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MUNICIPAL COUNCIL PROPERTY TAX REGULATIONS

Order 19 of 1993

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To prescribe regulations for the assessment and levying of municipal property tax.

PART 1 – INTERPRETATION

2. Interpretation

In these regulations unless the context otherwise requires -

"Act" means the Municipalities Act [Cap. 126];

"Minister" means the Minister responsible for the municipalities;

"property" means any separate house, building, land or other erection, where such house, building, land or other erection is either owned or capable of being owned separately and includes plant, machinery and equipment permanently installed or fitted therein;

"treasurer" means the treasurer of a municipal council appointed under section 20 of the Municipalities Act [Cap. 126];

"valuation list" means a valuation list as completed in accordance with section 8 of these Regulations;

"valuation officer" means the officer appointed under section 1 of the Rating Valuation (Entry on Premises) Act [Cap. 93].*

* *Editor's note: Cap. 93 has since been repealed and replaced by the Valuation of Land Act, Cap. 288.*

PART 2 – VALUATION

2. Preparation of valuation list

(1) The valuation officer shall prepare the first valuation list for a municipality named in an order made by the Minister who may in such order appoint a day on which such valuation list shall come into operation.

(2) The Minister shall by order fix, in respect of any and every valuation of property in any municipality pursuant to the preparation of such valuation list and subsequent additions or amendments thereto a date at which all property situated therein shall be deemed to be valued:

Provided that if the Minister deem it necessary or expedient to do so he may alter, from time to time, any date or dates fixed by him under this subsection.

(3) Subsequent valuation lists shall be prepared by the valuation officer and shall come into operation on the 1st January in every seventh year after the year which the list has come into operation pursuant to subsection (1) of this regulation.

(4) The Minister may, by order, extend the period during which a valuation list may remain in force:

Provided that no such order shall have the effect of extending the period during which a list shall remain in force beyond 10 years from the day on which it first carne into operation.

(5) Every valuation list shall remain in force until it is superseded by a new list.

3. Information and returns

(1) In every case where a valuation list is to be compiled or altered under these regulations, the valuation officer may serve a notice on the owner, lessee or occupier of any property subject to the provisions of these regulations or on anyone or more of them, requiring him or them to make a return containing such particulars as may reasonably be required for the purpose of enabling the valuation officer accurately to compile the valuation list.

(2) The valuation officer may at any time require the owner, tenant or any other person in possession of receipts, rent books or other books of account or any other document relating to the rents paid or any other document relating to the rents paid or received, the expenses incurred in the administration of any property or any other matter connected with any property to produce those receipts, books or other documents for inspection, and any such person who without reasonable excuse refuses to produce any of those receipts, books or any other such documents when so required shall be guilty of an offence.

(3) The owner of any property in or upon which any plant, machinery or equipment is permanently installed or fitted shall at the request of the valuation officer make a full and complete statement of all such plant, machinery and equipment.

(4) Every person upon whom a notice to make a return is served in pursuance of this rule shall within 14 days after the date of service of the notice, or within such extended period as the valuation officer may in any particular case authorize make and deliver to the valuation officer a return of particulars in the prescribed form.

(5) If any person on whom a notice has been served under this regulation fails without reasonable excuse to comply with the notice, he shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 20,000 and to a further penalty of VT 1,000 for each day during which the default continues after such conviction.

(6) Any person who knowingly makes or causes to be made a return required under this regulation which is false in any material particular shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 20,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.

(7) For the purposes of this regulation a return of particulars shall include a plan if so required by the valuation officer.

4. Supply 0f information by Director of Land Records

The Director of Land Records shall furnish to the valuation officer such information as the valuation officer may require for the purposes of these regulations.

5. Power of entry

The valuation officer, and any person authorized by him in writing in that behalf, shall have power, at all reasonable times to enter on and survey or inspect any property subject to the provisions of these regulations provided that the provisions of the Rating Valuation (Entry on premises) Act [Cap. 93] are complied with in all cases.

