

IMMOVABLE PROPERTY TAX BILL, 2019

ARRANGEMENT OF SECTION

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation.

PART II ADMINISTRATION

3. Functions of Commissioner General.
4. Appointment of officers.

PART III IMPOSITION OF IMMOVABLE PROPERTY TAX

5. Tax imposed on 1 January.
6. Person liable as taxpayer.
7. Tax rate.
8. Calculating the annual tax.
9. How tax is to be paid and collected.
10. Date of payment of tax.
11. Immovable property exempted from tax.
12. Exemption from tax for first time owner of immovable property used for residential purposes.

PART IV REGISTRATION AND VALUATION

13. Register of non-Seychellois immovable property owners.
14. Tax register.
15. Taxpayer to make and submit valuation.
16. Valuation standard.
17. Valuation officer may make valuation.
18. Notice of valuation.
19. Right to enter on and inspect immovable property.
20. Duty to provide information and documents.
21. Court authorized inspection and enforcement.
22. Duty of Government officials to provide information and copies of documents.

PART V

RECOVERY OF TAX, COMPLAINTS AND APPEALS

23. Recovery of tax.
24. Complaints and Objections.
25. Appeals.

PART VI MISCELLANEOUS

26. No transfer or surrender of immovable property unless immovable property tax is paid.
27. Penalty for obstructing authorized officers.
28. Regulations.
Schedule 1

DRAFT

IMMOVABLE PROPERTY TAX BILL, 2019

(Bill No. 2019)



A BILL

FOR

AN ACT to provide for the imposition and collection of tax on immovable property owned by non-Seychellois and for matters incidental thereto.

ENACTED by the President and the National Assembly.

PART I PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Immovable Property Tax Act, 2019, and commences on 1 January 2020.

Interpretation.

2. In this Act —

“certificate of registration” means a certificate issued under section 13(6)

“Chief Valuation Officer” means the person appointed as such under section 4;

“commercial land” means land used for commercial purposes, whether wholesale, retail or service, carrying on a trade, business or profession, but does not include a villa;

“Commissioner General” means the Commissioner General appointed under the Seychelles Revenue Commission Act, 2009;

“condominium unit” has the same definition as ‘unit’ in the Condominium Property Act, 1992;

“hotel” has the same definition as ‘hotel’ in the Tourism Development Act, 2019, and shall include villa owned by a hotel;

“immovable property” includes commercial land, condominium unit, immovable property, industrial land, land, lease, multi-purposes building and villa,

and term “immovable property” under this Act shall be given such wide and liberal construction to ensure that there are no legal gaps to escape liability to pay tax on immovable property owned by non-Seychellois;

“improvements”, in relation to immovable property, means those physical additions and alterations thereto and all works for the benefit of the immovable property made or done on the immovable property by the owner or the owner’s predecessors in title which have the effect of increasing its value but improvements shall not include:

- (a) the destruction or removal of timber or vegetation; or
- (b) the excavation, grading or levelling of land.

“industrial land” includes land used solely for the purpose of manufacturing, processing, marine terminal and transportation areas and facilities, and the assembly, treatment or distribution of manufactured products or storage of bulk materials;

“land” includes land covered with water, all things growing naturally on the land and building and other things permanently affixed to land or any improvements and any interest in land or immovable property and includes a usufruct;

“lease” includes any agreement whether or not in writing whereby a non-Seychellois takes occupation or possession (other than by way of purchase or acquisition of the ownership) of any immovable property or right or interest in such property, and extends to any case where is the relationship of landlord and tenant, whether or not there is any instrument in writing and ‘lessee’ shall be construed accordingly but does not include a lease of a term less than 9 years or a lease for a continuous periods aggregating a period of less than 9 years;

“lessee” means a person to whom a lease is granted or who has accepted a transfer of a lease;

“market value” means the price at which, an immovable property, with or without any building thereon, a willing seller would sell and a willing buyer would buy in the open market at the time the market value is ascertained both parties acting knowledgeably and prudently;

“Minister” means the minister responsible for finance unless specifically stated otherwise;

“multi-purposes building” means immovable property which is used partly for residential purposes and partly for business, commercial or industrial purposes;

“non-Seychellois” has the same definition as ‘non-Seychellois’ in the Immovable Property (Transfer Restriction) Act, 1963;

