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I assent,

EUSTACE JOHN, C.M.G.

Deputy Governor-General

23rd April, 2008.



ISLAND OF NEVIS

No. 3 of 2008

AN ORDINANCE to provide for the modernisation of property tax, for the exemption of certain properties from valuation and taxation, for the procedure for the valuation of property, for the payment of taxes, for the recovery of tax, and for related matters.

[Published 22nd May 2008, Official Ordinary Gazette No. 23 of 2008.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Nevis Island Assembly, and by the authority of the same as follows:

PART I PRELIMINARY

1. This Ordinance may be cited as the Property Tax Ordinance, 2008 and shall come into operation on a date appointed by the Minister by notice published in the *Gazette*. Short title and commencement.

2. In this Ordinance, except when the context otherwise requires-- Interpretation.
 - “Chief Valuation Officer” means the person appointed as such under section 4;
 - “common interest” has the meaning given to it in the Condominium Act;
 - “Comptroller” means the Comptroller of Inland Revenue appointed under section 46 of the Tax Administration and Procedures Ordinance, and includes an Acting Comptroller of Inland Revenue appointed under section 46 of that Ordinance;
 - “Condominium Act” means the Condominium Act, No. 20 of 1976;
 - “condominium unit” has the same definition as “unit” in the Condominium Act;

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“Director of Agriculture” means the administrative head of the Department of Agriculture appointed by the Governor-General;

“Permanent Secretary” means the permanent secretary of the department responsible for finance;

“improvement” means a structure and any thing attached or secured to a structure, that would be transferred without special mention by a memorandum of transfer or conveyance by deed of the fee simple in the land on which the structure is located, and, where the context requires, includes—

- (a) a separately owned moveable improvement; and
- (b) a separately owned immovable improvement,

but does not include improvements in so far as they form part of the distribution system of a company that supplies electricity, telecommunications services, water, cable or television services to the public;

“inspection certificate” means an inspection certificate referred to in section 8(4);

“land” means real property other than an improvement and includes—

- (a) all trees and plants growing on the land;
- (b) air, surface or subsurface rights and interests in respect of land;
- (c) land covered with water; and
- (d) sand, gravel, crushed stone and rock,

but does not include minerals within the meaning of the Minerals (Vesting) Act (CAP. 183);

“market value” means the amount that a property might be expected to realise if it is sold on the open market by a willing seller to a willing buyer dealing with each other at arm’s-length;

“Minister” means the Minister with responsibility for finance;

“parcel of land” means—

- (a) in relation to land under the Title by Registration Act—

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- (i) a subdivision of land described on a certificate of title or shown on a plan of subdivision or survey filed in the Registry in respect of which a certificate of title has been issued,
 - (ii) when an improvement on the land that would be transferred without special mention by a memorandum of transfer has been erected on two or more subdivisions of land referred to in subparagraph (i), all those subdivisions of land, or
- (b) in relation to land, other than land referred to in paragraph (a)–
- (i) a subdivision of an estate in fee simple in land described in a valid conveyance; or
 - (ii) when an improvement on the land that would be transferred without special mention by a valid conveyance of land has been erected on two or more subdivisions of land referred to in subparagraph (i), all those subdivisions of land,

“person” means an individual, firm, partnership, association or corporation and includes the heirs, executors, administrators or other legal representatives of a person;

“prescribed” means prescribed by Regulations under section 96;

“property” means–

- (a) a parcel of land;
- (b) an improvement; or
- (c) a parcel of land and the improvements to it;

“property subject to valuation” means property, other than property that is exempt under Part III;

“separately owned immovable improvement” means an improvement that–

- (a) does not form part of the land on which it is located;
- (b) is owned by a person other than the person who owns the land on which it is located, and
- (c) is affixed and immovable;

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“separately owned moveable improvement” means an improvement, such as a chattel building, that—

- (a) does not form part of the land on which it is located,
- (b) is owned by a person other than the person who owns the land on which it is located, and
- (c) is moveable, whether or not it is affixed to the land;

“statutory body” means any corporation, company, board, commission, authority or other body established for government purposes by or under an Ordinance;

“structure” means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to be transferred without special mention by a memorandum of transfer or by a conveyance by deed of the land;

“subdivide”, in relation to a parcel of land, means to divide the land into two or more parts;

“Tax Administration and Procedures Ordinance” means the *Tax Administration and Procedures Ordinance*, No. 9 of 2007;

“Title by Registration Act” means the Title by Registration Act (CAP. 279);

“valuation” means the value of property determined in accordance with this Ordinance and the Regulations;

“valuation class” of a property means the valuation class of the property assigned by section 13;

“valuation list” means a document that records the valuation made in respect of each property subject to valuation described in the document and includes a draft valuation list and a certified valuation list;

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

“valuation standard”, in relation to property, means the valuation standard applicable to that property under section 14, 15 or 16.

**PART II
ADMINISTRATION**

3. Under the supervision and direction of the Minister and the Permanent Secretary, the Comptroller is responsible for the administration and enforcement of this Ordinance.

Comptroller to administer and enforce Ordinance.

4. There shall be appointed, by the Deputy Governor-General on the advice of the Public Service Commission, a Chief Valuation Officer and such valuation officers as shall be necessary for the due administration and enforcement of this Ordinance.

Appointment of Chief Valuation Officer and valuation officers.

5. (1) Under the supervision and direction of the Comptroller, the Chief Valuation Officer shall perform the duties and exercise the powers that are conferred on him or on a valuation officer by or under this Ordinance. His duties shall be –

Duties and powers of Chief Valuation Officer and valuation officers.

- (a) to supervise the general valuation of all properties subject to valuation in accordance to regulations under section 11;
- (b) to prepare annually the valuation list under section 27;
- (c) to ensure that each property subject to the valuation is properly assigned a valuation class under section 13;
- (d) to publish the notice of valuation list and valuation notices under section 31;
- (e) to ensure that the Ordinance is administered in a fair and equitable manner.

(2) Under the supervision and direction of the Chief Valuation Officer, a valuation officer shall perform the duties and exercise the powers delegated to him by the Chief Valuation Officer.

**PART III
EXEMPTIONS**

6. (1) The following property is exempt from valuation and
- (a) subject to section 20, the property of the Government;
 - (b) subject to section 20, property of a statutory body, other than a prescribed statutory body;
 - (c) property owned or leased by, or held in trust for, a religious body–
 - (i) on which is located a building used exclusively for religious worship to the extent

General exemptions.

