

## **PETROLEUM PROFITS TAXATION BILL, 5771-2011<sup>1</sup>**

This bill was debated in the Knesset at a first reading on 24 Adar I, 5771 (February 28, 2011) and was sent to the Knesset House Committee for the purpose of determining a committee to discuss the bill.

On 2 Adar II, 5771 (March 8, 2011) the Knesset House Committee informed the Knesset that it had decided to refer the bill for deliberation in the Finance Committee.

The bill was submitted, together with reservations, for a second reading and a third reading on 24 Adar II, 5771 (March 30, 2011).

## **PETROLEUM PROFITS TAXATION LAW, 5771-2011**

### **Chapter I: Definitions**

#### **Definitions**

1. In this law –

“Dollar” – Dollar of the United States of America;

“Levy” – Levy on petroleum profits, as defined in section 2;

“Preliminary Permit,” “Commissioner,” “Petroleum Production,” “Lease,” “Petroleum Exploration,” “Commercial Quantities,” “Petroleum,” “License,” “Petroleum Field,” and “Discovery” – as defined in the Petroleum Law;

“The Committee” – The Knesset Finance Committee;

“Petroleum Right” – Preliminary permit, license or lease;

“Petroleum Right of a Petroleum Project” – A petroleum right in the context whereof the petroleum project activity is carried out;

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<sup>1</sup> The English version of all translated law and regulation documents is a non-binding, unofficial translation from the original, binding, Hebrew version and is published for the convenience of the Public. Only the Hebrew version, as officially published in the official gazette (Reshumot) or in the Ministry of Energy website, or in the Israel Government Secretariat, as applicable, shall be binding.

“Petroleum Law” – The Petroleum Law, 5712-1952;

“Index” – The Consumer Price Index, which the Central Bureau of Statistics publishes, and with respect to a holder of a petroleum right who opted to report in dollars according to the provisions of section 13 (b) – the Consumer Price Index published on behalf of the government of the United States (CPI – Consumer Price Index);

“Date of Commencement of Commercial Production” – The earlier date from among the following:

- (1) The date whereon petroleum of a cumulative value of NIS 250 million was produced;
- (2) The date whereon petroleum of a cumulative value equivalent to 5% of the amount of the exploration investments and the establishment investments as defined in Section 4 that were issued up to the same date, provided that this value amounts at least to NIS 10 million;

“Petroleum Project” – a project for the purpose of petroleum production within the context of only one petroleum right;

“Sale” of Petroleum – Including each of the following:

- (1) Transfer of petroleum to a facility for the processing or use thereof as specified below:
  - (a) Refining or altering the chemical composition of petroleum, save for initial treatment required for the purpose of the transmission thereof in the pipeline system as defined in the Natural Gas Economy Law, 5762-2002;
  - (b) Production of energy;
  - (c) Concerning natural gas – liquefying the gas;
  - (d) Other processing or use which the Minister has determined with the authorization of the Committee;
- (2) Transfer of the petroleum to a pipeline or to a ship designated for the export thereof to another country;

“Director”, “Tax Assessing Officer” and “Tax Year” – as defined in the Ordinance;

“Levy Coefficient” – As defined in Section 4;

“Relative Levy Coefficient” – As defined in Section 5;

“Ordinance” – The Income Tax Ordinance;

“Linkage Differentials” – An addition to the amount under discussion equivalent to the aforesaid amount multiplied by the rate of index increase during the period under discussion;

“Linkage Differentials and Interest” – As these are defined in section 159A (a) of the Ordinance;

“Petroleum Profits” – As defined in Section 3;

“Managing Partner” – One of the petroleum rights’ holders of a petroleum project under joint ownership, whom the director has authorized as a managing partner of the project at the request of the petroleum rights’ holders submitted within 90 days of the date of receiving the petroleum right;

“Rate of Index Increase” in a certain period – The difference between the Index published most recently prior to the conclusion of the period and the Index published most recently prior to the commencement of the period divided by the Index published most recently prior to the commencement of the period;

“Revenue” – Revenue in money or in money equivalent from each of the following:

- (1) The sale of petroleum produced in the area of a petroleum right of a petroleum project; on the matter of the sale of the petroleum, as aforesaid in sub-sections (1) and (2) of the definition of “sale”, the amount that would have been received from a sale from a willing seller to a willing buyer, had the petroleum been sold at the date of transfer, in its form prior to that date (in this definition – “the Market Price”) and at a price no less than the average local price, shall be regarded as revenue that was actually received; nonetheless, the tax assessing officer may determine on this matter a price that is lower than the average local price, if the petroleum rights’ holder proves to the satisfaction thereof that one of the following has been fulfilled:
  - (a) He performed a transaction for the sale of petroleum as aforesaid in Israel during the same tax year of a quantity no less than half the quantity that was transferred, as aforesaid, at a price lower than the average local price;
  - (b) He acted with proper diligence to sell petroleum in Israel at a price lower than the average local price and did not succeed to sell the petroleum in Israel at the aforesaid price;

On the matter of this definition –

“The Date of Transfer” – The date the petroleum was transferred to a facility, a pipeline or to a ship, as aforesaid in sub-sections (1) and (2) of the definition of “sale”, as the case may be, and if the facility, pipeline or ship are to be found outside the area of the petroleum right of the project – the date whereon the petroleum was removed from the area of the petroleum right for the transfer thereof to a facility, pipeline, or ship, as aforesaid.

“Average Local Price” – The average price of petroleum of the type with respect to which the market price is calculated in its form prior to the date of transfer in accordance with information on transactions for the sale of petroleum, as aforesaid, made in Israel, during the two years preceding the date of transfer;

- (2) The sale of an asset, payment for which was taken into account in order to calculate the levy coefficient of the petroleum project, up to the amount of payment that was taken into account as aforesaid, with the addition of linkage differentials from the conclusion of the tax year wherein the payment was made until the conclusion of the tax year wherein the revenue was paid;
- (3) The provision of the right of use an asset as aforesaid in sub-section (2), including storage in the area of a petroleum right of the petroleum project, up to the amount of payment that was taken into account as aforesaid with the addition of linkage differentials from the conclusion of the tax year wherein the payment was made until the conclusion of the tax year wherein the revenue was paid;
- (4) Additional revenue, which the Minister of Finance has determined with the authorization of the Committee;

“Period of Establishment” – A period commencing on the day following the termination of the exploration period and concluding on the day preceding the date of commencement of commercial production;