“owner” includes –

(a) in relation to immovable property registered under the Land Registration Act, 1967, or the Condominium Property Act, 1991, a lease or a usufructuary interest, the person named in the register as the proprietor, lessee or usufruct thereof; and

(b) in relation to immovable property governed by the Mortgage and Registration Act, 1927, the person named entered in the *repertoire* as the owner thereof;

(c) a person who acquires ownership or real right or interest in immovable property by virtue of any instrument, deed, judgment, decree, order or other document capable of giving that person ownership or such real right or interest in immovable property;

(d) a person having ultimate or beneficial ownership in immovable property;

and “own’ shall be construed accordingly;

“Principal Secretary” means principal secretary responsible for land;

“qualified professional” means any person or class of persons that the Minister responsible for land may in the Minister’s discretion authorize, by notice published in the Gazette, to conduct a valuation under this Act;

“residential purposes” includes —

(a) vacant or unoccupied immovable property which is intended to be used or is capable of being used by reason of its location for the purposes of private housing or place of residence;

(b) immovable property that has affixed to it, a building or other dwelling which has the physical characteristics that enable it to be occupied or capable of occupation for the purposes as a residence or for residential occupation; or

(c) any immovable property used as a villa.

“revenue tribunal” means revenue tribunal established under the Revenue Administration Act, 2009;

“tax” means immovable property tax provided for by section 6 and includes penalty, interest and other charges levied under this Act as the context so requires;

“taxpayer” means a person who is liable as a taxpayer under section 6;

“valuation” means the market value of immovable property determined in accordance with this Act;

“valuation officer” means a person appointed as such under section 4 and, when the context permits, includes the Chief Valuation Officer; and

“villa” means for the purposes of this Act, any immovable property that is –

- (a) available for the accommodation of guest for reward;
- (b) managed by the owner, a hotel or an agent; and
- (c) duly approved by the Minister responsible for land to be used as a villa.

The word “villa” under this Act shall be given such wide and liberal construction to ensure that the object to impose tax on villa is not defeated.

PART II ADMINISTRATION

Functions of Commissioner General.

3. Subject to the direction of the Minister, the Commissioner General shall administer and enforce this Act.

Appointment of officers.

4. (1) The Minister responsible for land shall appoint a Chief Valuation Officer and the appointment shall be published in the Gazette.

(2) There may be appointed valuation officers and such other persons employed as may be necessary to give effect to this Act.

(3) The Chief Valuation Officer may delegate powers or duties to any valuation officer appointed under this Act.

(4) The Principal Secretary shall provide each valuation officer, or such other persons employed to assist the Chief Valuation Officer, who makes inspections under section 19 an identification card.

(5) The identification card remains the property of the Government.

(6) A person given an identification card shall immediately return the card to the Principal Secretary on request.

(7) A valuation officer shall not perform any duty in relation to immovable property which or any part of which that valuation officer owns or occupies.

PART III
IMPOSITION OF IMMOVABLE PROPERTY TAX

Tax imposed on 1 January.

5. (1) Tax in each financial year is imposed on 1 January.

Person liable as taxpayer.

6. (1) A non-Seychellois who owns immovable property is liable as taxpayer to pay an annual tax (to be called “immovable property tax”) to the Commissioner General.

(2) If two or more persons are liable as taxpayers, tax may be levied on any one or more of those persons, and the Commissioner General may recover tax from anyone of those persons on whom it is so levied.

(3) If both the owner and lessee of an immovable property are liable as taxpayers, only the owner of that immovable property shall pay tax.

(4) Subject to sections 11 and 12, if a taxpayer and a person own immovable property, jointly or in common, the taxpayer shall pay a proportionate share of tax payable on the immovable property.

Tax rate.

7. (1) The tax rate is 0.25% of the market value of any immovable property liable to be taxed.

(2) The Minister may by Order published in the Gazette decrease or increase the tax rate and such tax rate shall continue to apply until it is amended by an Order made under this subsection.

Calculating the annual tax.

8.(1) A taxpayer shall pay an annual immovable property tax to the Commissioner General arrived at using the formula —

$$T = R \times V$$

Where —

T is the tax payable;

R is the tax rate applicable to the valuation of the immovable property under section 7;

x means to multiply by; and

V is the valuation of immovable property obtained under section 15 or section 17.

(2) Subject to sections 11 and 12, a taxpayer shall pay the tax payable under subsection (1) on a pro rata basis in the financial year when the taxpayer acquires ownership of immovable property.

