

(7) In this section -

"average rate of The Gambian income tax" in relation to a resident person for a tax year, means the percentage that the income tax under this Act, before the allowance of any tax credit under this Act, is of the chargeable income of the person for the year;

"foreign income tax" includes a foreign withholding tax, but does not include any penalty, additional tax or interest payable in respect of any foreign income tax; and

"net foreign-source income", in relation to a resident person for a tax year, means the total foreign-source income included in the gross income of the person for the year, as reduced by any deductions allowed to the person under this Act for the year that -

- (a) relate exclusively to the derivation of the foreign-source income; and
- (b) are apportioned to the derivation of foreign-source income in accordance with section 59 on the basis that foreign-source business income and other foreign-source income are separate classes of income.

### 73. Foreign losses

(1) Any amount that a resident person is allowed as a deduction under this Act in deriving taxable foreign-source business income is deductible only against that income.

(2) If a resident person has a foreign business loss for a tax year, the amount of the loss shall be carried forward to the following tax year and allowed as a deduction against the person's foreign-source business income derived in that following year.

(3) If a foreign business loss is not wholly deducted under subsection (2), the amount not deducted shall be carried forward to the next following tax year and applied as specified in subsection (2) in that year, and so on, but no loss shall be carried forward for more than six tax years after the tax year in which the loss was incurred.

(4) If a person has a foreign business loss carried forward under this section for more than one tax year, the loss of the earliest tax year shall be deducted first.

(5) If a person carries on more than one foreign business, this section applies separately to each business.

(6) A person has a foreign business loss for a tax year if the total deductions allowed to the person in deriving taxable foreign-source business income for the year exceed the amount of that foreign-source business income, and the amount of the excess is the amount of the foreign business loss.

(7) Any amount that a resident person is allowed as a deduction under this Act in deriving taxable foreign-source non-business income is deductible only against that income.

(8) If the total amount of deductions referred to in subsection (7) for a tax year exceeds the person's taxable foreign-source non-business income for the year, the amount of the excess shall not be carried forward to the following tax year.

(9) In this section-

"taxable foreign-source business income", in relation to a resident person, means foreign-source business income included in the gross income of the person; and

"taxable foreign-source non-business income", in relation to a resident person, means foreign-source income (other than foreign-source business income) included in the gross income of the person.

## Sub-Part III - Taxation of Non-Resident Persons

### 74. Taxation of permanent establishments

(1) Subject to this section, this Act applies to a non-resident person with a permanent establishment in The Gambia on the basis that the permanent establishment is a distinct and separate person engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the non-resident person of which it is a permanent establishment.

(2) The gross income of a permanent establishment in The Gambia of a non-resident person for a tax year is the total Gambian-source income of the person for the year as determined under section 70.

(3) Subject to subsection (4), no deduction is allowed for amounts paid or payable by the permanent establishment to its head office or to another permanent establishment of the non-resident person as -