6. Unit of valuation

Unless the valuation officer otherwise determines, the unit of valuation shall be each property enjoyed or capable of separate enjoyment in its existing state.

PART 3 – VALUATION PROCEDURE AND APPEALS

7. Preparation of valuation list

(1) Where a valuation list is to be made, the valuation officer shall prepare a list of the properties therein and the rateable value of such properties and such list shall be returned in the prescribe form.

(2) The rateable value shall be the open market rent at which any particular property might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of reasonable repairs necessary to maintain the property in a state to command that rent.

(3) In determining the rateable value the valuation officer shall in all cases have regard to:

(a) the purpose for which the property is actually used or occupied, or the purpose for which it is reasonably suitable; and

(b) the accommodation, situation and condition of the property and all its advantages, fitnesses, facilities and capacities.

(4) The rateable value of any property shall be reduced to the nearest 100 vatu and such value, as reduced, shall be the value inserted in the valuation list.

8. Duties of valuation officer

(1) When a valuation list has been prepared for a municipality the valuation officer shall sign and transmit two copies of it to the treasurer not later than 30 days before the date on which the list is to come into operation.

(2) At the same time he shall in addition publish a notice stating –

(j) that the list has been completed and forwarded to the treasurer;

(ii) the place or places within the municipalities to which the list relates where a copy of the said list shall be exhibited by the valuation officer;

(iii) the period for which the said copy or copies shall remain so exhibited; and

(iv) that there is a right of appeal under regulation 13 of these regulations.

(3) The valuation list as signed, dated and transmitted to the treasurer shall, as from the date when it comes into operation, be the valuation list for the municipality concerned and any failure on the part of the valuation officer to complete any proceedings with respect to the preparation and signing of the list within the time required by this regulation or the omission from the list of any matters required by this regulation to be included therein or the noncompliance with any of the provisions of these regulations shall not of itself render invalid either the list or the levy of any rate upon the annual values of the properties inserted therein, and until the contrary is proved, the list shall be deemed to have been duly made in accordance with the provisions of this regulations.

9. Owner to notify valuation officer of acquisition of property

(1) The person whose name appears in the valuation list shall be deemed to be the owner of the property listed against his name until the contrary is proved to the satisfaction of the valuation officer.

(2) Where a property in a valuation list is sold or transferred whether by instrument or operation of law or otherwise, the purchaser or transferee shall, within 30 days after such sale or transfer,

give notice in writing and produce the instruments of sale or transfer to the valuation officer and any person who fails to give such notice or produce such instrument of sale or transfer shall be guilty of an offence and be liable to a fine not exceeding VT 20,000 or to a term of imprisonment not exceeding 12 months.

(3) The valuation officer shall make such amendments to the particulars relating to the property assessed in the valuation list as may be necessary.

10. If name of owner unknown how to be described

Whenever the name of any person whose property has been assessed under these regulations is not known, it shall be sufficient to refer to such person in the valuation list and in the Rate Book by the designation of "the owner' without stating his name.

11. Inspection of valuation list

The valuation list and the method of calculation used to reach the valuations therein shall be open to inspection in the office of the valuation officer at all reasonable times to any person whose property has been valued or who is interested in any valuation contained therein, and such owner or person may take copies or extracts from such list without fee.

12. Alterations to valuation list

(1) The owner of any property included in a valuation list to which structural alterations are made shall, before the 30th day of June in the fiscal year in which such alterations are made, notify the valuation officer thereof. Failure so to notify the valuation officer shall be an offence punishable in accordance with the provisions of regulation 25.

(2) The valuation officer may at any time make or cause to be made any alteration necessary to correct any clerical or arithmetical error in the valuation list, and the list shall have effect and be deemed always to have had effect accordingly. The valuation officer may also make alterations in respect of any other error in the list, but in such case he shall, before making the necessary alterations send notice thereof to the owner of the property, and both such owner and the treasurer of the relevant municipality shall have the same right of appeal as if the alteration had appeared on the valuation list as originally made.