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that the property is used for or in connection with religious worship and other religious activities of the religious body including religious education and parking, or

- (ii) *on which is located a residence for the member of the clergy who officiates at a place of religious worship referred to in subparagraph (i) and his family, if any, including land to the extent that it is used in connection with the residence;*
- (d) *property licensed as a private burial ground under the Private Burial Grounds Act (CAP. 225);*
- (e) *a cemetery declared to be a public cemetery under the Cemeteries Act (CAP. 210);*
- (f) *conservation land;*
- (g) *property designated as heritage property by Regulations to the extent provided by Regulations;*
- (h) *property to the extent that it is owned or leased and occupied solely by a charity for its charitable purposes;*
- (i) *property to the extent that it is owned or leased and occupied solely by a non-profit, benevolent or philanthropic organisation for its purposes,*
- (j) *property to the extent that it is owned or leased and occupied solely by a non-profit, benevolent or philanthropic organisation designated by Regulations to the extent provided by Regulations;*
- (k) *property to the extent that it is owned or leased by and used solely by a private educational institution as defined in section 14 of the Education Act, No. 9 of 2005 for its purposes as a private school;*
- (l) *property to the extent that it is used solely by a consulate or diplomatic mission;*
- (m) *property to the extent that it is exempted from property tax by or under any other law.*

(2) *In this section—*

“conservation land” means land, such as a salt pond, a ghaut or wetlands, that—

- (a) *is not used for agricultural purposes;*

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- (b) is left substantially in, or has been allowed to return to, its undeveloped and natural state for the purpose of preserving or restoring the land as a natural environment or habitat; and
- (c) has been left in that state for that purpose for the preceding three years,

and includes improvements to the land to the extent that they facilitate access to and enjoyment of the land as a natural environment or habitat;

“heritage property” means a building declared by notice published in the *Gazette* to be a listed building under section 52 of the National Conservation and Environment Protection Act, No. 5 of 1987.

7. The sum of eighty thousand dollars shall be deducted in each year from the valuation of an improvement that is a building and associated improvements or condominium unit and its common interest that—

Deduction from valuation of residences.

- (a) is not used as a place of business, occupation, vocation or trade provided under the Licences on Business and Occupations Act, No. 6 of 1972; and
- (b) is a residential use property under section 10,

or such other sum as prescribed by the Minister, by Order, not being less than eighty thousand dollars.

8. (1) Improvements that consist of—

- (a) a new building and associated new improvements;
- (b) a new addition to an existing building and associated new improvements,

Exemption of new improvements during construction.

are exempt from valuation and taxation while they are under construction until the new building, the new addition to an existing building, the new condominium unit or the prescribed new improvements are, or are capable of being, occupied or used for a purpose other than construction as certified in a certificate of inspection by a valuation officer under subsection (4).

(2) When a new building, new addition to an existing building, new condominium unit or prescribed new improvement is, or is capable of being, occupied or used for a purpose other than construction, the owner of the new building, new addition to an existing building, new condominium unit or prescribed new improvement shall notify or cause notice to be given in writing to the Chief Valuation Officer in accordance with subsection (3).

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(3) The notice shall request an inspection of the improvement referred to in subsection (2) and give—

- (a) the owner's name;
- (b) a description of the improvement sufficient to identify it;
- (c) a statement of where the land on which the improvement is located; and
- (d) particulars about how and when a valuation officer may gain access to the improvement.

(4) A valuation officer shall, without delay after receipt of the notice, and may of his own initiative, inspect the improvement and, if the valuation officer is satisfied that it is, or is capable of being, occupied or used for a purpose other than construction, the valuation officer shall—

- (a) issue the certificate of inspection setting out the date as at which it is or was, or is or was capable of being, occupied or used for a purpose other than construction; and
- (b) date the certificate on the day of the inspection.

(5) A valuation officer who dates an inspection certificate other than the date the inspection took place commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

Exemption of new residences following construction.

9. (1) Subject to subsection (2), when a new building or new condominium unit—

- (a) is not used for a place of business, occupation, vocation or trade provided under the License on Business and Occupation Act, No. 6 of 1972; and
- (b) is a residential use property under section 10;

the improvement that consists of the new building and associated new improvements or new condominium unit and its common interest are, to the extent that their value exceeds eighty thousand dollars, exempt from valuation and taxation for one year from the date of its use or occupancy as certified in the inspection certificate for the new building and associated new improvements or new condominium unit and its common interest, as the case may be.

(2) If—

- (a) the Chief Valuation Officer is not notified under section 8(2); or

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- (b) a valuation officer does not of his own initiative make an inspection under section (8)(4),

within the sixty day period after the date that the valuation officer certifies as the date as at which it is, or is capable of being, occupied or used for a purpose other than construction, then the period of exemption is reduced by one twelfth for each month or part of a month between the date as at which it is, or is capable of being, occupied or used for a purpose other than construction and the date of the issue of the certificate of inspection under subsection 8(4).

PART IV**VALUATIONS, VALUATION LISTS AND VALUATION NOTICES*****Division 1******Definitions***

10. In this Part,

Interpretation for
Part IV.

“accommodation use property” means property used for short term accommodation and includes guest house under the Hotel Accommodation and Restaurant Tax Act, No. 12 of 1976;

“Board” means the Valuation Review Board established under section 75;

“commercial use property” means commercial property which does not include accommodation use property or property used for certified farming operations:

“farming operations” means the raising, production and sale of agricultural products and includes-

(a) horticulture, aviculture, apiculture, aquaculture and silviculture; and

(b) the production of livestock;

“general valuation” means a general valuation referred to in section 11;

“livestock” means horses, cattle, sheep, swine, goats, live poultry and bees or other prescribed animals;

“reference date” means the reference date in Regulations under section 11(2);

“Secretary of the Board” means the Secretary of the Board appointed under section 77;

“send” means sent by mail postage prepaid;

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“residential use property” means property used exclusively for residential purposes;

“property used for certified farming operation” means property which has been certified as farming operation property by the Director of Agriculture under section 16(2) which has not been cancelled or has not been expired under section 16(3);

“institutional use property” means property used as a hospital, nursing home, school, day care center or any other similar institution.

Division 2
Valuation

Order for general valuation.

11. (1) The Minister may by Regulations order that a general valuation be made of all property subject to valuation and shall specify the year in which the valuation list for that general valuation takes effect.

(2) The Regulations shall specify the reference date as the date as at which the value of property in a general valuation is established and may make provision for any other matters in relation to the general valuation.

Application of valuation list from general valuation to subsequent years.

12. The valuation list in the year of a general valuation applies to the property in that year and in each year thereafter until the year in which the valuation list for the next general valuation takes effect except to the extent that it may be amended from time to time under this Ordinance.

Assigning valuation classes to property by Regulations.

13. (1) The valuation officer shall prepare a valuation of a property or a part thereof and assign a valuation class to each valuation subject to subsection (2).

(2) The valuation classes of the property shall be -

- (a) Class 1 – Residential use property;
- (b) Class 2 – Commercial use property;
- (c) Class 3 – Accommodation use property;
- (d) Class 4 – Property used in certified farming operation;
- (e) Class 5 – Institutional use property.

(3) The Minister may by regulation reclassify each valuation class or amend or further divide any valuation class as he considers appropriate.

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(4) When the valuation officer is uncertain about the class to be assigned to a property or any part thereof, the valuation officer shall assign a class to the property or a part thereof that most closely approximates the principal use of the property or any part thereof of the property.

