

CONDOMINIUM DES NOUVELLES-HEBRIDES  
NEW HEBRIDES CONDOMINIUM

ARRETE CONJOINT 22 de 1971  
JOINT REGULATION 22 of 1971

## JOINT REGULATION

No. 22 of  
1971.

establish a tax on the added value arising on certain subdivisions of land.

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MADE by the Resident Commissioners under the provisions of paragraph 2 of Article 2, paragraph 2 of Article 5 and Article 7 of the Anglo-French Protocol of 1914.

1. (1) There is hereby established a tax on the added value which accrues upon the first sale of every plot of land subdivided for non-agricultural purposes on or after the 1st day of January, 1967, from any parcel of land subject to the system of registration of land titles.

Added value  
tax imposed  
on sale of  
land sub-  
divided for  
non-agri-  
cultural  
purposes.

(2) For the purposes of this Regulation, the subdivision of land for non-agricultural purposes means the voluntary division, whether simultaneously or successively, of any parcel of land into more than two plots otherwise than for the purpose or with the intention that the said plots shall be used mainly for the growing of crops, dairy farming, fruit farming, forestry, horticulture, bee-keeping or the breeding, rearing or keeping of poultry or livestock. The division of any land into plots at intervals of more than five years shall not be deemed to be a subdivision effected successively.

(3) Every subdivision of land from which no plot has been registered as sold in the Registry of Land Titles before the 1st day of January, 1967, shall be deemed to be a subdivision of land on or after the 1st day of January, 1967.

(4) The provisions of this Regulation shall not apply to any subdivision of land comprising one parcel or more than one contiguous parcels of land of an area or aggregate area of less than one hectare.

(5) For the purposes of this Regulation—

- (a) a lease for more than thirty-three years (whether or not by renewal or renewals of the term thereof) of any plot resulting from the division of a parcel of land into more than two plots;
- (b) the sale or lease for more than thirty-three years (whether or not by renewal or renewals of the term thereof) of a parcel of land to more than two persons for non-agricultural purposes;
- (c) the sale or lease for more than thirty-three years of any land to a corporate body the shares in the capital whereof may be offered for sale to individuals and which will entitle the holders thereof to occupy any portion of such land;

All be deemed to be the sale of land arising from a subdivision, and words "vendor", "purchaser", "sale", "purchase", "conveyance" and "transfer" shall be read and construed accordingly.

(6) The proceeds of the said tax shall accrue to the general revenue of the Joint Administration for the purpose of defraying the expenses of the joint services.

2. (1) For the purpose of assessment of tax, added value shall be determined by means of the following formula—

$$A - B \left( \frac{D}{C} \right)$$

Calculation  
of added  
value.

(2) In the formula prescribed in subsection (1),

A is the sale price of the plot conveyed, or where the consideration for the conveyance is other than money, the present market value thereof as declared by the purchaser to the Registrar of Land Titles, subject to the deduction of—

- (a) the cost of any works of improvement effected to the plot by the vendor which have resulted in an increase in the value thereof;
- (b) the cost of survey (including architectural, engineering and town planning services) attributable to the plot conveyed;
- (c) the cost of providing services to the plot conveyed, including roads and water and electricity supply; and
- (d) the legal expenses of the sale of the plot conveyed, namely, professional fees for the preparation of the deed or instrument of conveyance or commission for acting as agent in the transaction, not exceeding in all ten per centum of the consideration for the sale:

in each case whether paid or effected by the vendor prior to registration of transfer of title or to be paid or effected by him after registration of transfer of title:

Provided that, in the case of any lease of a subdivided plot as described in paragraph (a) of subsection (5) of section 1, the sale price shall be taken to be the aggregate of the total rent to be paid throughout the whole term of the lease and the premium or other consideration whatever, if any, paid or payable to the lessor:

And provided that, in the case of any lease of land as described in paragraph (b) of subsection (5) of section 1, the sale price shall be taken to be the aggregate of the total rent to be paid by all lessees throughout the whole term of the lease and the premium or premiums or other consideration whatever, if any, paid or to be paid to the lessor:

And provided that, in the case of sale of land to a corporate body as described in paragraph (c) of subsection

(5) of section 1, the sale price shall be taken to be either the value of the consideration for the sale or the total price at which all shares in the capital thereof will be offered for sale to individuals, whichever is the greater;

And further provided that, in the case of the lease of land to a corporate body as described in paragraph (c) of subsection (5) of section 1, the sale price shall be taken to be either the total rents and premiums or other consideration whatever, if any, or the total price at which all shares in the capital thereof will be offered for sale to individuals, whichever is the greater;

- B is the purchase price of the land which has been subdivided or, if it has been acquired otherwise than by purchase, the market value thereof at the time of its acquisition as declared by the vendor to the Registrar of Land Titles, in each case increased by fifteen per cent;
- C is the number of square metres of area of the subdivided land (excluding any part of it which is not intended for individual ownership or occupation);
- D is the number of square metres of area of the plot conveyed.