How tax is to be paid and collected.

9. (1) Tax due shall be paid to, and collected by, the Commissioner General.

(2) A taxpayer shall present a certificate of registration to the Commissioner General before tax can be collected by the Commissioner General.

Date of payment of tax.

10. Tax is due and payable to the Commissioner General on or before 31 December.

Immovable property exempted from tax.

11. (1) Tax shall not be paid on immovable property —

(a) used for residential purposes that is owned by one taxpayer, who is married to a Seychellois, and whose marriage is still subsisting or, whose spouse has since died after owning the immovable property; or

(b) considered to be commercial land or industrial land.

(2) For the purposes of subsection (1)(a), immovable property owned by two or more taxpayers is not exempted from tax.

(3) Any part of a multi-purposes building used for residential purposes shall be taxed.

(4) The Minister may by order remove or add an exemption of tax under subsection (1).

Exemption of first time owner of immovable property used for residential purposes.

12.(1) After the coming into operation of this Act, a non-Seychellois, who is for the first time an owner of immovable property used for residential purposes, may apply in writing for exemption from tax to the Commissioner General.

(2) An application under subsection (1) shall be accompanied by a statement by the taxpayer stating that the taxpayer is a first time owner of immovable property used for residential purposes.

(3) An applicant under subsection (1) is eligible for an exemption from the payment of tax for a period of 1 year from the date of owning immovable property used for residential purposes.

(4) An application is a statement and a false or misleading application is subject to revenue laws.

PART IV
REGISTRATION AND VALUATION

Register of non-Seychellois immovable property owners.

- 13.(1) There is established a register for the purposes of this Act.
- (2) For the proper administration and enforcement of this Act, all persons liable as taxpayers under section 6(1) shall apply to the Registrar General to be registered in the register.
- (3) A new application for registration under subsection (2) shall be made to Registrar General only when there is a change in ownership of immovable property.
- (4) The Registrar General shall fix a period of 4 months in each financial year at which a person under subsection (2) can apply to the Registrar General to be registered in the register and the dates shall be published in the Gazette and at least one local newspaper.
- (5) If a person acquires ownership of immovable property in a financial year after the expiration of the period fixed by the Registrar General for registration in the register, that person shall not be liable to pay a fine for late registration under subsection (7).
- (6) A person registered in the register shall obtain a certificate of registration from the Registrar General and the certificate shall be conclusive evidence of registration in the register.
- (7) Subject to subsection (5), a person who fails to apply to be registered on the register during the period specified by the Registrar General under subsection (4), acts in contravention of this Act and shall pay the Registrar General a fine of –
- (a) SCR 50, 000 in the case of commercial land, industrial land, multi-purpose buildings or villa;
 - (b) SCR 10, 000 in the case of immovable property not specified in paragraph (a).
- (8) The Registrar General shall keep and maintain the register.
- (9) The application referred to in subsection (2) shall be in a form prescribed by the Registrar General.
- (10) The Registrar General may amend the register at any time to add the name of a person liable as a taxpayer or to correct an error, omission or misdescription.

Tax register.

14. (1) The Commissioner General, in consultation with the Registrar General and Chief Valuation Officer, shall prepare an annual register of taxpayers.
- (2) A taxpayer may inspect free of charge the annual register of taxpayers and may raise objections to that portion of the register relating to that taxpayer with the Commissioner General.

(3) The Commissioner General, in consultation with the Registrar General and Chief Valuation Officer, may amend the annual register of taxpayers at any time to add the name of a taxpayer or to correct an error, omission or misdescription.

(4) The Registrar General may exercise any power conferred on the Registrar General under the Condominium Property Act, Land Registration Act and the Mortgage and Registration Act to ensure the proper administration and enforcement sections 13 and 14.

Taxpayer to make and submit valuation.

15.(1) A taxpayer shall make a valuation of immovable property used for residential purposes in such form as may be prescribed by the Chief Valuation Officer.

(2) In relation to multi-purposes building, a taxpayer shall make a valuation of all parts of the immovable property used for residential purposes in such form as may be prescribed by the Chief Valuation Officer.

(3) The valuation shall be submitted to the Chief Valuation Officer.

(4) A valuation made under subsections (1) or (2) is valid for 5 financial years unless the valuation is found to be materially insufficient by a valuation officer.