(5) If the valuation officer assigns more than one valuation class to a property he shall provide a breakdown of the valuation, showing each valuation class and the portion of the valuation attributable to each class.

14. (1) Subject to sections 15 and 16, the valuation standard for property is its market value on the reference date.

Valuation standard for property.

(2) The market value of property may be determined by one or more of the following valuation methods—

- (a) a comparison of the estimated sale price of the property with recent sales at market value of the property or of comparable property;
- (b) in relation to improvements, the depreciated replacement cost of the improvements;
- (c) calculating the capital value of the market income or income possibilities of the property;
- (d) calculating the capital value of the premises based upon the accounts receipts or profits of a business conducted on the premises.

15. When a building or part of a building is used solely as a dwelling unit and is a residential use property under section 10 and

Residential use value.

- (a) the land on which it is located is lawfully usable under applicable planning legislation or other legislation for a higher use; or
- (b) when there is no applicable planning legislation or other legislation prescribing or permitting the use, the land can reasonably be expected to be used for a higher use,

the valuation standard for a building or part of a building and the land appurtenant to the building or part of the building land and the improvements on or in the appurtenant land shall be their residential use value on the reference date.

16. (1) When—

- (a) a valuation officer assigns to a parcel of land and any improvements on it class 4 status (property used for certified farming operations); and

Value of property used in certified farming operations.

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- (b) some other higher use is prescribed or permitted for the parcel of land under applicable physical planning legislation or other legislation or there is no applicable physical planning legislation or other legislation prescribing or permitting the use and the parcel of land can reasonably be expected to be used for a higher use,

the valuation standard shall be the value of property used for certified farming operations on the reference date for the parcel of land or that part of the parcel of land and any improvements on it, if any, that are used in the certified farming operations.

(2) The Director of Agriculture may certify that a parcel of land or part of a parcel of land and any improvements on it that are used in farming operations if he is satisfied that the owner or tenant of the land is engaged in *bona fide* commercial farming operations having regard to relevant considerations such as—

- (a) the area of land used for farming operations;
- (b) the number of years the owner or tenant has engaged in farming operations;
- (c) the size of agricultural crops produced or quantity of livestock raised in the farming operations;
- (d) the use of irrigation, pesticides, fertilizer, mulching, pruning, animal feed, veterinary services, animal housing, marketing services and pasture production in the farming operations;
- (e) the keeping of records of farming operations;
- (f) active membership in a farming organisation of the owner or tenant engaged in the farming operations; and
- (g) application for duty free concessions with respect to the farming operations under any agricultural incentive policy of the Government.

(3) Subject to subsection (4), a certificate given before the thirty first day of December of a year is valid until—

- (a) the Director of Agriculture cancels the certificate;
- (b) the thirty first day of December five years after the year in which the certificate was issued; or
- (c) the parcel of property and any improvements on it cease to be used for farming operations;

whichever occurs first.

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(4) The Director of Agriculture may cancel a certificate after giving written notice of his intention to do so to the owner or tenant and giving the owner or tenant a reasonable opportunity to be heard.

17. In preparing a valuation, the valuation officer shall apply the valuation standards set out in this Ordinance in a fair and equitable manner.

Valuation to be fair and equitable.

18. The valuation officer shall value—

- (a) each parcel of land separately;
- (b) the land exclusive of improvements; and
- (c) the improvements apart from the land to which they relate.

Valuation of land and improvements separately.

19. Except when otherwise provided in this Ordinance or the Regulations, the valuation officer shall value land that is an estate in fee simple in the property.

Property interest to be valued.

20. (1) Notwithstanding sections 6(1)(a) and (b), property owned by the Government or by a statutory body, other than a prescribed statutory body, and occupied by a tenant or licensee shall be valued as though the tenant or licensee were the owner in fee simple if rent or any other valuable consideration is paid in respect of the occupation of the property.

Valuation of property of Government or statutory body occupied by tenants or licensees.

(2) Notwithstanding the terms of any tenancy agreement or licence agreement, the tenant or licensee shall pay the taxes to the Comptroller and such payment is deemed to discharge any obligation under the tenancy agreement or licence agreement with respect to taxes or amounts payable in lieu of taxes.

21. Notwithstanding sections 6(1)(a) and (b), when the Government or a statutory body, other than a prescribed statutory body, has an interest in property owned by a person other than the Government or a statutory body, the property shall be valued as though a person other than the Government held the interest.

Valuation of property when Government has any other interest.

22. (1) For the purpose of preparing a valuation of the property or determining if the property is to be valued, a valuation officer may, at any reasonable time with the consent of the owner or occupier or at any reasonable time after giving not less than 24 hours notice without the consent of the owner or occupier of the property—

Right to enter on and inspect property.

- (a) enter on and inspect the property;
- (b) request—
 - (i) any information that is known to the owner or occupier, or

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- (ii) any documents in the possession or control of the owner or occupier to be produced,

relevant to preparing the valuation or determining if the property is to be valued; and

- (c) make copies of documents necessary to the inspection.

(1) For the purpose of making copies, 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 any property of the purpose of the entry and inspection.

Duty to furnish information and documents.

23. (1) A person, including a statutory body, not later than the day specified in a written notice by a valuation officer-

- (a) shall furnish 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 property is to be valued; and

- (b) when the request so specifies, shall furnish 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 his possession or control.

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

(3) A notice may provide that information and documents or copies of documents be furnished periodically until further notice, but shall not require that they be furnished less than seven days after the end of each period.

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

Court authorised inspection and enforcement.

24. (1) A valuation officer may apply to the High Court for an order under subsection (2) if any person under section ?? or ??-

- (a) refuses to allow or interferes with an entry or inspection by a valuation officer; or

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- (b) fails or refuses to produce any 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 property is to be valued.

(2) The High Court may make an order for any one or more of the following–

- (a) restraining a person from preventing or interfering with a valuation officer’s entry or inspection; or
- (b) requiring 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 property is to be valued.

25. A valuation officer may make inquiries at–

- (a) the Land Registry;
- (b) the office of the Registrar of Deeds for the Nevis Circuit;
- (c) the office of the Director of Physical Planning; or
- (d) any other prescribed office,

Information from Government departments.

for the purposes of making a valuation of property subject to valuation and the Registrar of Titles, the Registrar of Deeds, the Director of Physical Planning, and the government official in charge of the prescribed office shall without delay furnish to the valuation officer, free of charge, such information or copies of documentation as the valuation officer requests.

26. The Registrar of Titles, the Registrar of Deeds, the Director of Physical Planning and the government official in charge of an office prescribed under section 25(d), not later than seven days after the last day of each month, shall furnish to the Chief Valuation Officer, free of charge, information in the prescribed form and copies of prescribed documents.

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

**Division 3
Preparation of Valuation List**

27. (1) The Chief Valuation Officer shall prepare annually, not later than the thirty first day of March, a valuation list for all property subject to valuation.

Annual valuation list to be prepared.

(2) The valuation list shall indicate the year for which it is prepared.

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Contents of
valuation list.