“Operating Period” – A period of 24 months commencing on the date following the termination of the Period of Establishment;

“Exploration Period” – The period from the date of receiving the preliminary permit until the date prior to the date whereon an owner of a petroleum right of a petroleum project submitted an application for obtaining a lease; however, if the director was persuaded, on consultation with the Commissioner, that the rights’ holder deferred the submission of its application for reasons of evading payment of the levy or of an improper reduction of the levy, he may, on consultation with the commissioner, determine an earlier date that is not to precede the date whereon the rights’ holder could have submitted the application, as aforesaid;

“Payment” – Payment in money or money equivalent, save for the following:

- (1) Payment made to owners, directly or indirectly, of a petroleum right of the petroleum project, save for payment to a managing partner for management of petroleum exploration and production within the context of the project, with the deduction of payments constituting indemnity for expenses of the managing partner recognized for the purpose of the Levy (in this definition – “Payment to the Managing Partner”);
- (2) Payment that does not directly serve the requirements of the petroleum project;
- (3) Payment calculated directly or indirectly as a percentage of the petroleum produced from the area of the petroleum right of the petroleum project, from the revenues of the project, all or in part, or from the petroleum profits of the project, save for payment to the Managing Partner;
- (4) Payment for the purchase of a petroleum right or for the purchase of a right to receive payment as aforesaid in sub-section (3).
- (5) Payment for financing expenses.

“The Minister” – The minister of finance.

## **Chapter II: Petroleum Profits Levy and the Rate Thereof**

### **Petroleum Profits Levy**

2. (a) On petroleum profits from a petroleum project in a tax year, a levy shall be paid according to the provisions of this law; the levy shall be at a rate as stated herein in sub-section (b) from the petroleum profits.
- (b) The rate of the levy shall be in the amount of the sum of all the relative levy rates during the tax year divided by 12.
- (c) In this section –

“Relative Levy Rate” – The rate as specified below, calculated with respect to each month of the tax year in accordance with the relative levy coefficient in the same month:

- (1) If the relative levy coefficient is less than 1.5 – 0%;

- (2) If the relative levy coefficient is 1.5 or more but less than 2.3 - 20%, with the addition of 37.5% of the difference between the relative levy coefficient and 1.5, and in any case not to exceed 50% less the product of 0.64 of the difference between the rate of Corporate Tax defined in Article 126 of the Ordinance pursuant to the tax year for which the levy is being calculated, and 18% (in this definition – “Difference from the Corporate Tax”);
- (3) If the relative levy coefficient is 2.3 or more – 50%, less the product of 0.64 of the difference from the Corporate Tax.

### **Calculation of petroleum profits of a petroleum project**

3. (a) The petroleum profits from a petroleum project shall be calculated with respect to each tax year at the end of the same year, as the amount of the difference between the sum of the current revenues during a tax year and the sum of the current payments for the said year.

- (b) In this section –

“Current Revenues” – Revenues actually received during the tax year save for exploration revenues and establishment revenues as these are defined in section 4 (b) (2);

“Current Payments” – Payments as specified herein below, actually paid during the tax year:

- (1) Payments paid directly in connection with creating revenues;
- (2) Establishment investments, as defined in section 4 (b) (2), following the operating period;
- (3) Royalty, according to Article 32 of the Petroleum Law, for petroleum produced within the area of a petroleum right of a petroleum project;
- (4) Payment that directly served the purpose of exploration activities of another petroleum field in the area of a petroleum right of the petroleum project, save for payment included in exploration investments, as defined in section 4 (b) (2), during the exploration period, provided that the owner of the petroleum right requested of the tax assessing officer, within two years from the date of payment, to include it within the context of current payments and the tax assessing officer did not attribute a payment as aforesaid to another petroleum project; payment, as aforesaid, shall be deemed as if actually paid on the date whereon a

request of an owner of a petroleum right was submitted to the tax assessing officer.

#### **Calculation of the Levy Coefficient of a Petroleum Project**

4. (a) The levy coefficient of a petroleum project shall be calculated with respect to each tax year, at the conclusion of that year, as the amount obtained by dividing the accrued income by the accrued investments.

(b) In this section –

(1) “Accrued Income” – The difference between the accrued revenues and accrued payments; on the matter of this definition –

“Accrued Revenues” – The total sum of the following:

(a) The sum of the current revenues as defined in section 3 (b) from the conclusion of the establishment period until the conclusion of the tax year with respect to which the levy coefficient is calculated, with the addition of linkage differentials from the conclusion of the tax year wherein any revenue was received until the conclusion of the tax year with respect whereto the levy coefficient is calculated;

(b) If the exploration revenues as defined in sub-section (2) exceed the exploration investments as defined in the same sub-section, during the exploration period – the sum of the difference between the exploration revenues and the exploration investments, as aforesaid, with the addition of linkage differentials from the conclusion of the tax year wherein the date of the commencement of commercial production began until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;

(c) If the establishment revenues, as defined in sub-section (2) exceed the establishment investments as defined in the same sub-section, during the establishment period – the sum of the difference between the establishment revenues and the establishment investments, as aforesaid, with the addition of linkage differentials from the conclusion of the establishment period until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;

“Accrued Payments” – The total sum of these with the addition of linkage differentials from the conclusion of the tax year wherein these were paid

until the conclusion of the tax year with respect whereto the levy coefficient is being calculated.

- (a) The sum of current payments as defined in sub-section 3 (b) from the conclusion of the establishment period until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;
  - (b) The total of the levies paid in accordance with this law in respect of the same project for the period which preceded the tax year with respect whereto the levy coefficient is being calculated;
  - (c) A payment actually made that directly served for the purpose of exploration activities in another petroleum field within the area of the petroleum right of the petroleum project, during the establishment period, provided that the owner of the petroleum right requested of the tax assessing officer within two years of the date of payment to include it within the context of the accrued payments, and the tax assessing officer did not attribute the aforesaid payment to another petroleum project; payment as aforesaid shall be deemed as if actually paid on the date whereon the request of the petroleum right's holder was submitted to the tax assessing officer;
- (2) "Accrued Investments" – The total amount of all the following:
- (a) Net exploration investments during the exploration period with the addition of the exploration coefficient and all with the addition of linkage differentials from the conclusion of the tax year wherein the date of commencement of commercial production occurs until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;
  - (b) Net establishment investments during the establishment period with the addition of the establishment coefficient, and all with the addition of linkage differentials from the conclusion of the tax year wherein the date of commencement of commercial production occurs until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;
  - (c) Establishment investments during the operating period with the addition of linkage differentials from the conclusion of the tax year wherein these were paid until the conclusion of the tax year with respect whereto the levy coefficient is being calculated;

With respect to this definition –

“Net Exploration Investments during the Exploration Period” – The sum of the difference of the exploration investments during the exploration period and the exploration revenues and if the total difference was negative – an amount equal to zero.