3. (1) The tax shall be payable by the vendor.

Liability for  
tax.

(2) The Registrar of Land Titles shall demand and receive the tax assessed in accordance with the provisions of section 4 when the deed or other instrument of conveyance or other written notification of transfer whatsoever is lodged with him for registration.

(3) Where any contract for the sale of land has been effected prior to the 2nd day of August, 1971, by a deed or other instrument made under British or French law which—

- (a) has been authenticated by a notary public; or
- (b) has been registered in accordance with a system of registration of documents under the appropriate national legal system (which expression shall not include the lodging of documents for the assessment and payment of duty thereon),

no tax shall be payable.

4. (1) The tax shall be assessed and levied—

Assessment  
of tax.

- (a) in the case of urban land, at the rate of twenty-five per centum of the added value as calculated in accordance with section 2;
- (b) in the case of rural land, at the rate of fifty per centum of the added value as calculated in accordance with section 2.

For the purposes of this subsection, the expression "urban land" means the land at Vila and Santo shown hatched on the plans set out in the Schedule to this Regulation and the expression "rural land" means all land other than urban land.

(2) Where the vendor has entered into obligations to the purchaser to pay the cost of any improvements, survey or the provision of services with respect to the subdivided plot after the registration of transfer of title, the Registrar of Land Titles shall require a guarantee by an approved local bank of the payment of the balance of the tax in the event of the improvements not being carried out. In such case, the assessment of tax at the time of registration of transfer of title shall be provisional only and will be revised so that it may be confirmed or varied according to the actual expenditure on improvements to the land and, at the latest, on the expiration of five years from the date of transfer of title.

(3) In any case where the whole or any part of the purchase price has been paid by the purchaser of a plot to the vendor thereof prior to the 2nd day of August, 1971, there shall be allowed as a rebate against the tax such proportion thereof as is equivalent to the proportion that such purchase price paid bears to the total purchase price payable (in each case excluding interest).

(4) (i) The tax shall be subject to a rebate according to the number of complete years which have elapsed since the land came into the ownership of—

- (a) the vendor;
- (b) a person of whom the vendor is a surviving spouse, a descendant or an ascendant or a surviving spouse of either a descendant or an ascendant;
- (c) a family company formed prior to the 2nd day of August, 1971, all of the members whereof are related within the degree of relationship of great grandparentage or of second cousins, and one or more of such members conveyed the land to the company; or
- (d) any two or more of the classes described in the foregoing paragraphs (a), (b) and (c).

(ii) The rate of rebate of tax provided by paragraph (i) of this subsection shall be the percentage of the tax set out in the second column of the table hereunder opposite to the appropriate number of years in the first column thereof—

<i>Years Land Held</i>	<i>Percentage of Tax Allowed as Rebate</i>
Up to 5	Nil
Over 5 to 10	15%
Over 10 to 15	30%
Over 15 to 30	45%
Over 30 to 50	60%
Over 50	80%

(5) When the Resident Commissioners consider that any subdivision scheme will result in a direct, ascertainable benefit of a social or economic nature to the New Hebrides or any part thereof, they may assess the pecuniary value thereof, which shall be allowed as a

against the tax. In any case where the carrying out of any sub-  
division scheme has been made subject by the Resident Commis-  
sioners to the fulfilment of any obligations by the subdivider which  
constitute a pecuniary or other benefit to the Joint Administration, the  
Resident Commissioners may fix the value of the said benefit, which  
shall be allowed as a rebate against the tax.

(1) When the Registrar of Land Titles has reason to believe

Registrar  
may make  
estimated  
assessment.

(i) the consideration recited in any deed or other instrument  
of conveyance or notification of transfer is not the true  
consideration; or

(ii) the declaration of value of any land at the time of its  
acquisition, or of the present value of the consideration for  
any land conveyed, is not accurate;

(iii) the particulars of the cost of any improvements to the land  
or survey, services or legal expenses are not accurate,

he shall assess the tax upon the basis of such value, cost or expenses  
and he shall consider appropriate and shall without delay notify his  
decision to the parties.