28. The valuation list shall show, for each property subject to valuation, the following--

- (a) a description sufficient to identify the location of the property;
- (b) *the name and mailing address of the person named on the valuation list in accordance with section 29 and of his agent, if any, under section 30;*
- (c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements on it;
- (d) if the property is an improvement, a description showing the type of improvement,
- (e) the valuation class of the property and, if more than one class is assigned to the property, the portion of the value attributable to each valuation class;
- (f) the valuation of the property;
- (g) if a part of the property is exempt from taxation under Part III, a notation of that fact and the basis of the *exemption and the portion of the value* attributable to the exemption;
- (h) any other information considered appropriate by the Chief Valuation Officer.

Recording person
to be named on
the valuation list.

29. (1) Subject to this section, the name of the person described shall be recorded on the valuation list as the person in respect of the property subject to valuation, also described--

- (a) for a parcel of land or a parcel of land and the improvements on it, unless otherwise dealt with in this subsection
 - (i) the registered proprietor of an estate in fee simple in the property, in the case of property registered under the Title by Registration Act,
 - (ii) the purchaser of the estate in fee simple in property that is held in the name of the registered proprietor of the estate in fee simple as vendor under an agreement whereby the vendor agrees to convey the property to the purchaser upon payment of all the instalments of the purchase price,

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- (iii) the owner of the unit and common interest, in the case of property registered under the Condominium (Amendment) Act, No. 4 of 2000,
- (iv) the grantee in a conveyance by deed of an estate in fee simple in the property, in the case of property not registered under the Title by Registration Act,
- (v) the purchaser of an estate in fee simple in property under an agreement whereby the vendor of the estate in fee simple agrees to convey the property to the purchaser upon payment of all the instalments of the purchase price,
- (b) the owner of the improvement, if known to the valuation officer, where the property subject to valuation is a separately owned immovable improvement;
- (c) the owner of the improvement, if known to the valuation officer, where the property subject to valuation is a separately owned moveable improvement;
- (d) the tenant or licensee of the parcel of land or the parcel of land and the improvements on it, where the property subject to valuation is a parcel of land or a parcel of land and the improvements on it owned by the Government or a statutory body other than a prescribed statutory body.

(2) Property held by a person as trustee, executor or administrator or as guardian shall, if known to the valuation officer, be valued in his name.

(3) When there is more than one person to be named on the valuation list, it is sufficient to name one of those persons with the addition after the name of "*et al*".

30. (1) A person named on the valuation list may, by filing a notice with the Chief Valuation Officer—

- (a) appoint an agent resident of the island of Nevis to receive valuation notices and amended valuation notices and tax notices and amended tax notices on his or their behalf;
- (b) revoke an appointment; or
- (c) replace an appointee with another appointee.

Appointment of agent to receive certain notices.

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(2) The notice shall—

- (a) be in writing, dated and signed by the person or persons named on the valuation list; and
- (b) state the name and mailing address of the agent.

(3) Upon receipt of a notice of appointment, the Chief Valuation Officer shall amend the valuation list to show the agent on the valuation list as agent for the person named on the valuation list and to include the agent's address.

(4) Upon receipt of a notice of revocation of appointment, the Chief Valuation Officer shall amend the valuation list to delete the name of the agent and reference to the agency.

(5) Upon receipt of a notice to replace an agent with another agent, the Chief Valuation Officer shall amend the valuation list by replacing the name and address of the agent shown on the valuation list with the name and address of the new agent.

Division 4***Publication of Notice of Valuation List and Valuation Notices and General Provisions respecting Valuation Lists***

Publication of notice of valuation list and valuation notices.

31. (1) Annually not later than the thirty first day of March, the Chief Valuation Officer shall publish in one issue of a newspaper having general circulation in the island of Nevis, a notice respecting the Valuation List and Valuation Notices.

(2) When the notice relates to a year in which a general valuation has been prepared, it shall contain information to the effect that—

- (a) a general valuation of all property was prepared for that year and the reference date for that general valuation shall be specified;
- (b) the draft valuation list, that reflects the general valuation, has been completed and is available for inspection during regular business hours at the Inland Revenue Department or any other place specified;
- (c) valuation notices shall be sent, to all persons named on the valuation list not later than the seventh day of April;
- (d) a taxpayer who does not receive his valuation notice by the twelfth day of April should contact the Inland Revenue Department without delay;

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(e) a person may complain with respect to the information on the valuation notice as provided in this Ordinance.

(3) When the notice relates to a year, other than a year in which a general valuation has been prepared, it shall contain information to the effect that—

- (a) the valuation list for that year is available for inspection during regular business hours at the Inland Revenue Department; and
- (b) valuation notices have been or will be sent to all persons named on the valuation list not later than the seventh day of April.

32. In a year in which a general valuation has been prepared, the Chief Valuation Officer shall, not later than the fifteenth day of May of that year, certify that the draft valuation list, as at the date of the certification, has been revised to take into account the complaints resolved under section 74, the complaints decided by the Board under Division 2 of Part VII and by the High Court under Division 4 of Part VII.

Certification of valuation list in year of general valuation.

33. (1) In a year in which a general valuation has been prepared, the Chief Valuation Officer shall—

- (a) on publishing the notice under section 31, make the draft valuation list referred to in section 31(2) available and continue to make it available for inspection by the public during regular business hours at the Inland Revenue Department and at the place, if any, specified in section 31(2)(b) until it has been certified under section 32; and
- (b) on certifying the valuation list under section 32, make the certified valuation list available and continue to make it available for inspection by the public during regular business hours at the Inland Revenue Department and at the place, if any, specified in section 31(2)(b) until the valuation list the following year is available for inspection by the public.

Availability of valuation lists for inspection.

(2) In a year other than the year in which a general valuation has been prepared, the Chief Valuation Officer shall forthwith on publishing the notice under section 31, make the valuation list referred to in section 31(3) available and continue to make it available for inspection by the public during regular business hours at the

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Inland Revenue Department and at the place, if any, specified in section 31(3)(a) until the valuation list or draft valuation list, as the case may be, for the following year is available for inspection by the public.

Division 5
Amendment of Valuation List

Correction of errors, omissions, etc. in valuation list.

34. If it is discovered that there is an error, omission or misdescription in any of the information shown on the valuation list in respect of a property, the valuation officer shall, without delay after the discovery—

- (a) amend the valuation list to correct the error, omission or misdescription; and
- (b) on doing so, send an amended valuation notice to the person named on the valuation list in respect of the property.

Correction of name or address on valuation list.

35. If it is discovered that the name or mailing address of the person named on the valuation list has changed, a valuation officer shall, without delay after the discovery—

- (a) amend the name or mailing address shown on a valuation list in respect of a property; and
- (b) on doing so, shall send an amended valuation notice to the person named on the valuation list in respect of the property.

Amendment of valuation list to add property not on list.

36. If it is discovered that no valuation has been prepared for a property, a valuation officer shall, without delay after the discovery—

- (a) prepare a valuation for the property;
- (b) amend the valuation list; and
- (c) send a valuation notice to the person named on the valuation list in respect of the property.