“Exploration Investments” – Payments actually made that served directly for the purpose of petroleum exploration in the area of the petroleum right of the petroleum project, with the addition of linkage differentials with respect to each payment, as aforesaid, from the conclusion of the tax year wherein it was paid until the conclusion of the tax year wherein the date of the commencement of commercial production occurs;

“Exploration Revenues” – Revenues actually received during the exploration period, with the addition of linkage differentials with respect to all revenues, from the conclusion of the tax year wherein it was received until the conclusion of the tax year wherein the date of the commencement of commercial production occurs;

“Exploration Coefficient” – The sum that is the lowest from among the following on the conclusion of the tax year wherein the date of the commencement of commercial production occurs:

- (a) Net exploration investments during the exploration period;
- (b) The higher sum from among the following:
  - (1) 370 million New Israeli shekels;
  - (2) 15% of the all-inclusive sum of the net exploration investments during the exploration period with the addition of the net establishment investments during the establishment period;

“Net Establishment Investments during the Establishment Period” – The sum of the difference between the establishment investments during the establishment period and the establishment revenues and if the total of the difference is negative – a sum that is equal to zero;

“Establishment Investments” – Payments actually made that served directly for the purpose of planning, creating, and establishing the necessary infrastructure for petroleum production in the area of the petroleum right of the petroleum project, or of the infrastructure required for the purpose of storage of petroleum or for the purpose of transporting the petroleum from its location offshore to the onshore area

in Israel, including drilling and a receiving facility, provided that the said infrastructure is located entirely within the area of the State of Israel, including in the underwater areas as defined in the Underwater Areas Law, 5713-1953 and the waters above these;

“Establishment Revenues” – Revenues actually received during the establishment period;

“Establishment Coefficient” – The higher sum from among those at the conclusion of the tax year when the date of commencement of commercial production occurs;

- (a) 370 million NIS with the deduction of the establishment coefficient that was approved for another project within the same license area;
- (b) The difference between the sum of all the coordinated establishment investments and the sum of all the coordinated establishment revenues; on this matter –

“Coordinated Establishment Investment” – The product of the sum of all payments included in the establishment investments during the establishment period, and rate of coordinated interest;

“Coordinated Establishment Revenue” – The product of the sum of any revenue included in the establishment revenues and the rate of coordinated interest;

“Coordinated Interest” – The amount of the difference between the inclusive sum of the Libor interest rate with the addition of 1.03, as raised by a factor equal to the sum of the difference in years, and 1;

“Libor Interest” – An annual average for a tax year wherein the payment was made or the revenue was received, as the case may be, of the daily dollar interest for inter-bank loans on an annual basis as published daily by the British banking organization (London Inter-bank Offered Rate), which is published for the public’s knowledge by the “Reuters” information agency or any other interest, which the Minister has determined;

“Difference in Years” – The number of years that have elapsed from the conclusion of the tax year wherein the payment was made or the revenue received, as the case may be, until the conclusion of the tax year wherein the date of commencement of commercial production occurs;

### **Calculating the Relative Levy Coefficients of a Petroleum Project**

5. (a) At the conclusion of the tax year, the relative levy coefficients of a petroleum project shall be calculated.
- (b) A relative levy coefficient, with respect to any month of the tax year, shall be the amount equal to the levy coefficient of the petroleum project on the conclusion of the previous tax year, with the addition of the difference factor multiplied by the number of months that have elapsed since the conclusion of the previous tax year until the conclusion of the month with respect to which the relative levy coefficient is being calculated; on this matter “the Difference Factor” – the amount equal to the difference between the levy coefficient of a petroleum project at the conclusion of the tax year and the levy coefficient of a petroleum project at the conclusion of the previous tax year, divided by 12.

### **Transfer of Petroleum Profits to Successive Tax Years**

6. (a) In the event that petroleum profits of a petroleum project in any tax year amount to less than zero, the sum thereof shall be subtracted from the petroleum profits of the project in successive tax years, one year after another, provided that if the said sum may be subtracted in one of the successive years, as aforesaid, a deduction shall not be permitted during the year following thereafter.
- (b) If a sum as aforesaid in sub-section (a) is transferred from one year to the next, Libor interest shall be added to it with the addition of 3%; in this section – “Libor interest” – an annual average for a tax year wherein the sum was transferred, of the daily dollar interest for inter-bank loans on an annual basis as published daily by the British banking organization (London Inter-bank Offered Rate), which is published for the public’s knowledge by the “Reuters” information agency.

### **Attributing the Components of the Levy Coefficient**

7. (a) If a license was granted in the area of a certain preliminary permit, the coefficient components received or spent, as the case may be, in the area of the said preliminary permit shall be taken into account as part of the levy coefficient of the petroleum project in the license area before the license was granted (in this sub-section – “Components of the Preliminary Permit”), and as aforesaid the components received or spent, as the case may be, in the area of another preliminary permit shall not be taken into account; if several

licenses were granted in the area of one preliminary permit, the director may, in consultation with the Commissioner, determine the manner of attributing the components of the preliminary permit to each one of the projects in the areas of the aforesaid licenses.

- (b) If a lease was granted in the area of a certain license, the coefficient components received or spent in the area of the said license shall be taken into account as part of the levy coefficient for the petroleum project in the area of the license before the lease was granted, and the said components received or spent, as the case may be, in another license area shall not be taken into account.