(3) Subject to the provisions of subregulation (4), when any alteration is made in the valuation list, such alteration shall take effect from the commencement of the year in which the notice of alteration was served on the owner, or, if such alteration results from an appeal made under regulation 13 by the owner of the property, from the commencement of the year in which such appeal was lodged.

(4) Notwithstanding anything to the contrary in subregulation (3) –

(a) an alteration in the valuation list which arises from a change in rateable value due to total or partial destruction of a property shall have effect from the date of such total or partial destruction, provided that such date is proved to the satisfaction of the valuation officer; and

(b) an alteration in the valuation list which arises from a change in rateable value as a result of alterations to, additions to, or reconstruction of the property shall have effect from the 1st of January of the year following that in which such alterations, additions or reconstruction are made:

Provided always that no alteration shall be made to the valuation list if the difference between the rateable value following any alterations to the property specified in paragraphs (a) and (b) above and the rateable value shown in the current valuation list is ten per centum or less.

(5) The treasurer shall give effect to any directions which the valuation officer may give him subsequent to any alterations made in the valuation list in accordance with the provisions of this regulation.

13. Appeal against valuation

(1) Any person owning property who is aggrieved by the rateable value ascribed in the valuation list to his property may, at any time before the expiration of 3 months after the day on which the notice under regulation 8 was first published, notify the valuation officer that he objects to the rateable value ascribed to the property. The valuation officer shall deal with such complaint

within 3 months of receiving the same. If he fails to do so within that period or if no agreement between the parties has been reached, the owner may appeal to the Valuation Appeals Board by notice of appeal served on the valuation officer, who shall forthwith transmit a copy thereof to the Chairman of the Valuation Appeals Board and to the treasurer.

(2) If the treasurer considers that the rateable value ascribed to any property is incorrect, he may within 3 months appeal to the Valuation Appeals Board by notice of appeal served on the valuation officer, who shall forthwith transmit a copy of the notice of appeal to the owner of the property concerned and to the Chairman of the Valuation Appeals Board.

(3) No appeal may be made under subsection (1) until the parties have attempted to resolve their differences and to agree to an alteration of the list (whether the figure agreed upon is that first suggested by the owner or not) and such agreement may be made at any time before the appeal is heard by the Valuation Appeals Board. The valuation officer shall inform the treasurer of any alterations made to the valuation list consequent upon an agreement between the parties.

(4) A notice of appeal under this regulation shall be in writing and signed by the applicant and shall contain a statement of the grounds of the appeal.

(5) The appellant shall at the time of making an appeal include a deposit of not less than VT 500 in respect of each property against the valuation of which an appeal is made, which deposit shall be calculated at the rate of 2.5% of the rateable value ascribed to the property by the valuation officer. The deposit shall be passed to the treasurer, and shall be refunded to the appellant if his appeal is successful or if the Valuation Appeals Board so determines, but in no case shall the appellant be paid costs in respect of fees charged by counsel or solicitor or other representative.

(6) The following grounds of appeal and no others may be taken –

(a) that the rateable value of any property is incorrect or unfair; or

(b) that any matter has been inserted therein or omitted therefrom which ought not to have been inserted or omitted.

(7) Every notice of appeal shall specify the grounds on which it is made and the amendment desired to remove the objection.

(8) An appellant shall not rely on any grounds not set out in his appeal except with the leave of the Valuation Appeals Board.

(9) Fourteen days' written notice of the time and place of the hearing of an appeal shall be given by or on behalf of the Chairman of the Valuation Appeals Board to each of the parties entitled to be heard on the appeal.

14. Valuation Appeals Board

(1) There shall be established a Valuation Appeals Board for the purposes of hearing appeals against valuations made in pursuance of the provisions of these Regulations as from time to time amended or modified.

(2) The Valuation Appeals Board shall consist of the Director of Land Records as Chairman and two other persons appointed by the Minister who shall also determine the tenure of office of its members.

(3) Every member of the Board, not being a public officer shall receive such remunerations as the Minister may from time to time determine.