Amendment by reason of change in valuation status of property.

37. (1) If it is discovered that the whole of a property that is exempt has become subject to valuation, a valuation officer shall, without delay after the discovery—

- (a) prepare a valuation for the property;
- (b) amend the valuation list; and
- (c) send a valuation notice to the person named on the valuation list in respect of the property.

(2) If it is discovered that a part of an exempt property has become subject to valuation, a valuation officer shall, without delay after the discovery—

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- (a) prepare a valuation for that part of the property that is subject to valuation;
- (b) amend the valuation list to include that part of the property; and
- (c) send a valuation notice to the person named on the valuation list in respect of that part of the property.

(3) If it is discovered that the whole of a property that is subject to valuation becomes exempt, a valuation officer shall-

- (a) amend the valuation list to delete the property; and
- (b) notify in writing the person who was named on the valuation list in respect of the property indicating that the property is exempt and has been deleted from the valuation list.

(4) If it is discovered that part of a property that is subject to valuation becomes exempt, a valuation officer shall-

- (a) prepare a valuation for the part of the property that is subject to valuation;
- (b) amend the valuation list to reflect the part of the property that is subject to valuation; and
- (c) send an amended valuation notice to the person named on the valuation list in respect of the part of the property that is subject to valuation.

38. If it is discovered that the value of a property is not the same as the value on the valuation list by reason of-

- (a) a change in the valuation class of the property or part of a property;
- (b) a change in the valuation standard;
- (c) damage to or destruction of the property or part of the property that renders the property or part of the property unfit for use or occupancy;
- (d) repair sufficient to render the property or part of the property referred to in paragraph (c) fit for occupancy;
- (e) a change in the permitted use of property or part of the property under applicable physical planning or other legislation;
- (f) the subdivision of the property;

Amendment of valuation list by reason of change in value.

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- (g) the consolidation of properties; or
- (h) an amendment to a condominium declaration under the *Condominium Act*,

the valuation officer shall without delay after the discovery-

- (i) prepare a new valuation for the property;
- (j) amend the valuation list; and
- (k) send an amended valuation notice to the person named on the valuation list in respect of the property.

Date of amendment to valuation list to be shown.

39. The date that each amendment is made to the valuation list under this Division shall be shown on the valuation list.

Division 6
Valuation Notices

Valuation notices to be sent.

40. (1) The Chief Valuation Officer shall annually-

- (a) prepare valuation notices for all property that has been valued; and
- (b) not later than the thirty first day of March, send the valuation notices to each person named on the valuation list.

(2) The valuation notice and the tax notice relating to the same property may be sent together or may be combined in one notice.

(3) If the mailing address of the person named on the valuation list is unknown, the valuation notice shall be retained by the Inland Revenue Department and is deemed to have been sent to the person named on the valuation list not later than the seventh day of April.

(4) Subsection (3) does not apply when the valuation list shows the name and address of an agent appointed under section 30.

Contents of valuation notice and amended valuation notice.

41. A valuation notice or an amended valuation notice shall show the following-

- (a) the same information that is required to be shown on the valuation list;
- (b) the date the valuation notice is sent to the person named on the valuation list;
- (c) a statement to the effect that the right to complain with respect to the information on the valuation notice is provided in the Ordinance; and

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- (d) any other information considered appropriate by the Chief Valuation Officer.

**PART V
TAXATION OF PROPERTY**

***Division 1*
Definitions**

42. In this Part-

“tax arrears” means taxes that remain unpaid after they are due;

“tax list” means the tax list of taxable property referred to in Division 3;

“taxable property” means all property subject to valuation.

Interpretation of
Part V.

***Division 2*
Imposition of Taxes**

43. (1) The person who is liable as taxpayer to pay tax imposed under this Part in a financial year is-

- (a) the person named on a valuation list for that financial year in accordance with section 29; or
(b) any person who is subsequently named on a valuation list for that financial year.

(2) When two or more persons are liable as taxpayers, their liability is joint and several.

(3) A taxpayer who pays taxes on behalf of another taxpayer of the same property has a right of contribution against the other taxpayer.

Persons liable as
taxpayers.

44. (1) The Minister may, with the approval of the Nevis Island Assembly by resolution, make, amend, add to or replace the Regulations establishing the tax rate applicable to each class of taxable property in a financial year.

(2) The tax rate applicable to each valuation class of taxable property set out in subsection (1) applies from financial year to financial year until it is changed.

Tax rate.

45. (1) This section is subject to any Regulations made under section 96.

(2) When a taxable property has only one valuation class, a taxpayer shall annually pay to the Comptroller a tax on the property arrived at when the following formula is applied-

Calculating
amount of tax.

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$$T = R \times V$$

where—

T is the tax payable

R is the tax rate applicable to the valuation class of the taxable property

V is the valuation of the taxable property.

(3) When a taxable property has more than one valuation class, a taxpayer shall annually pay to the Comptroller a tax on the property arrived at when the following formula is applied—

$$T = (R_1 \times V_1) + (R_2 \times V_2) + \dots + (R_n \times V_n)$$

where—

T is the total tax payable

R_{1, 2, n} is the tax rate applicable to each valuation class of the taxable property

V_{1, 2, n} is the valuation of the taxable property in each of the valuation classes

n is the number of classes of taxable property.

(4) Notwithstanding subsections (2) and (3), the amount of tax payable in a year shall be prorated when during the year there is a change in valuation status of the property or part of the property under section 37 or a change in the value of the property or part of the property under section 38.

Tax imposed on January 1.

46. Tax in a financial year is deemed to have been imposed on the first day of January.

Phasing in of tax increases or decreases.

47. The Minister may by Regulations provide for the phasing in of a tax increase or decrease.

Division 3

Tax List and Tax Notices

Tax list.

48. (1) The Comptroller shall annually, not later than the thirty first day of May, prepare a tax list.

(2) The tax list shall indicate the year for which it is prepared.

(3) The tax list may be combined with a valuation list or may be separate from a valuation list.

Contents of tax list.

49. The tax list shall show, for each taxable property, the following—

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- (a) the same information that is required to be shown on the valuation list;
- (b) the total amount of taxes imposed in respect of the property;
- (c) if more than one valuation class is assigned to the property, the rate of tax and the amount of the taxes attributable to each valuation class;
- (d) the amount of tax arrears, interest and penalties, if any; and
- (e) any other information considered appropriate by the Comptroller.

50. (1) When the valuation list on which the tax list is based is amended, the Comptroller shall without delay—

Correction of tax list.

- (a) amend the tax list to reflect the amendment; and
- (b) on doing so, prepare and send a tax notice or amended tax notice to the person named on the tax list in respect of the property.

(2) If it is discovered that there is an error, omission or misdescription in any of the information referred to in section 49 (b), (c) and (d) shown on a tax notice, the Comptroller shall—

- (a) amend the tax list to reflect the amendment; and
- (b) on doing so, prepare and send a tax notice or amended tax notice to the person named on the tax list in respect of the property.