### **Rules for the Merger or Separation of Petroleum Projects**

- 8. (a) The director may instruct, in consultation with the Commissioner, within the context of determining a tax assessment based on the best judgment in accordance with section 14 (b), or as part of a tax decision under Article 44 that was issued at the request of an owner of a petroleum right of a petroleum project, that several petroleum projects on the matter of this law be deemed as one petroleum project, provided that the date of commencement of commercial production has not yet occurred and that all the following are fulfilled, *inter alia*:
  - (1) The petroleum rights of the petroleum projects are located within the area of the same petroleum field;
  - (2) The petroleum rights of the petroleum projects are under the ownership of the same entities and with the same rates of ownership;
  - (3) Most of the facilities that will serve each of the petroleum projects are joint facilities;
  - (4) The director has been persuaded that the principal reason for the request is not the evasion of payment of the levy or improper reduction of the levy.
- (b) The director may instruct, in consultation with the Commissioner, within the context of determining a tax assessment based on the best judgment in accordance with section 14 (b), or as part of a tax decision under Article 44 that was issued at the request of an owner of a petroleum right of a petroleum project, that one petroleum project on the matter of this law be deemed as several petroleum projects in accordance with the division of the petroleum fields in the area of the petroleum right of the same project or in accordance with the division of the geological strata in which different types of petroleum

may be found in the same area, as the case may be, provided that all the following are fulfilled, *inter alia*:

- (1) In the area of the petroleum right of the petroleum project there are several petroleum fields or several types of petroleum are located in separate geological strata, which may be produced in commercial quantities;
- (2) Most of the facilities that will serve each of the petroleum projects following the separation, are separate;
- (3) The sale of the petroleum from each petroleum field, or of each type of petroleum, as the case may be, is carried out separately;
- (4) The director has been persuaded that the principal reason for the submission of the application is not evasion of payment of the levy or improper reduction of the levy.

### **Chapter III: Payment of the Levy**

#### **Obligation to Pay the Levy**

9. (a) Each of the owners of a petroleum right of a petroleum project is required to pay the levy in accordance with his relative share thereof in the petroleum right.
  - (b) (1) Notwithstanding the aforesaid in sub-section (a), if an owner of a petroleum right of a petroleum project made a payment that was calculated, directly or indirectly, as a percentage of the petroleum produced in the area of the petroleum right of the petroleum project, from all or some of the revenues of the project, or from the project's petroleum profits (in this sub-section – “the Derived Payment”), the recipient of the derived payment shall be obligated to pay the levy in the sum equivalent to the product of the derived payment and the levy rate that applies to the petroleum project during the same tax year in which the payment was received, but not to exceed the sum of the levy that the owner of the petroleum right who paid the derived payment would have been obligated to pay if not for the provisions of this sub-section (in this sub-section – “the Participation Sum”); the participation sum shall be deducted from the sum of the levy that the owner of the petroleum right who paid the derived payment was obligated to pay; in this matter, “Payment” – shall include payments as aforesaid in sections (1) to (5) of the definition for “Payment.”

- (2) If the levy coefficient for a petroleum project in a tax year that preceded the payment of the derived payment is 1 or more, the owner of the petroleum right who pays the derived payment, as aforesaid in sub-section (1), shall deduct, prior to the transfer thereof, an amount that constitutes 50% from the aforesaid payment, on account of the levy that the recipient of the derived payment is obliged to pay, and shall transfer it to the tax assessing officer within 7 days of the date of the deduction together with a report as to be determined by the director; the tax assessing officer shall be entitled to reduce the rate as aforesaid in this section if he is convinced that the rate of the levy that will apply to the petroleum project in that tax year will be less than 50%.
  - (3) If the levy rate that applies to a petroleum project during the tax year in which the derived payment was received is less than 50%, and if the tax assessing officer has defined a different rate in accordance with the provisions of sub-section (2) – lower than the rate determined, or that the sum deducted in accordance with sub-section (2) was greater than the sum of the levy that the payer of the derived payment was obligated to pay, the excess participation sum that was deducted according to sub-section (2) shall be refunded, together with linkage differentials and interest from the date of the deduction to the date of its refund.
  - (4) If an owner of a petroleum right did not deduct a sum as aforesaid in sub-section (2), all or in part, and the recipient of the derived payment did not pay the participation sum it owes, according to sub-section (1) by the date determined in section 10 (a), the participation sum according to the provisions of sub-section (1) shall not be deducted from the sum of the levy the owner of the petroleum right who paid the derived payment owes.
  - (5) The director may determine rules on the matter of deductions pursuant to this sub-section.
- (c) If an owner of a petroleum right of a petroleum project opted, according to the provisions of section 13 (b), to report in dollars, he shall pay the levy in New Israeli shekels according to the representative rate of the dollar, determined by the Bank of Israel, known on the last day of the tax year with respect to which the levy is calculated.

### **Date of Payment and Advance Payments**

10. (a) The levy shall be paid at the conclusion of 30 days following the date of submission of the levy coefficient report and the petroleum profits report in accordance with section 13.

- (b) The Minister may determine provisions regarding the payment of advance payments on account of the levy.

### **Payment of the Levy following Assessment, Objection and Appeal**

- 11. (a) If an assessment notice in accordance with section 14 (b) (2) was delivered to a person who owes payment of the levy, he shall be obligated to pay the balance of the levy owed therefrom within 15 days of the date on which such notice was delivered; and if an objection was filed in accordance with the provisions of section 15 – the balance of the levy that is not in dispute.
- (b) If a decision of the tax assessing officer in accordance with section 15 (d) was delivered to a person who owes payment of the levy, he shall be obligated to pay the balance of the levy derived therefrom within 15 days of the date on which such notice was delivered; and if he has filed an appeal in accordance with the provisions of Article 153 of the Ordinance – the balance of the levy that is not in dispute.
- (c) If a decision of the court in the appeal in accordance with Articles 156 or 157 of the Ordinance was delivered to a person who owes payment of the levy, he shall be subject to the provisions of Article 185 of the Ordinance as if he was the assessee.

### **Deferred Payment and Linkage Differentials and Interest**

- 12 The provisions of Article 186 and 187 of the Ordinance shall apply to the payment of the levy in accordance with this section, *mutatis mutandis*.

## **Chapter IV: Duties to Report and Levy Assessment**

### **Duty to Report**

- 13. (a) The owner of a petroleum right of a petroleum project shall submit with respect to each tax year commencing in the first tax year in the exploration period, a report regarding the components of the levy coefficient of the project during the tax year with respect to which the report is submitted (in this law – “the Levy Coefficient Report”) and a report with respect to petroleum profits of the project during the same year (in this law – “the Petroleum Profits Report”).

