Revised Regulations of Anguilla: I13-2

INLAND REVENUE DEPARTMENT ACT (R.S.A. c. I13)

INTEREST AND PENALTIES WAIVER COMMITTEE REGULATIONS

Note: These Regulations are enabled under section 75 of the Inland Revenue Department Act, R.S.A. c. I13.

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SCHEDULE: Interest and Penalties Waiver Committee Procedures

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Interpretation

1. In these Regulations—

"alternate" means an alternate designated under section 6;

"appointed member" means a member referred to in section 3(1)(c) and includes any person appointed temporarily in place of an appointed member under section 32 of the Interpretation and General Clauses Act or section 3(3) of this Schedule;

"Committee" means the Interest and Penalties Waiver Committee established under section 3;

"*ex officio* member" means a member referred to section 3(1)(a) or (b);

"member" means a member referred to in section 3(1).

CONSTITUTION

Application of R.S.A. c. I25

2. Except where a contrary intention appears in this Schedule and without limiting the application of the Interpretation and General Clauses Act, the following provisions of that Act apply to these Regulations—

(a) sections 31 (construction of provisions as to exercise of powers and duties);

(b) section 32 (power to appoint includes power to remove, etc.);

(c) section 37 (effect of vacancy in membership of board, defect of qualification, etc.).

Interest and Penalties Waiver Committee established

3. (1) The Interest and Penalties Waiver Committee is established and consists of the following three members—

(a) the Permanent Secretary to the Minister of Finance, as an ex officio member; and

(b) the Accountant General, as an ex officio member; and

(c) a public officer in the Department of Finance, other than the Comptroller or Deputy Comptroller, appointed by the Minister.

(2) For greater certainty, no public officer may hold more than one membership on the Committee.

(3) When a member of the Committee declares a financial interest in a matter under section 7, the Minister may, in relation to the matter, appoint a public officer in the Department of Finance, other than the Comptroller or Deputy Comptroller, as a member in place of the member.

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Function of Committee

4. The Committee may take any one or more of the following considerations into account in determining whether to approve a waiver by the Comptroller of the imposition of, or liability for, interest or a penalty or any part of interest or a penalty—

(a) to the extent that it is satisfied that hardship or injustice to the taxpayer has resulted or is likely to result if all or part of the interest or penalty under a tax Act is not waived;

(b) the amount of the arrears of tax, interest and penalty;

(c) the length of time that arrears have been outstanding;

(d) the reason why the person was in arrears;

(e) whether the taxpayer has paid or intends to pay the arrears or part of the arrears or any part of the interest or a penalty or whether the taxpayer has or intends to enter into an agreement under section 34 of the Inland Revenue Department Act with respect to the arrears or any part of the interest or penalty.

Chairperson, deputy chairperson and interim chairperson

5. (1) The Permanent Secretary to the Minister of Finance is chairperson of the Committee.

(2) The Accountant General is deputy chairperson and shall act when the chairperson is absent or unable to act or when the office of chairperson is vacant.

(3) When the chairperson and the deputy chairperson are absent or unable to act, the appointed member and the alternates present may designate an interim chairperson to exercise the functions of the chairperson at the meeting.

Designation of alternates by *ex officio* members

6. (1) An *ex officio* member may in writing designate an alternate, who shall be a public officer who—

(a) is in a reporting relationship to the member; and

(b) is other than the Comptroller or Deputy Comptroller.

(2) Subject to these Regulations, an alternate has the powers, duties and rights of the *ex officio* member who designated him or her.

(3) No member may be the alternate of another member.

(4) No person may be the alternate of more than one member.

(5) An alternate may not designate an alternate.

(6) Designation as an alternate does not of itself entitle an alternate to act in place of the chairperson or deputy chairperson.

Financial interest of member or alternate

7. A member or alternate present at a meeting who has a financial interest in a matter shall—

(a) declare his or her interest and withdraw from the meeting; and

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(b) refrain from influencing or participating in any decision or vote that relates to the matter.

PROCEDURES

Frequency, place and time of Committee meetings

8. (1) The Committee shall meet as often as may be necessary to perform its duties and exercise its powers expeditiously, but in any event shall meet at least once in each calendar quarter.

(2) A meeting of the Committee shall be held on the day and at the time and place that the chairperson determines.

Notice of Committee meeting

9. (1) The chairperson shall cause written notice of the day, time, place and agenda of each Committee meeting to be given to each member not less than 72 hours before the time the meeting is to be held, unless the member waives notice of the meeting in writing.

(2) Notice shall be given to a member by—

(a) handing a copy to the member;

(b) leaving a copy with a public officer at the office of the member;

(c) emailing or faxing a copy to the member at the member's email address or fax number; or

(d) any other means approved by resolution of the Committee.

Waiver of notice

10. A member or alternate may in writing waive notice of a meeting at any time.

Quorum

11. A quorum of the Committee is 2 members or their alternates.

Chairperson to have second vote

12. In the event of a tie vote, the chairperson, deputy chairperson or interim chairperson may cast a second vote.

Decision of Committee

13. A decision of a majority of the members or their alternates is the decision of the Committee.

Attendance of official from Inland Revenue and others

14. (1) At the request of the chairperson, a public officer from the Inland Revenue Department shall attend a meeting of the Committee.

(2) The Committee may, but is not obliged to, permit the attendance of, and representations by, any other person.

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Decision of chairperson

15. The decision of the chairperson is final on the following matters—

(a) the agenda for a meeting;

(b) the conduct of the meeting;

(c) the procedure for handling resolutions.

Appointment and functions of secretary to Committee

16. (1) The Committee shall appoint a secretary to the Committee to provide administrative support to the Committee.

(2) In addition to his or her other functions, the secretary shall keep accurate minutes of each Committee meeting, including particulars of—

(a) the notice of the meeting given to each member or alternate and any waiver of notice by a member or alternate;

(b) the members or alternates in attendance;

(c) each resolution moved, the number of members or alternates present and voting for and against it or abstaining from voting on it and whether the resolution was passed or defeated; and

(d) a declaration of interest of a member or alternate and the fact of the member's withdrawal.

(3) The secretary shall table for approval a copy of the minutes of a meeting at the next following meeting of the Committee.

Citation

17. These Regulations may be cited as the Interest and Penalties Waiver Committee Regulations, Revised Regulations of Anguilla, I13-2.

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