(3) The date that each amendment is made to the tax list under this section shall be shown on the tax list.

51. (1) The Comptroller shall annually—

Tax notices.

- (a) prepare tax notices for all taxable property shown on the tax list; and
- (b) not later than the thirty first day of May send the tax notices to the taxpayers.

(2) The valuation notice and the tax notice relating to the same property may be sent together or may be combined on one notice.

(3) If the mailing address of a taxpayer is unknown, the tax notice shall be retained by the Inland Revenue Department and is deemed to have been sent to the taxpayer.

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Contents of tax notice and amended tax notice.

52. A tax notice or amended tax notice shall show the following—

- (a) the same information that is required to be shown on the tax list;
- (b) the date the tax notice is sent to the taxpayer;
- (c) the date on which interest or penalties or both may be imposed if the taxes are not paid;
- (d) any other information considered appropriate by the Comptroller.

Duty to provide information

53. A taxpayer shall, on request by the Comptroller, provide without delay any information necessary for the Comptroller to prepare a tax list.

Division 4
Payment of Taxes

When tax is payable.

54. (1) Subject to subsection (2), (3) or (4), the tax in a financial year is payable not later than the thirtieth day of June annually.

(2) When a taxpayer has made an agreement to pay taxes by instalments pursuant to Regulations under section 56, the date of payment of the taxes is determined by the agreement.

(3) When the collection of taxes is deferred by Regulations or agreement under section 61, the taxes are payable in accordance with the Regulations or the agreement, as the case may be.

(4) When, pursuant to the exercise of a power conferred under another Ordinance, taxes are payable at another date or dates, the taxes are payable in accordance with the exercise of that power.

Incentives.

55. The Minister may by Regulations provide incentives for payment of taxes by the date or dates set out in the Regulations.

Instalment payments.

56. (1) The Minister may by Regulations permit taxes to be paid by instalments, at the option of the taxpayer.

(2) A person who wishes to pay taxes by instalments shall make an agreement with the Government as represented by the Comptroller authorising that method of payment.

(3) When an agreement under subsection (2) is made, the tax notice, or a separate notice enclosed with the tax notice, shall state—

- (a) the amount and due dates of the instalments to be paid in the remainder of the year; and
- (b) what happens if an instalment is not paid.

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(4) The agreement may provide for payment by a series of post-dated cheques or any other means.

57. When taxes are paid to the Comptroller, a receipt shall be furnished.

Receipt for payment of taxes.

58 (1) A tax payment on a property shall be applied in the following order–

Application of tax payment.

- (a) to interest owing;
- (b) to penalties owing;
- (c) to tax arrears;
- (d) to taxes payable.

(2) If a person does not indicate to which taxable property a tax payment is to be applied, the Comptroller shall decide to which taxable property of the taxpayer the payment is to be applied.

59. (1) If the tax or any part thereof is unpaid by the due date, such unpaid tax or any part thereof shall accumulate penalties and interest as provided under the Tax Administration and Procedures Ordinance, 2007.

Interest and penalty for non-payment.

(2) Any interest or penalty imposed under subsection (1) is part of the tax in respect of which they are imposed.

60. (1) When the Minister is satisfied that
- (a) it is in the public interest to do so; or
 - (b) hardship or injustice has resulted or is likely to result,

Remission of taxes.

the Minister may remit all or part of the tax on property.

- (2) The remission may be–
- (a) by Regulations applicable to a class or classes of taxpayers or potential taxpayers in relation to taxable property; or
 - (b) by certificate in a specific case.

(3) The remission of the tax may be conditional or unconditional and may be granted–

- (a) before the liability arises;
- (b) before, after or during the course of, any proceeding for the recovery of the tax; or
- (c) before or after the payment has been made or enforced by process.

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(4) When a condition of a remission is not performed, the authorisation of the remission has no effect, and all proceedings may be taken as if it had not been made.

(5) Money that has been paid and is subsequently remitted under this section shall be refunded from the Consolidated Fund.

Deferral of tax.

61. (1) If the Minister considers it equitable to do so, he may defer the collection of a tax—

- (a) by Regulations generally or with respect to a class of taxpayers or potential taxpayers in relation to taxable property; or
- (b) by agreement between the Government as represented by the Comptroller of Inland Revenue and the taxpayer with respect to a particular taxable property.

(2) A Regulations or agreement may impose such conditions including the accrual of interest or penalties or both as seem appropriate to the Minister.

(3) No collection of tax shall be deferred for more than 3 years following the year in which it is due and payable.

Error or omission based on false information.

62. (1) If an error or omission in a valuation list or tax list—

- (a) is the result of a taxpayer knowingly providing false or misleading information to the valuation officer; and
- (b) has resulted in no tax being imposed or in less tax being imposed than would have been imposed if the taxpayer had provided the correct information to the valuation officer,

the Comptroller may, for each year or part of a year in which the valuation, tax or exemption from tax was based on the false information, cause the valuation to be amended to reflect the correction, amend the tax list accordingly, impose the taxes, interest and penalties provided under the Regulations and send an amended tax notice to the taxpayer.

(2) A person who becomes a taxpayer in relation to property as a result of an arm's-length purchase of the property made in good faith and without notice of the false information is not liable for the taxes and penalties against a former taxpayer in relation to the property.

**PART VI
RECOVERY OF TAXES**

- 63. Taxes due under this Ordinance—
 - (a) are an amount owing to the Government, and
 - (b) are recoverable as a civil debt due to the Government.
- 64. When a property contains one or more parts that are exempt from taxation, the taxes that are imposed against the taxable part of the property are recoverable against the entire property.
- 65. When a separately owned immovable improvement is located on a parcel of property, the taxes that are imposed against the separately owned immovable improvement are recoverable against the entire parcel of property.
- 66. When a separately owned moveable improvement is located on a parcel of property, the taxes that are imposed against the separately owned moveable improvement are recoverable—
 - (a) against the separately owned moveable improvement if it is shown on the valuation list in the name of the person in lawful possession or control of it as a separately owned moveable improvement; and
 - (b) against the entire parcel of property, in any other case.
- 67. Taxes that have been imposed in respect of improvements are a first charge on any money payable under an insurance policy for accidental loss or damage to those improvements by fire or any other cause.

Taxes are debt due to Government.

Property that is partly exempt and partly taxable.

Property with separately owned immovable improvement.

Property with separately owned moveable improvement.

Lien on insurance proceeds.

**PART VII
COMPLAINTS, REVIEWS AND APPEALS**

***Division 1*
General Provisions**

- 68. Making a complaint under Division 2 or appealing a decision of the Board to the High Court does not relieve any person from the obligation to pay any taxes owing on any property when they are payable or any interest or penalties imposed for late payment of taxes.
- 69. A person who becomes entitled to be named on the valuation list in relation to a property or is a taxpayer in respect of a property when a complaint about the property is being dealt with under this Part may become a party to any proceedings started by a person previously named on the valuation list.

Obligation to pay taxes

Right to continue proceedings

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Required changes
to valuation list.