- (b) The owner of a petroleum right of a petroleum project shall inform the tax assessing officer by the end of the exploration period, within the framework of the levy coefficient report which he is to submit and not later than the date for submitting the levy coefficient report he must file regarding the tax year in which the last day of the exploration period occurs, whether he wishes to report in New Israeli shekels or dollars; such notice as aforesaid shall obligate the owner of a petroleum right with respect to all levy coefficient reports and all petroleum profits reports that he is to submit within the context of the petroleum project. If the owner of a petroleum right did not give notice as aforesaid, he shall be deemed as having opted to report in New Israeli shekels.
- (c) The levy coefficient report and the petroleum profits report shall be submitted to the tax assessing officer within 120 days of the termination of the tax year with respect where to these are submitted, on a form determined by the director; the tax assessing officer may, if proved to his satisfaction that there is sufficient reason, defer the submission of the reports, some or all of them, to a date to be determined, provided that the recipient of the aforesaid deferment shall file on the date determined in this section estimated reports regarding the aforesaid levy coefficient and the petroleum profits, to be prepared according to his best estimates.
- (d) The director may determine rules on the matter of conducting accounting books and rules for currency conversion with respect to those who have opted to report in dollars.
- (e) Should the owner of a petroleum right of a petroleum project request to file the reports in dollars as stated in sub-section (b) as part of a levy coefficient report that is not the first report he has filed, the tax assessing officer shall determine provisions to coordinate and convert the reports already submitted prior to the date aforesaid.

### **Levy Assessment**

- 14. (a) If the owner of a petroleum right of a petroleum project submits a levy coefficient report and a petroleum profits report in accordance with the provisions of section 13, the reports shall be deemed as a self-assessment of the levy coefficient of the project, the petroleum profits of the project and the levy that applies with respect thereto.
- (b) Within 12 months of the date of submission of the levy coefficient report and petroleum profits report, the tax assessing officer may do one of the following:
  - (1) Approve the self-assessment;

- (2) Determine according to his best judgment the components of the levy coefficient of the petroleum project within the tax year, the petroleum profits of the project within the same year or the levy that applies with respect thereto, if he has reasonable grounds to assume that the reports are inaccurate.
- (c) If a petroleum profits report is not submitted with respect to any tax year whatsoever, the tax assessing officer may determine the petroleum profits of the petroleum project in that same year according to his best judgment and may impose a levy accordingly with respect to the project.
- (d) If a levy coefficient report is not submitted with respect to any tax year whatsoever during the exploration period, the establishment period or the operating period – the exploration investments during the exploration period, the establishment investments during the establishment period or the establishment investments during the operating period, as the case may be, shall be deemed as if these amounted to zero in that year; in this sub-section, “establishment investments” and “exploration investments” – shall be as defined in section 4 (b) (2).
- (e) If a levy coefficient report is not submitted with respect to any tax year whatsoever from the conclusion of the establishment period, all the relative levy coefficients with respect to the same tax year shall be deemed as if such amounted to 2.3.

### **Objection Before the Tax Assessing officer**

- 15. (a) If the tax assessing officer determines his best judgment the components of the levy coefficient of the petroleum project in a tax year, the petroleum profits of the project in the same year or the levy that applies with respect thereto, according to the provisions of section 14 (b) (2) or (c) (in this chapter – “an Assessment Notice According to Best Judgment”), the owner of a petroleum right of a petroleum project may request in a written reasoned notice of objection that the tax assessing officer review and amend the assessment within 30 days of the date that the assessment notice according to best judgment was served; on this matter, only a levy coefficient report or a petroleum profits report, as the case may be, shall be deemed as an objection to an assessment according to best judgment, pursuant to section 14 (c), that is submitted with respect thereto.
- (b) Whoever prepared the assessment of the levy shall not deal with the objection thereto.

- (c) If the tax assessing officer receives a notice of objection, according to the provisions of sub-section (a), he may require of the person who objects to deliver thereto all particulars that he deems necessary on the matter of the levy coefficient of the petroleum project, the petroleum profits of the project and the levy that applies with respect thereto, and on this matter the provisions of Article 151 of the Ordinance shall apply, *mutatis mutandi*.
- (d) Within six months of the date of receiving notice of objection according to the provisions of sub-section (a), the tax assessing officer shall decide whether to accept the objection or to reject it, all or in part, in a reasoned notice, and he may prepare an agreement on this matter with the owner of the petroleum right of a petroleum project; if the tax assessing officer rejects the objection, all or in part, he shall determine in writing the components of the levy coefficient of the petroleum project in the tax year, the petroleum profits of the project in the same year or the levy that applies with respect thereto, as the case may be, and he may increase the components, the profits or the levy, as aforesaid, beyond the sums he determined in the assessment notice according to best judgment.
- (e) If the tax assessing officer failed to utilize the authorities he has according to this section within the period determined in sub-section (d), the objection shall be viewed as accepted.
- (f) The owner of a petroleum right of a petroleum project may appeal the decision of the tax assessing officer on an objection According to the provisions of sub-section (d), and the provisions of Articles 153 to 158 of the Ordinance shall apply, *mutatis mutandi*, to the matter of an appeal, as aforesaid.

#### **Determination of the Market Price by a Tax assessing officer**

- 16. (a) A tax assessing officer may, for the purpose of determining the levy coefficient of a petroleum project or the petroleum profits of a petroleum project, during a tax year, within the context of an assessment notice according to best judgment –
  - (1) Determine that the sum of the payment paid or the sum of the revenue received does not reflect the market price and the sum of the revenue or the payment as aforesaid, as the case may be, shall be calculated in accordance with the market price, unless the tax assessing officer is persuaded that the sum of the payment or the revenue, as the case may be, was determined in good faith and without being influenced, directly or indirectly, by the existence of special relations;

- (2) Determine that the payment that ought to have been paid or the revenue that ought to have been received, and was not paid or not received, as the case may be, shall be deemed as paid or received according to the market price, unless the tax assessing officer is persuaded that the non-payment or non-receipt, as the case may be, was in good faith and was not influenced, directly or indirectly, by the existence of special relations.
- (b) In this section -
  - “Special Relations” – as defined in Article 85A of the Ordinance;
  - “Market Price” – the price that may be anticipated in a sale by a willing seller to a willing buyer.