(2) The parties to the deed, instrument or notification, or any  
of them, may if they so desire object to such estimated assessment,  
and require that the same be reviewed by an Assessment Committee  
which shall be constituted as follows—

Co-Chairmen: an officer of each national administration;

Members: One member nominated by the Chamber of  
Commerce from its membership;  
the Chief Condominium Surveyor; and  
a leading resident appointed by Joint Decision  
of the Resident Commissioners.

(3) The Assessment Committee after having heard the parties  
and the Registrar of Land Titles shall give its opinion on the factors  
in dispute in the calculation of the added value in accordance with  
the provisions of section 2.

(4) Upon receiving the opinion of the Assessment Committee,  
the Registrar of Land Titles shall fix the amount of the sale price, the  
value of improvements, survey, services or legal expenses, the purchase  
price or the market value of the land at the time of its acquisition,  
whichever may be, upon which the added value shall be calculated  
in accordance with the provisions of section 2, which shall in no  
case exceed the sum estimated by the Assessment Committee.

(5) Any person aggrieved by the decision of the Registrar of  
Land Titles reached in accordance with the provisions of subsection  
(4) may refer the same to the appropriate Court in accordance with  
the practice and procedure of such Court. He shall institute pro-  
ceedings against the Registrar of Land Titles in such Court within  
one month from the date on which the decision objected to shall

been notified to him and shall give him notice of such proceedings. Upon receiving such notice of proceedings the Registrar of Land Titles shall withhold further action until the appropriate Court has determined the proceedings.

(6) In this section the expression "the appropriate Court" means the Court having, under the provisions of the Anglo-French Protocol of 1914 according to the nationality, ressortissance or domicile of the parties and the nature of the case, jurisdiction therein in the case of consent by the parties in accordance with paragraph 1 of Article 21 of the said Protocol, includes the Joint Court.

6. Every person who—

- (i) whether for himself or on behalf of any other person or body corporate, shall knowingly execute any deed or other instrument of conveyance or other notification of transfer whatever in respect of which added value tax is by virtue of the provisions of this Regulation payable, in which the consideration recited is not the true consideration, knowing or intending that such deed, instrument or notification may be lodged with the Registrar of Land Titles for registration; or
- (ii) makes, with respect to any land which has been acquired by him otherwise than by purchase or any consideration for land conveyed which is not pecuniary, a declaration of the value thereof to the Registrar of Land Titles which he knows to be false;
- (iii) knowingly supplies to the Registrar of Land Titles false particulars of the cost of any improvement work, survey, services or legal expenses,

shall be guilty of an offence punishable upon conviction by a fine not exceeding one thousand Australian dollars or by imprisonment for a term not exceeding one year or by both such fine and imprisonment.

7. (1) Where the Registrar of Land Titles is of opinion that the main purpose or one of the main purposes for which any transaction was or transactions were effected was the avoidance or reduction of liability to added value tax, he may, if he thinks fit, with respect to any deed or other instrument of conveyance or other notification of transfer whatsoever, or deed or other instrument of conveyance, whether or not the land affected has been subdivided and, if so subdivided, whether or not by the present vendor thereof, make such adjustments as respects liability to added value tax as he considers appropriate so as to counteract the avoidance or reduction of liability to added value tax which would otherwise be effected by the transaction or transactions.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the powers conferred thereby extend—

- (a) to the charging with added value tax of persons who, but

Penalty for executing conveyance reciting false consideration, making false declaration of value, etc.

Transactions designed to avoid added value tax.

for the adjustments, would not be chargeable with any tax, or would not be chargeable to the same extent;

- (b) to the charging of a greater amount of tax than would be chargeable but for the adjustments.

(3) Any person aggrieved by an adjustment made by the Registrar of Land Titles under the foregoing provisions of this Regulation may refer the same to the appropriate Court (as defined in subsection (6) of section 5). He shall institute proceedings against the Registrar of Land Titles in such Court within one month from the date on which such adjustment was notified to him and shall give him notice of such proceedings. Upon receiving such notice of proceedings, the Registrar of Land Titles shall withhold further action until the appropriate Court has determined the proceedings.

8. The provisions of the New Hebrides Land Registration Regulation No. 3 of 1930 as from time to time amended shall be read and construed together with and subject to the provisions of this Regulation.

J.R. No. 3  
of 1930 to be  
read subject  
to this  
Regulation.

9. The Joint Subdivision of Land (Added Value Tax) Regulation No. 16 of 1971 is hereby repealed:

Repeal of  
J.R. No. 16  
of 1971.