(4) In the event of an appointed member of the Board retiring from office, or being absent from Vanuatu or otherwise becoming incapable of performing the duties of his office during the term of his office, the Minister shall appoint another person in his place for the remainder of the term of office of such member.

(5) At the hearing of an appeal by the Board:

(a) the appellant;

(b) the valuation officer;

(c) the treasurer of the municipality within which the property is situated (when he is not the appellant);

(d) the owner of the property to which the appeal relates (when he is not the appellant),

shall be entitled to appear and be heard, either personally or by counsel or solicitor or other representative, and to call witnesses.

(6) The Board shall hear the appeal and may adjourn the hearing from time to time and shall have the same power of summoning witnesses, enforcing their attendance and compelling them to give evidence and produce documents as a Court of Law, and every such Board shall sit in public:

Provided that, on the application of any party to the appeal and upon being satisfied that the interests of either party would be prejudicially affected if it sat in public, the Board may direct that the appeal be heard *in camera.*

(7) After hearing the persons mentioned in subregulation (5), or such of them as desired to be heard, the Board shall give its decision and where appropriate give such directions to the valuation officer to amend the valuation list as appear to it to be necessary to give effect to their decision.

(8) Where on appeal the decision of the Board is not unanimous the decision of the Board shall be the decision of the majority of the members thereof.

(9) The receipt of a notice of appeal shall not prevent the treasurer from recovering any rate.

PART 4 – RATING

15. Rates fixed by Council

(1) Subject to the provisions of regulations 18 and 20 the Council of the respective municipalities may, by bye-law made before the 30th day of June in each year, declare the rates to be levied and collected on all properties liable to be payment of rates under these regulations in respect of the next ensuing calendar year.

(2) The bye-law made in accordance with subregulation (1) shall be published in the Gazette as soon as possible after it has been made.

16. Basis of rates

The valuations contained in the valuation list shall be the basis of all rates levied under these regulations and every such valuation, subject to amendment as herein before provided, shall remain in force until a fresh valuation is made.

17. Rate book and adjustment of rates

(1) The treasurer shall cause all rates to be transcribed in a book to be known as the "Rate Book" containing all the properties assessed therein, their situation, their rateable value, the amount of rate payable, the names of the owner of each property, and such other matters as may be required by the treasurer.

(2) Where an alteration is made, a valuation list which shows the corrected rateable value and amount of rate shall be shown in the "Rate Book" and the difference, if too much has been paid, shall be repaid or allowed or if too little bas been paid, shall be paid and may be recovered as if it were arrears of the rate, whether or not the year in respect of which the rate is levied has expired.

18. Rate when due and payable

The rate levied under the provisions of these regulations shall be payable in two equal installments which shall become due on the 1st day of September and the 1st day of March in each year.

19. Persons liable

The person or company liable for the payment of rates under regulation 18 shall in the first instance be the owner of the property assessed but such owner shall have the right to recover the rates so payable from the occupier of the property by way of additional rent whether or not this is provided for in the lease or agreement under which the property is occupied.

20. Exemption of certain properties

No rates shall be levied in respect of the following properties –

(a) property used solely for the purposes of public religious worship;

(b) school premises;

(c) hospital premises;

(d) property occupied by the municipal Council; and

(e) property with a valuation not exceeding VT 175,000 for 2 years after the completion of construction, so however, that in cases of genuine hardship, the Minister may, on application being made to him in that behalf, and with the agreement of the Mayor after consulting his municipal Council, remit or postpone the whole or any part of the rates due and payment in respect of such property for 5 years after the completion of construction:

Provided that the exemptions granted in paragraphs (b) and (c) above shall not apply to the individual residences of employees employed by the school or hospital concerned.

21. Unpaid taxes to bear further charge

Where any sum having become due and payable in respect of any rates imposed under the provisions of these regulations remains unpaid for 60 days after the day on which the sum became due and payable, the person liable to pay the same shall thereupon in every case pay an additional amount equal to five per centum of the amount of such tax in respect of every 30 days or part thereof that the said rates remain unpaid from the date that they fell due and such additional amount shall be recoverable in the same manner as the principal amount:

Provided that such additional amount shall in no case be less than 200 vatu.