### **Reporting Partner**

- 17. (a) If a petroleum right of a petroleum project is under joint ownership, the owners of the petroleum right shall request of the tax assessing officer, within 30 days of having received the right, to recognize one of them as the reporting partner on the matter of this chapter, provided that he is a resident of Israel as defined in the Ordinance; nonetheless, the tax assessing officer may recognize an owner of a petroleum right who is not a resident of Israel as the reporting partner, for special reasons to be noted.
- (b) If a request is not submitted according to the provisions of sub-section (a), the tax assessing officer may inform the owners of the petroleum right of the identity of the reporting partner.
- (c) If the tax assessing officer recognizes a reporting partner in accordance with a request submitted to him according to sub-section (a) or determined a reporting partner according to sub-section (b), the reporting partner on the matter of this chapter shall be deemed as the sole owner of a petroleum right of a petroleum project in the matter of this chapter and the reports, the objections and the appeals of the reporting partner shall be viewed as the reports, the objection and the appeals of each of the owners of the petroleum rights of the petroleum project.

## **Chapter V: Separate Sale of Petroleum from Jointly Owned Projects**

### **Separate Sale of Petroleum from Jointly Owned Projects**

18. Should the tax assessing officer become aware that petroleum produced from the area of a petroleum right of a jointly owned petroleum project was sold separately by all or some of the partners, under different business conditions including different sale prices (in this section – “Separate Sale”), the following provisions shall apply:
- (1) The levy coefficient shall be calculated separately for each partner and the levy imposed upon each partner in accordance with section 2 will be calculated according to the relative levy coefficients for the said partner.
  - (2) Notwithstanding the provisions of section 17, each of the partners shall file a levy coefficient report and a petroleum profits report as aforesaid in section 13, with the changes set forth in sub-section (3), and each of the aforesaid partners shall be subject to the provisions of Chapter IV as these apply to an owner of a petroleum right.
  - (3) The levy coefficient report and the petroleum profits report of each one of the partners as aforesaid in sub-section (2) shall include his share in the levy coefficient report and the petroleum profits report as submitted by the reporting partner as set forth in sub-section (4), according to his relative share in the petroleum right, with the addition of revenues from the separate sale and the direct payments he had to pay for the purpose of the separate sale (in this section – “Separate Sale Payments”).
  - (4) Notwithstanding the provisions of sub-section (2) –
    - (a) The reporting partner shall submit a levy coefficient report and a petroleum profits report; the aforesaid reports will not include the revenues of each one of the partners from the separate sale or the separate sale payments;
    - (b) The operating partner shall attach to the reports as aforesaid in sub-section (a) the report on the quantity of petroleum attributed to each one of the partners for the purpose of the separate sale;
    - (c) Notification as aforesaid in section 13 (b) shall be submitted only by the reporting partner and shall obligate each of the partners.
  - (5) Notwithstanding the provisions of section 9 (a), each one of the owners of the petroleum right of the petroleum project shall be obligated to pay in accordance with the assessment of the petroleum profits determined for it.

## **Chapter VI: Taxation of a Petroleum Partnership**

## Taxation of a Petroleum Partnership

19. (a) The provisions of the Ordinance shall apply to a petroleum partnership, with the following amendments:
- (1) On the matter of Article 63 (a) (1) of the Ordinance, the share of each partner during the tax year will be calculated from the taxable income of the petroleum partnership or from its losses, which it reported according to the provisions of sub-section (2);
  - (2) Notwithstanding the provisions of Articles 63 (a) (2) and (3) of the Ordinance, the general partner shall be required to submit a report on the taxable income of the petroleum partnership or the losses thereof, in accordance with the instructions set forth by the director, including instructions on the matter of submitting a report authorized by an accountant and coordinated thereby for tax purposes; a report in accordance with this section shall be deemed as a report according to Article 131 of the Ordinance, *mutatis mutandi*;
  - (3) If a report as aforesaid in sub-section (2) is submitted, on the matter of determining the taxable income of the petroleum partnership or the losses thereof, the provisions of Part IX of the Ordinance shall apply thereto, subject to the provisions of sub-section (5) and *mutatis mutandi*;
  - (4) If a report as aforesaid in sub-section (2) is not submitted, the tax assessing officer may determine in accordance with his best judgment the sum of the taxable income for the petroleum partnership or the losses thereof, and the provisions of Part IX of the Ordinance shall apply thereto, subject to the provisions of sub-section (5) and *mutatis mutandi*;
  - (5) The general partner, and he alone, may object to or appeal the taxable income assessment of the petroleum partnership and the losses thereof, which the tax assessing officer has determined, according to the provisions of Articles 150, 153 and 157 of the Ordinance; the remaining partners may object to or appeal the consequence of the said assessment on their income thereof but not the assessment itself.
  - (6) The general partner shall pay, at the time that it submits the report according to the provisions of sub-section (2), the tax ensuing therefrom, on account of the tax that the partners in the petroleum partnership owe regarding the tax year with respect to which the report was submitted, according to the percentage of the share of the partners who are a body of persons, in the petroleum partnership, and the

percentage of the share of the partners who are individuals, in the same partnership, on termination of the tax year with respect where to the report was submitted, provided that on this matter the taxable income of the individuals in the partnership shall be viewed as if the maximum tax rate applies thereto according to the provisions of Article 121 of the Ordinance, unless it can be proven to the tax assessing officer that the tax rate that applies to the said individual is lower than the rate as aforesaid; on the matter of this sub-section, the provisions of Article 187 (a) of the Ordinance shall apply *mutatis mutandi*.

- (7) (a) The tax assessing officer shall deliver to the general partner the notices of assessment on the taxable income of the petroleum partnership or the losses thereof, according to the provisions of the Ordinance;
  - (b) If an assessment notice is delivered to the general partner according to Article 149 of the Ordinance, he is obligated within 15 days of the date of delivery of the notice to pay the balance of the tax ensuing therefrom; and if he submitted an objection according to the provisions of Article 150 of the Ordinance – the balance of the tax that is not in dispute;
  - (c) If an amended assessment notice was delivered to the general partner in accordance with Article 152 (a) of the Ordinance or an order according to Article 152 (b) of the Ordinance, he is obligated within 15 days of the date of delivery of the notice or the order to pay the balance of the tax ensuing therefrom; and if he submitted an appeal according to the provisions of Article 153 of the Ordinance – the balance of the tax that is not in dispute;
  - (d) If a decision of the court concerning an appeal in accordance with Articles 156 or 157 of the Ordinance is delivered to the general partner, the provisions of Article 185 of the Ordinance shall apply thereto as if he were the assessee.
- (8) (a) The tax assessing officer may determine advance payments on account of the tax the partners in the petroleum partnership shall be obligated to pay during the same tax year; the percentage of the advance payments shall be at the rate of the corporate tax stated in Article 126 of the Ordinance; advance payments, as aforesaid, shall be paid by the general partner; advance payments in accordance with this sub-section shall be deemed as advance payments determined in accordance with Article 175 of the Ordinance, *mutatis mutandi*.