Provided that any sale of land effected on or after the 2nd day of August, 1971, and prior to the coming into operation of this Regulation by a deed or other instrument made under British or French Law which—

- (a) has been authenticated by a notary public; or  
(b) has been registered in accordance with a system of registration of documents under the appropriate national legal system (which expression shall not include the lodging of documents for the assessment and payment of duty thereon),

shall be subject to the provisions of the repealed Joint Regulation if they shall be more favourable to the taxpayer than the provisions of this Regulation.

10. This Regulation may be cited as the Joint Land Subdivision (Added Value Tax) Regulation No. 22 of 1971 and shall come into operation on the date of its publication in the Condominium Gazette.

Citation and  
commence-  
ment.

Made at Vila this 8th day of October, 1971.

LANGLOIS

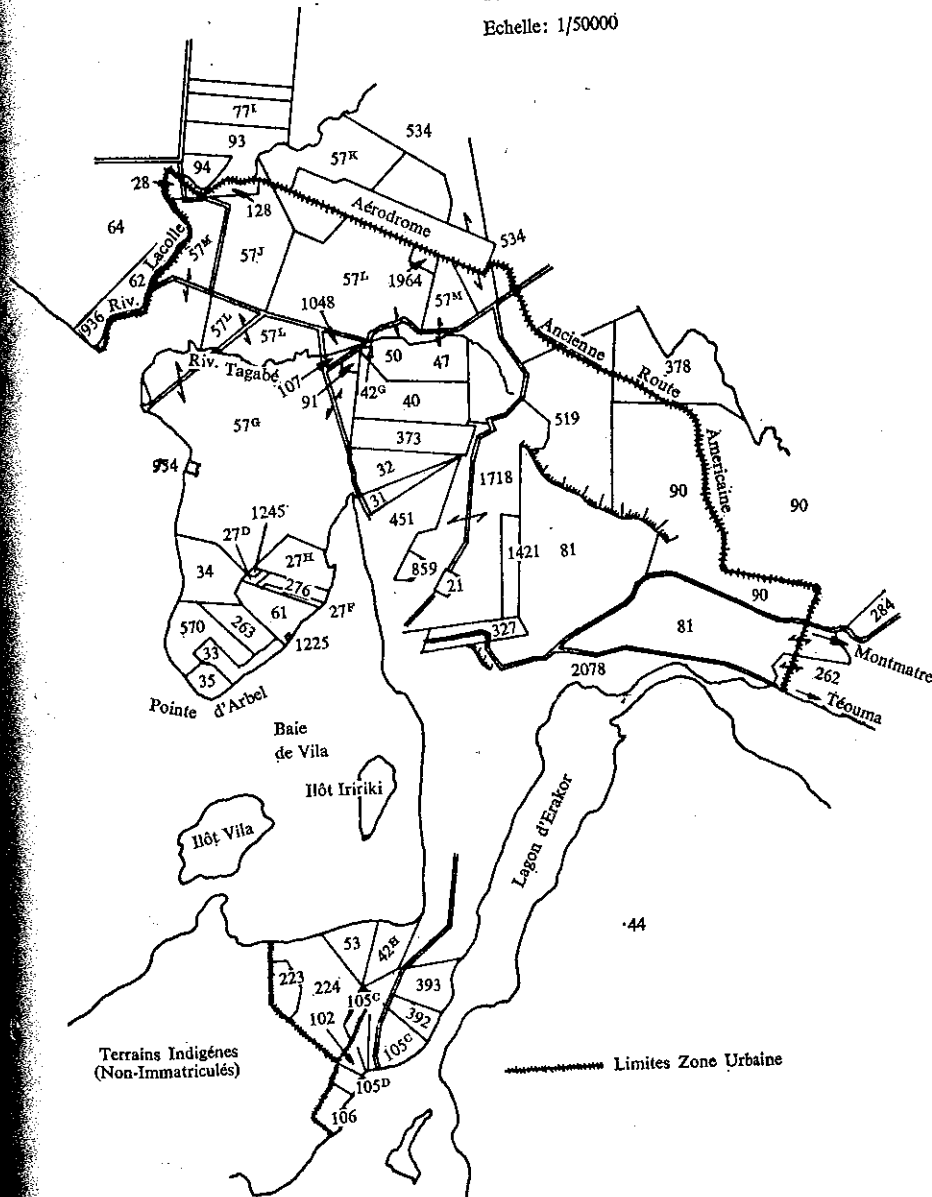
C. H. ALLAN

The Resident Commissioner  
for the French Republic.

Her Britannic Majesty's  
Resident Commissioner.



Zone Urbaine. Port-Vila  
Echelle: 1/50000



Zone Urbaine Santo  
Echelle: 1/50000

