cited as the –

Short title.

INCOME TAX (AMENDMENT) (No. 2) ACT, 1992.

2. In this Act the Income Tax Act is referred to as “the Act”.
Interpretation.
Chap. 67:01.

Repeal and replacement of the Second Schedule of the Act. Chap. 67:01.

3. The Second Schedule of the Act is repealed and replaced as follows:

“SECOND SCHEDULE

CAPITAL ALLOWANCES

ARRANGEMENT OF PARAGRAPHS

- PART I - INTERPRETATION
- PART II - CLASSIFICATION OF ASSETS
- PART III - USEFUL LIVES AND DEPRECIABLE ASSETS
- PART IV - RESIDENTIAL BUILDING EXPENDITURE
- PART V - DISPOSAL OF DEPRECIABLE ASSETS

PART I
INTERPRETATION

1. In this Schedule –

“allowances granted” means in relation to previous years of assessment, the sum of the annual allowances granted under this Schedule or under the corresponding provision of the previous Ordinance or both;

No. 28 of 1966.

“disposal” means scrapping, loss, destruction, sale, exchange, compulsory acquisition or alienation by gift of an asset;

“disposal value” means in relation to –

- (a) the scrapping of an asset, the scrap value thereof;
- (b) the loss or destruction of an asset, any amount received for the re-

mains thereof together with any amount accrued as compensation or indemnity for loss or destruction;

- (c) the sale of an asset, the net proceeds of sale;
- (d) the exchange of an asset, the market value of any asset acquired through the exchange adjusted to take account of any monetary exchange made;
- (e) the compulsory acquisition of an asset, the amount for which it was acquired; and
- (f) the gift of an asset, the market value thereof,

but in any case where the amount or net proceeds or the market value exceeds the cost, the disposal value shall be limited to the cost price;

“expenditure incurred” by any person does not include –

- (a) part of any expenditure incurred by a person that is reimbursed to that person by way of subsidy or grant by the Government or some other person unless the subsidy or grant has formed part of his assessable income;
- (b) notwithstanding paragraph (a) the expenditure incurred by a person shall not be reduced on account of the expenditure qualifying for the investment tax credit under the First Schedule of the Fiscal Incentives Act.

2. Where under a hire purchase agreement or similar transaction, the use and enjoyment of an asset is obtained by a person to whom this Schedule applies for a period of time at the end of which the property in the asset will or may pass for no consideration or a nominal consideration he shall be deemed to have –

- (a) acquired the asset at the time the agreement or transaction was entered into; and
- (b) incurred expenditure thereon of an amount equal to the total amounts, excluding interest payable under the agreement or transaction at the time the asset was acquired.

3. Where any property, in respect of which allowances have been granted under this Schedule or the previous Ordinance is disposed of together with other assets for a total consideration –

- (a) which does not allocate separate prices for separate items; or
- (b) which allocates either a nominal consideration to some assets, or a consideration which in the opinion of the Comptroller does not represent the true market value of the assets, he may apportion the total consideration among the several assets in a manner in order to arrive at a true market value of the assets in respect of which allowances were granted and that value shall be the disposal value

of the assets for the purpose of this Schedule.

No. 28 of 1966. 4. (1) Where any asset in respect of which allowances were granted under this Schedule or the previous Ordinance or both, is disposed of by the owner to a purchaser other than by way of a transaction at arm's length the asset shall be deemed to have been disposed of at market value and that value shall apply to both the vendor and purchaser.

(2) Notwithstanding subsection (1), where pursuant to --

- (a) the amalgamation, reconstruction or merger of a company and the transfer of the asset to that other company; or
- (b) the transfer of assets from an individual to a company or to a relative,

No. 28 of 1966. there is a substantial identity between the former owner and the new owner, the assets shall in relation to both be deemed to have been disposed of at their costs minus the sum of the annual allowances granted with respect to those assets under this Schedule or under the corresponding provision of the previous Ordinance or both.

(3) For the purposes of subparagraph (2) there shall be deemed to be a substantial identity between the former owner and the new owner --

- (a) under subparagraph (2)(a) where at the end of the basis period for the year of assessment in which the assets were