(b) If the tax paid in accordance with the provisions of sub-section (a) is greater than the tax ensuing from the report in accordance with sub-section (6), the excess shall be refunded to the general partner and, on this matter, the provisions of Article 159A of the Ordinance shall apply, *mutatis mutandi*.

(b) In this section -

- (1) “Petroleum Partnership” – a partnership as defined in the Income Tax Regulations (Rules for the Calculating of Tax on Possession and Sale of Participation Certificates in Petroleum Exploration Partnerships) 5749-1988;
- (2) “General Partner” – as defined in the Partnerships Ordinance [New Version] 5735-1975;
- (3) Each term in this clause shall have the meaning intended for it in the Ordinance, unless it has been explicitly determined otherwise.

## **Chapter VII: Special Deduction In Lieu of Depreciation**

### **Special Deduction In Lieu of Depreciation**

20. (a) To calculate the taxable income of the owner of a petroleum right of a petroleum project, according to the Ordinance, each tax year commencing with the tax year wherein the date of the commencement of commercial production occurs, a deduction shall be recognized for any owner of a petroleum right, at a rate as stated in sub-section (b), according to his selection made in advance as stated in sub-section (c), from the original cost of a deductible asset under his ownership, provided that the amount of the deduction permitted for each asset, as aforesaid, shall not exceed the original cost thereof.
- (b) The rate of deduction shall be one of the following as selected by the owner of a petroleum right:
- (1) A fixed percentage not to exceed 10% (in this section – “Deduction at a Fixed Percentage”);
  - (2) A variable percentage, so that in each tax year the amount of the comprehensive deduction for each deductible asset with respect to which a deduction has been selected at a percentage in accordance with this section, shall be in the amount of the taxable income of the owner of the petroleum right prior to the deductions in accordance with this

section and subsequent to deductions in accordance with sub-section (1), provided that the deduction in accordance with this section attributed to every deductible asset shall not exceed 10% of the original price thereof; the director may determine instructions on the matter of attributing the deduction, as aforesaid, to each deductible asset.

- (c) An owner of a petroleum right of a petroleum project shall inform the director, on a form that the director has determined, regarding the types of deductions as aforesaid in sub-section (b), which he selects with respect to each deductible asset, and if he selects a deduction at a fixed percentage, the percentage of the deduction, and all at as the date specified herein below, as the case may be:
  - (1) With respect to a deductible asset purchased up to the conclusion of the tax year wherein the date of the commencement of commercial production occurs – on the submission of a report according to Article 131 of the Ordinance with respect to the tax year wherein the aforesaid date occurs;
  - (2) With respect to a deductible asset purchased during any tax year whatsoever subsequent to the tax year wherein the date of the commencement of commercial production occurs – on the submission of a report, according to Article 131 of the Ordinance with respect to the same tax year.
- (d) If the owner of a petroleum right of a petroleum project gives notice of his selection as aforesaid in sub-section (c), he shall not be able to revoke such.
- (e) If the owner of a petroleum right of a petroleum project is a petroleum partnership as defined in sub-section 19 (b), the general partner, as defined in the aforesaid section, shall give notice of the partnership's selection as aforesaid in sub-section (c) and his selection thereof shall obligate all of the partners; on this matter, paragraph (2) of sub-section (b) shall be read such that "taxable income of the owner of the petroleum right" shall be replaced with "taxable income of the petroleum partnership that was reported in accordance with section 19 (a) (2)."
- (f) Deduction in accordance with this section shall come in lieu of depreciation pursuant to Article 21 of the Ordinance and the owner of a petroleum right of a petroleum project shall not be entitled to depreciation in accordance with the Ordinance; the provisions on the matter of depreciation in accordance with the Ordinance shall apply to the deduction as aforesaid as if it were depreciation, *mutatis mutandi*.
- (g) (1) In this section –

“A Deductible Asset” – Machinery or equipment owned by the owner of a petroleum right of a petroleum project that is used for the purpose of generating income from the production of petroleum in the area of the petroleum right of the petroleum project, and exploration and development expenses; and all, provided they are not considered a deductible expense according to the Income Tax Regulations (Deductions from the income of owners of petroleum rights), 5716-1956;

“Exploration and Development Expenses” – Any expenses paid for the exploration and development of a petroleum asset, all or part, including expenses for geological, geophysical and geochemical tests and trials and the like, except for landed property;

“Petroleum Asset” – A separate petroleum reserve located beneath the area for which a petroleum right was given, and the area above the ground required for producing the petroleum, and provided that the owner of the petroleum right is entitled to choose that several separate petroleum reserves are considered as a single petroleum asset, if they are found underneath the area for which the same petroleum right was given or for which several consecutive petroleum rights were given, or non-consecutive rights that are operated as a single unit.

- (2) Each term in this clause shall have the meaning intended for it in the Ordinance, unless explicitly determined otherwise.

## **Chapter VIII: Penalties**

### **Failure To Submit A Report, Failure To Conduct Accounting Records And The Distruction or Concealment Of Documents**

21. A person who commits one of the following shall be liable to one year imprisonment or a fine as aforesaid in Article 61 (a) (2) of the Penal Code, 5737-1977 (in this law – “the Penal Code”):
  - (1) Failed to file on time a levy coefficient report or a petroleum profits report according to the provisions of section 13;
  - (2) Failed to conduct accounting records in accordance with the provisions of the director, given pursuant to section 42;
  - (3) Destroyed or concealed documents necessary or likely to be required for the purpose of an assessment pursuant to this law.

### **Transfer of Assets with the Intention to Avoid Tax Collection**

22. (a) A person who transferred the assets thereof to another without having transferred control thereof, with the intent to avoid the collection of the levy he was obligated to pay or that he would be obligated to pay in the future with respect to the period that preceded the transfer or during the year of the transfer – shall be liable to two years' imprisonment or a fine, as aforesaid in Article 61 (a) (3) of the Penal Code.
- (b) A person who distributes company assets as defined in Article 1 of the Ordinance among the members thereof with the intent to avoid the collection of a levy that the company owes or that it shall be obligated to pay in the future with respect to the period that preceded the transfer or during the year of the transfer – shall be liable to two years' imprisonment or a fine as aforesaid in Article 61 (a) (3) of the Penal Code, provided that the amount of the fine shall not exceed the amount of the debt.