(5) Notwithstanding subsection (4), when there is an improvement in relation to immovable property, a taxpayer shall make and submit a new valuation.

(6) The Minister shall fix a date at which any valuation shall be submitted to the Chief Valuation Officer and the date shall be published in the Gazette and at least one local newspaper.

(7) A taxpayer is liable to pay a fine of SCR 3000 plus SCR 100 for each week or part of a week until the valuation is submitted or made, if the taxpayer fails to submit a –

(a) valuation to the Chief Valuation Officer on the date fixed by the Minister; or

(b) new valuation when there is an improvement in relation to immovable property.

(8) The fine under subsection (7) shall be paid to the Chief Valuation Officer.

Valuation standard.

16.(1) The valuation standard for immovable property is its market value.

(2) The market value of immovable property used for residential purposes is evidence of the —

(a) purchase price paid by the taxpayer or the value when a sanction was grant under the Immovable Property (Transfer Restriction) Act, whichever is higher, within two years before the date of submitting a valuation to the Chief Valuation Officer; or

(b) market value determined by a qualified professional.

(3) The market value of immovable property used for multi-purposes building is the market value of all parts of the immovable property used for residential purposes as determined by a qualified professional.

Valuation officer may make valuation.

17.(1) Notwithstanding section 15, a valuation officer, or such other persons employed to assist the Chief Valuation Officer, may make a valuation of immovable property if the —

- (a) taxpayer fails to submit a valuation to the Chief Valuation Officer; or
- (b) Chief Valuation Officer has reason to believe that the valuation is materially insufficient.

(2) If a valuation is made under subsection (1)(a), a taxpayer is liable to pay double the amount of immovable property tax payable under section 8 and any penalty imposed under this Act.

(3) A taxpayer is not liable to any penalty or fine if a valuation is conducted on the belief that the valuation is materially insufficient.

Notice of valuation.

18.(1) If a valuation officer makes a valuation of immovable property, the Chief Valuation Officer shall give notice (in this Act referred to as a “notice of valuation”) to the taxpayer of the valuation.

(2) The notice of valuation referred to in subsection (1) shall include —

- (a) the market value of the immovable property to which the valuation relates;
- (b) the immovable property tax payable by the owner, or the balance of any tax payable by, or repayable to, the owner;
- (c) the name of the valuation officer who is giving the notice and the date of the valuation was conducted;
- (d) information that 60 days is the time allowed to the taxpayer to make a complaint against the notice of valuation; and
- (e) any other necessary information.

(3) The Chief Valuation Officer shall give the Commissioner General a copy of each valuation made by a valuation officer or such other persons employed to assist the Chief Valuation Officer, and the Commissioner General shall keep a record of the valuation.

Right to enter on and inspect immovable property.

19.(1) For the purpose of preparing a valuation of immovable property, a valuation officer may at any reasonable time with the consent of an owner or occupier of the immovable property or at any reasonable time after giving not less than 24 hours' notice without the consent of an owner or occupier of the immovable property –

- (a) enter on and inspect the immovable property;
- (b) request any —
 - (i) information that is known to the owner or occupier of the immovable property, or
 - (ii) documents in the possession or control of the owner or occupier of the immovable property to be produced, relevant to preparing the valuation; and
- (c) make copies of documents necessary to the inspection.

(2) For the purpose of making copies of documents, the valuation officer may take the documents away after giving a written receipt for them and shall return the documents without delay.

(3) When carrying out duties under subsection (1), a valuation officer shall produce identification on request and inform the owner or occupier of immovable property of the purpose of the entry and inspection.

Duty to provide information and documents

20.(1) A person, including a public body, not later than the day specified in a written notice by the Chief Valuation Officer —

- (a) shall provide any information or documents or copies of documents in the person's possession or control that are necessary for the valuation officer to prepare a valuation or determine if the immovable property shall be valued; and
- (b) when the request so specifies, shall provide the information in the form of a signed statement or under oath swearing that the information provided by the person is complete, true and accurate or that the documents or copies of the documents are all the documents in possession or control of the person.

(2) The day specified in a written notice of a valuation officer shall not be less than 7 working days after the notice is given to the person.

(3) A notice may provide that information and documents or copies of documents be provided periodically until further notice.

(4) No charge shall be made by the owner or occupier for copying the documents.

Court authorized inspection and enforcement.