70. The Comptroller, the Chief Valuation Officer or a valuation officer, with the consent of the Chief Valuation Officer, shall make any changes to the valuation list or tax list, or both, that are necessary to reflect the resolution of a complaint, a decision of the Board, or a decision of the High Court.

Technical
irregularities.

71. (1) If there has been substantial compliance with this Part, a valuation officer's report or a decision of the Board is not invalid because of a defect in form, a technical irregularity or informality.

(2) A valuation officer may correct any error or omission in his report.

(3) The Board may correct any error or omission in its decision.

*Division 2***Commencing Complaints and Administrative Resolution of Complaints**

Complaints.

72. (1) A person wishing to make a complaint about any valuation notice or amended valuation notice shall do so in accordance with this section.

(2) A complaint shall be in writing.

(3) If a form of complaint is prescribed, the complaint shall be on that form.

(4) A person may make a complaint about a property only if the person—

- (a) is or ought to be named on the valuation list in relation to that property; or
- (b) is a taxpayer in relation to that property.

(5) If the complaint is with regard to a valuation notice sent in respect of a general valuation or a valuation notice sent under section 51 or 52(1), the complaint may be about any of the following matters, as shown on a valuation notice or a tax notice—

- (a) the description of the property;
- (b) the name and mailing address of the person who is or ought to be named on the valuation list or of the taxpayer;
- (c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements on it;
- (d) the description of the type of improvement;

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- (e) the valuation class of the property and, if more than one class is assigned to the property, the portion of the value attributable to each valuation class;
- (f) the valuation of the property;
- (g) whether a part of the property is exempt from taxation under Part III, the basis of the exemption and the portion of the value attributable to the exemption.

(6) If the complaint is with regard to an amended valuation notice sent in respect of a general valuation or an amended valuation notice under sections 48, 49, 50, 51, 52 and 53, the complaint may only be about the amendment.

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

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

(9) The complaint shall include the mailing address of the complainant.

73. (1) A complaint shall be filed with the Secretary of the Board not later than thirty days after the date that the valuation notice was sent as set out in the valuation notice.

Filing complaint, register of complaints and complaints file.

(2) The Secretary of the Board shall maintain—

- (a) an up-to-date register of complaints; and
- (b) a file for each complaint.

(3) The register of complaints shall set out the following information—

- (a) the name of the complainant;
- (b) the mailing address of the complainant;
- (c) the date of filing the complaint;
- (d) the property in respect of which the complaint is made; and
- (e) any other information considered appropriate by the Secretary of the Board.

(4) The file shall contain—

- (a) the complaint;
- (b) the report for that complaint referred to in section 74;

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- (c) *particulars of the decision of the Board and the date it was made;*
- (d) *whether an appeal was taken under section 82; and*
- (e) *when a decision was rendered on appeal, the disposition of the appeal and particulars of the decision.*

Administrative
resolution of
complaints.

74. (1) *After registering the complaint, the Secretary of the Board shall give a copy of the complaint to the Chief Valuation Officer, who may refer the complaint to a valuation officer.*

(2) *The valuation officer to whom the complaint is referred shall, not later than forty-five days after the complaint was filed, review the complaint and, when he considers it advisable, but subject to subsections (7) and (8), endeavour to resolve any matter complained of with the complainant.*

(3) *When all matters complained of are resolved, the valuation officer—*

- (a) *may, if necessary to give effect to the resolution, with the consent of the Chief Valuation Officer, amend the valuation list;*
- (b) *when he amends the list shall, without delay, send an amended valuation notice to the complainant; and*
- (c) *without delay, report particulars of the resolution in writing to the Secretary of the Board and send a copy to the complainant.*

(4) *An amended valuation notice that resolves all complaints is not reviewable by the Board.*

(5) *When some matters complained of are resolved and others are not, the valuation officer—*

- (a) *shall, without delay, report particulars of the matters resolved and those unresolved in writing to the Secretary of the Board and send a copy to the complainant;*
- (b) *may defer the amendment until the Board has made a decision in respect of the complaint or, with the consent of the Chief Valuation Officer, amend the valuation list in respect of the matters resolved; and*

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(e) when he amends the valuation list, shall send an amended valuation notice to the complainant.

(6) When none of the matters complained of is resolved, the valuation officer shall, without delay, report that fact in writing to the Secretary of the Board and send a copy to the complainant.

(7) When a complaint does not comply with section 72 or 73(1), the complaint shall be deemed to be unresolved.

(8) A complaint that is withdrawn by notice signed by the complainant is deemed to have been resolved.

(9) A valuation officer shall not review any complaint that relates to a matter in respect of which the valuation officer has a pecuniary interest.

(10) A valuation officer shall not alter any valuation that is fair and equitable, taking into consideration valuations of similar property.

Division 3
Valuation Review Board

75. (1) There is hereby established a Valuation Review Board consisting of at least five members appointed by the Minister.

Establishment.

(2) The Minister shall endeavour to appoint one or more persons who have knowledge of real estate or real estate law, such as a lawyer, real estate agent, judge or magistrate.

(3) The Minister shall specify the term of office of each member.

(4) No public officer, other than a magistrate, is eligible to be appointed as a member.

(5) The Minister may appoint a person who is eligible to be a member to act in place of a member who is absent.

(6) When the Minister has appointed a roster of persons, the Chairperson may appoint an acting member from the roster to act in place of a member who is absent.

76. (1) The Minister shall designate the Chairperson of the Board.

Chairperson and
acting
Chairperson.

(2) In doing so, the Minister shall give consideration to designating as chairperson a lawyer, judge, magistrate or other person with legal training.

(3) If the Chairperson is absent, the remaining members may designate a member to act as chairperson from among themselves.

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Appointment of
Secretary to
Board.

77. (1) The Minister shall appoint a public officer to act as Secretary to the Board.

(2) The Secretary of the Board shall not be a public officer in the Department of Inland Revenue.

Remuneration
and expenses.

78. (1) The Chairperson, the other members, other than a magistrate, and the Secretary of the Board shall be paid such remuneration as the Minister specifies.

(2) Members and the Secretary of the Board shall be paid such reasonable expenses incurred in the discharge of their responsibilities as the Minister approves.

Quorum.

79. A majority of the members of the Board constitutes a quorum.

Decision of
Board.

80. A decision of a majority of the members of the Board is the decision of the Board.

Chairperson to
have casting
vote.

81. In the event of a tie vote, the Chairperson shall have a second or casting vote.

Hearing by
Board.

82. (1) After receiving a report under section 74(5) or 74(6), the Secretary of the Board shall, without delay –

- (a) set a date, time and location for a hearing before the Board for the unresolved matters; and
- (b) at least ten days before the hearing, notify the valuation officer and the complainant of the date, time and location of the hearing.

(2) Notice to the complainant shall be sent by mail postage prepaid to the address provided in the complaint and is deemed to have been received five days after it is sent.

(3) The notice period required under paragraph (1)(b) may be reduced with the consent of the persons who are to be notified under that paragraph.

Absence from
hearing.