22. Recovery of unpaid rates

(1) If any person shall fail to pay the amount of annual tax, or any installment thereof, within 90 days of the date upon which payment of such tax or installment thereof fails due, such person shall commit an offence against these regulations and the treasurer may thereupon make a report to the Magistrates' Court.

(2) Such person shall, upon conviction of the offence prescribed in subregulation (1) be liable to pay –

(a) a fine equivalent to the amount of annual tax due including any penalty rate imposed by virtue of regulation 21 which said fine shall be payable to the treasurer of the municipality within which the Court is situated; and

(b) a fine not exceeding VT 10,000 or twenty five per centum of the fine payable to the treasurer under paragraph (a) whichever shall be the greater.

23. Abatement of tax in case of loss

Whenever by reason of an act of God, tempest, flood, fire or other overwhelming force, any building or property shall have been rendered unfit for occupation, it shall be lawful for the Minister on application being made to him, and with the agreement of the appropriate Mayor after consulting his municipal council, to remit or postpone in any special case for such period as he shall deem fit the collection of, the whole or any part of the taxes due and payable under the provisions of these regulations.

24. Remission or postponement of tax

(1) Whenever any person liable to pay any rates imposed under the provisions of these regulations is by reason of poverty unable to pay, it shall be lawful for the Minister after having consulted the municipal council, to remit by way of relief the whole or any part of such rates or postpone in any special case for such period as he shall deem fit the collection of the whole or any part of the rates due and payable.

(2) If any company as a result of adverse trading conditions, is unable to pay the tax out of current profits or accumulated reserves, such company may apply to the Minister for relief from payment of the tax, and the Minister may after consulting the municipal council, remit such proportion of the tax due for any 1 year as he shall deem fit.

PART 5 – MISCELLANEOUS AND TRANSITIONAL

25. Penalty for obstructing officers

Any person who resists, obstructs, molests or assaults, or who assists any person to resist, obstruct, molest or assault any person acting in the execution of his duty under the provisions of these regulations shall on summary conviction by the Court be liable to a fine not exceeding VT 20,000 or to a term of imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.

26. Service of notices

(1) Any notice or other document required or authorized to be given to or served on any person under the provisions of these regulations may be given or served either:

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known residence of that person, or in the case of a company at its registered office; or

(c) by forwarding it by registered post addressed to that person at his usual or last known residence, or in the case of a company at its registered office; or

(d) by delivering it to the person appointed by the owner of a property in accordance with subregulation (2) of this regulation; or

(e) without prejudice to the foregoing provisions of this regulation where the property to which the document is to be sent is a place of business of the person to or on whom it is to be given or served, by leaving it, or forwarding it by registered post addressed to that person at the said place of business.

(2) The owner of any property which is included in a valuation list shall, if he is resident outside the territory for any period or periods exceeding 6 months in any calendar year, give notice to the treasurer of the name of a person resident in the municipality on whom notice of the rate payable under regulation 15 shall be served.

27. Publication of notices

Unless otherwise provided in these regulations any notice or other matter required to be published under these regulations shall be published by affixing the said notice or matter on the official notice board of the municipality concerned and it may also be published in such other manner if any, as in the opinion of the person required to publish it, is expedient to give publicity thereto.

28. Disqualification from Valuation Appeals Board

A member of the Valuation Appeals Board shall be incapable of adjudicating in any proceedings on appeal or otherwise brought or taken pursuant to these regulations if he or any member of his family is at the time of such appeal the owner of or has any interest in the property which is the subject of the proceedings.

29. Confidentiality of information

(1) Information relating to the business or finances of any person obtained under any power conferred by any provision of these regulations shall be strictly confidential and shall not be disclosed save in any proceedings for the recovery of rates or for failure to comply with the provisions of these regulations.

(2) Any person who without lawful excuse contravenes the provisions of this regulation shall commit an offence and on conviction thereof shall be liable to a fine not exceeding VT 20,000, or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.