21.(1) A valuation officer may apply to the Supreme Court by way of a petition supported by an affidavit for an order under subsection (2) if a person under section 19 or 20 —

- (a) refuses to allow or interferes with an entry or inspection by a valuation officer; or
 - (b) fails or refuses to produce a document or copy of document in the person's possession or control requested by a valuation officer to assist the valuation officer in preparing a valuation or determining if the immovable property shall be valued.
- (2) The Supreme Court may make an order to —
- (a) restrain a person from preventing or interfering with a valuation officer's entry or inspection; or
 - (b) require a person to produce any document or copy of document requested by a valuation officer to assist the valuation officer in preparing a valuation or determining if the immovable property shall be valued.

Duty of Government officials to provide information and copies of documents.

22. A valuation officer may make inquiries at the —

- (a) office of the Registrar General;
- (b) office of the Commissioner General;
- (c) office of the Stamp Duty Commissioner;
- (d) office of the Curator of Vacant Estates
- (e) registry of the Supreme Court;
- (c) ministry responsible for land;
- (d) ministry responsible immigration; or
- (e) office of any public body,

for the purposes of making a valuation of immovable property and the person in charge of the prescribed office shall without delay provide to the valuation officer, free of charge, the information or copies of documentation as the valuation officer requests.

**PART V
RECOVERY OF TAX, COMPLAINTS AND APPEALS**

Recovery of tax.

23. The Revenue Administration Act and regulations made thereunder shall apply *mutatis mutandis* to the payment, collection and recovery of the immovable property tax, and any contravention under this Act.

Complaints and Objections.

24. (1) A person wishing to make a complaint about a notice of valuation shall do so in accordance with this section.

(2) This section does not affect the operation of any provision under the Revenue Administration Act, however, if this section is in conflict with or inconsistent with any provision of the Revenue Administration Act, this section shall prevail.

(3) A complaint shall be made in such form as may be prescribed by the Commissioner General.

(4) A taxpayer who is dissatisfied with a notice of valuation may, within 60 days after service of the notice of valuation, post or lodge with the Commissioner General an objection against the valuation stating the grounds of objections which shall be limited to one or more of the following grounds that —

- (a) a person named in the notice of valuation is not the owner of the immovable property;
- (b) the taxpayer is exempt from paying immovable property tax;
- (c) the immovable property should not be subjected to a valuation; or
- (d) the valuation of the immovable property is too high or too low.

(5) There is no right to make a complaint about any tax rate.

(6) A complaint shall explain why the complainant thinks that information shown on a notice of valuation is incorrect and may indicate the amendment that is desired.

(7) The complaint shall include the address of the complainant.

(8) The Commissioner General shall consider the complaint and make an objection decision in accordance with the relevant provisions of the Revenue Administration Act.

Appeals.

25. A taxpayer dissatisfied with an objection decision may apply to the revenue tribunal or courts in accordance with the Revenue Administration Act.

PART VII MISCELLANEOUS

No transfer or surrender of immovable property unless immovable property tax is paid.

26. (1) A taxpayer shall not transfer or surrender immovable property or lease with or without consideration unless all taxes due and payable are paid.

(2) A taxpayer shall submit a declaration along with evidence to the Registrar General that all taxes due and payable are paid before a transfer or surrender under subsection (1) can take

effect.

(3) A certificate of tax clearance from the Commissioner General, as set out in Form A of Schedule 1, shall be evidence that all taxes are paid.

(4) A taxpayer who is required under subsection (2) to submit a declaration, who knowingly makes or signs a false or misleading declaration commits an offence and on conviction is liable to pay a fine of SCR 50, 000 or imprisonment for not more than 6 months, or to both a fine and imprisonment.

Penalty for obstructing authorized officers.

27. A person who obstructs or hinders an authorized officer in the performance of duties under this Act commits an offence and on conviction is liable to pay a fine of SCR 100, 000 or to imprisonment for not more than 6 months, or to both a fine and imprisonment.

Regulations.

28. The Minister may make regulations on all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act and to amend any Schedule.

SCHEDULE 1

FORM A
Section 26(3)

**IMMOVABLE PROPERTY TAX ACT
CERTIFICATE OF IMMOVABLE PROPERTY TAX CLEARANCE**

This is to certify that all taxes due and payable for the immovable property (describe it) are paid to date (insert date when the immovable property will be transferred).

Dated this day of (Insert Year)

COMMISSIONER GENERAL