83. If any person who is given notice of the hearing does not attend, the Board may proceed to deal with the complaint if it is satisfied that the persons required to be notified were given notice of it in accordance with section 82.

Proceedings
before Board.

84. (1) The Board is not bound by the rules of evidence or any other law applicable to court proceedings and has power to determine the admissibility, relevance and weight of any evidence.

(2) The Board may require any person giving evidence before it to do so under oath.

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(3) The members of the Board are commissioners for oaths while acting in their official capacities.

85. (1) When, in the opinion of the Board or the Chairperson–

(a) the attendance of a person to give evidence is required; or

(b) the production of a document or thing is required,

the Board or the Chairperson may cause a notice to attend or a notice to attend and produce a document or thing to be served on the person in any manner in which a subpoena may be served in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules 2000 or any other law.

(2) If a person fails or refuses to comply with a notice served under subsection (1), the Board or Chairperson may apply to the High Court and the High Court may issue a warrant requiring the attendance of the person or the attendance of the person to produce a document or thing.

(3) If a person refuses–

(a) to give evidence in compliance with a notice under subsection (1);

(b) to answer any questions pursuant to the notice; or

(c) to produce any document or thing referred to in the notice,

the High Court may commit the person for contempt in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules or any other law.

86. (1) The Board may make any of the following decisions–

(a) dismiss a complaint that does not comply with section 72 or was not made within the proper time under section 73(1);

(b) make a change with respect to any matter referred to in section 72(5) or (6) as the case may be;

(c) decide that no change to a valuation list is required.

(2) The Board shall not alter any valuation that is fair and equitable, taking into consideration valuations of similar property.

(3) The Board shall give written reasons for its decision.

Notice to attend
or produce.

Decisions of
Board.

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Time for making decisions.

87. (1) The Board shall make all decisions on complaints—
- (a) within one hundred and twenty days after the publication of the draft valuation list, in the case of a general valuation; and
 - (b) within forty-five days, in any other case.

(2) The Minister may approve an extension to a period under subsection (1), whether or not the period has expired.

Notice of decision.

88. (1) The Secretary of the Board shall send the decision of the Board and the Board's reasons, if requested, to the persons notified of the hearing under section 82(1)(b).

(2) A request for the Board's reasons shall be made at the time of the hearing and any request made after the hearing need not be complied with.

Prohibition on hearing certain matters.

89. A member of the Board shall not hear or vote on any decision that relates to a matter in respect of which the member has a pecuniary interest.

Admissible evidence at hearing.

90. (1) A copy of—
- (a) a valuation list or tax list or part of it; or
 - (b) a valuation notice or amended valuation notice or tax notice or amended tax notice,

that is certified by the Chief Valuation Officer or Comptroller as being a true copy of the valuation list, tax list or part of the valuation list or tax list, a valuation notice or amended valuation notice or tax notice or amended tax notice is proof, in the absence of evidence to the contrary, of the existence and validity of the valuation list, tax list or part of the valuation list or tax list, a valuation notice or amended valuation notice or tax notice or amended tax notice and is admissible in evidence without proof of the appointment or signature of the Chief Valuation Officer or Comptroller.

(2) A statutory declaration signed by a valuation officer is admissible in evidence as proof, in the absence of evidence to the contrary, that—

- (a) a valuation notice or amended valuation notice was sent on the date shown on the notice; or
- (b) a tax notice or amended tax notice was sent on the date shown on it.

Immunity.

91. The members of the Board are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under this Part.

*Property Tax Ordinance, 2008 – 3.***Division 4
Appeal to High Court**

92. (1) The decision of the Board may, in accordance with the Eastern Caribbean Supreme Court Civil Procedure Rules 2000, be appealed to the High Court not later than thirty days after the decision is sent under section 88. Appeal.

(2) Any of the following may appeal the decision of the Board—

- (a) a person who is or ought to be named on the valuation list in relation to property;
- (b) a taxpayer;
- (c) a valuation officer.

93. A copy of a decision of the Board that is certified by the Secretary of the Board as being a true copy of the original decision is proof, in the absence of evidence to the contrary, of the decision and is admissible in evidence without proof of the appointment or signature of the Secretary of the Board. Decision admissible on appeal.

94. Unless the High Court orders otherwise, the appeal shall be by way of hearing *de novo*. Grounds of appeal and procedure.

95. The decision of the High Court is final and not subject to further appeal. Decision of High Court final.

**PART VIII
MISCELLANEOUS**

96. The Minister may make Regulations for— Regulations.

- (a) prescribing anything that may be prescribed by this Ordinance;
- (b) defining family for the purposes of any provision of this Ordinance;
- (c) any transitional matter arising as a consequence of the repeal of the Land and House Tax, Act (Cap. 251) and the coming into operation of this Ordinance;
- (d) the better carrying out of this Ordinance.

97. The fact that—

- (a) any information shown on a valuation or tax list, amended valuation list or tax list, valuation or tax notice or an amended valuation or tax valuation notice contains an error, omission or wrong description or is otherwise incorrect; or

Validity of valuation and tax lists and notices.

Property Tax Ordinance, 2008 – 3.

- (b) a valuation officer or other public officer fails to perform any duty assigned to him or fails to perform it within the time required,

does not invalidate the valuation or tax list, amended valuation list or tax list, valuation or tax notice or an amended valuation or tax valuation notice or affect the liability of a person to pay taxes in respect of the property when *required under this Ordinance*.

Failure to comply with notice under s. 23.

98. A person who refuses or fails to comply with a notice under section 23 without reasonable excuse, proof of which lies upon him, commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars for each day that the person continues to refuse or fails to comply with the notice.

Offences respecting notices.

99. (1) A person who is served with a notice to attend or a notice to attend and produce a document or thing under section 85 and without reasonable excuse, proof of which lies upon him—

- (a) fails or refuses to attend at the time and place specified in the notice; or
- (b) refuses—
- (i) to give evidence in compliance with a notice;
- (ii) to answer any questions pursuant to the notice; or
- (iii) to produce any document or thing referred to in the notice,

commits an offence and is liable on summary conviction to a fine of not more than two thousand dollars.

(2) Subsection (1) does not apply if the person is committed for contempt under section 85(3).

Obstruction.

100. A person who obstructs, molests, hinders or interferes with a person in the exercise of a duty imposed, or a power conferred, on him or her by this Ordinance or Regulations commits an offence and is liable on summary conviction to a fine of not more than two thousand dollars.

Repeal.

101. (1) The Land and House Tax, Act (Cap. 251) is repealed in respect to the island of Nevis.

(2) Notwithstanding subsection (1), any subsidiary legislation made under the Land and House Tax Act (Cap. 251) and in force immediately prior to the coming into force of this Ordinance, so

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far as it is not inconsistent with the provisions of this Ordinance, continue in force as if made under this Ordinance.

MARJORIE MORTON
President

Passed by the Nevis Island Assembly this 15th day of April, 2008.

DWIGHT MORTON
Clerk of the Nevis Island Assembly