### **Unlawful Representation**

23. A person who represents an owner of a petroleum right of a petroleum project for the purpose of the provisions of this law and he is not one of those listed in Article 236 of the Ordinance, as applied in section 45 – shall be liable to one year of imprisonment or a fine as aforesaid in Article 61 (a) (4) of the Penal Code.

### **Inaccurate Reporting and Information**

24. A person who for no reasonably justified reason prepared an inaccurate petroleum profits report or an inaccurate levy coefficient report by omitting an element of the components of the levy coefficient or the petroleum profits of a petroleum project, or recorded such with a missing item, or a person who gave inaccurate information pertaining to any matter or issue that affect the obligation thereof to pay a levy or the obligation of another person – shall be liable to two years of imprisonment or a fine, as aforesaid in Article 61 (a) (3) of the Penal Code; and the missing amount of the petroleum profits of a petroleum project or the levy, whichever is higher, that was determined due to the same inaccurate report or information, or that was likely to be determined had the report or information been accepted as accurate.

### **Failure to Deduct**

25. A person who has not deducted an amount that he was to have deducted pursuant to section 9 (b) – shall be liable to one year of imprisonment or a fine as aforesaid in

Article 61 (a) (2) of the Penal Code and twice the amount of all the sums that were not deducted.

### **Failure to Transfer a Sum Deducted**

26. A person who has deducted a sum pursuant to section 9 (b) and did not transfer it to the tax assessing officer as stated in the aforementioned section – shall be liable to two years of imprisonment or a fine as aforesaid in Article 61 (a) (3) of the Penal Code and twice the sum of all the aforesaid deductions.

### **Fraud**

27. A person who deliberately performs one of the following with the aim to avoid payment of the levy, pursuant to this law – is punishable by five years of imprisonment or a fine as aforesaid in Article 61 (a) (4) of the Penal Code and twice the sum from the petroleum profits of the petroleum project or the levy, whichever is higher, who concealed or intended to conceal –
- (1) Omitted from a levy coefficient report or a petroleum profits report, pursuant to this law, one of the components of the levy coefficient or the petroleum profits of a petroleum project, which should have been included in the report;
  - (2) Gave a false statement or record in a levy coefficient report or a petroleum profits report pursuant to this law;
  - (3) Replied with a false response, verbally or in writing, to a question asked or to a demand for information addressed thereto pursuant to this law;
  - (4) Prepared or conducted false accounting records or other fraudulent listings or falsified accounting records or account books;
  - (5) Committed a fraudulent act as defined in Article 414 of the Penal Code.

### **Liability of an Officer in a Corporation**

28. (a) An officer in a corporation is obligated to supervise and do all that is possible to prevent offenses, pursuant to this chapter, by the corporation or by any employee thereof; a person who violates this provision is liable to a fine, as aforesaid in Article 61 (a) (4) of the Penal Code; on the matter of this section, “an Officer” – is an active director in a corporation, a partner except for a limited partner, or an executive liable on behalf of the corporation for the sphere wherein the offense was committed.

- (b) If an offense is committed according to this chapter by a corporation or by any employee thereof, it is presumed that an officer of the corporation breached a duty thereof, pursuant to sub-section (a), unless he proves that he did all that was possible to fulfill his obligation.

### **Linkage of the Sum on which the Fine is Imposed**

- 29. On the matter of a fine pursuant to this chapter, based on a sum from the petroleum profits of a petroleum project or from the levy, the base shall be increased according to the rate of increase of the Consumer Price Index published by the Central Bureau of Statistics between the last Index published prior to the conclusion of the tax year to which the same base relates and the last Index published prior to the fine being imposed.

### **Financial Forfeit**

- 30. (a) The authority of the director to take a financial forfeit pursuant to Article 221 of the Ordinance shall apply as well with respect to a person who committed an offense pursuant to sections 21 to 27.
- (b) The provisions of Article 252A (a) of the Penal Code shall apply as well with respect to a forfeit imposed in accordance with sub-section (a).

## **Chapter IX: Financial Penalty**

### **Financial Penalty**

- 31. If the director has reasonable grounds to assume that an owner of a petroleum right of a petroleum project did not file a levy coefficient report or a petroleum profits report by the date as aforesaid in section 13 (in this chapter – “a Violation”), he may impose thereon a financial penalty in the amount of 50,000 New Israeli shekels for each full month’s delay in the filing of the report.

### **Demand for a Financial Penalty and Payment Thereof**

- 32. A financial penalty due to a violation pursuant to section 31 shall be paid upon the written demand of the director on a form that he determined (in this chapter – “Notice of Obligation”) within 30 days of the date of dispatch of the notice of obligation; in the notice of obligation shall be specified, *inter alia*, details of the violation regarding which the financial penalty and rate thereof were imposed and

shall also contain information with respect to the right to contend contentions to the director, as stated in section 33.

### **Statement of Contentions**

33. (a) An owner of a petroleum right of a petroleum project who was sent a notice of obligation may, within 30 days of the date of dispatch of the aforesaid notice, submit to the director in writing the contentions thereof on the matter of imposing the financial penalty and the rate thereof (in this section – “Statement of Contentions”); an affidavit confirming the facts specified therein shall be attached to the statement of contentions.
- (b) If an owner of a petroleum right of a petroleum project submits a statement of contentions to the director, the director shall decide on the basis of the statement of contentions and the affidavit whether to leave the notice of obligation in place or to revoke it and he may, in order to make a decision as aforesaid, summon the person who submitted the statement of contentions for a hearing in his presence; notice of the director’s decision pursuant to this sub-section shall be sent to the person who submitted the statement of contentions.
- (c) The submission of a statement of contentions in accordance with this section shall not delay the timely payment of the financial penalty as aforesaid in section 32.
- (d) If the financial penalty has been paid and the director decides, pursuant to this section, to revoke the notice of obligation, the financial penalty shall be refunded with the addition of linkage differentials and interest from the date of payment thereof until the date of refund thereof.

### **Updating the Sum of the Financial Penalty**

34. (a) The financial penalty shall be in accordance with the updated sum thereof on the date of delivery of the notice of obligation, and if an appeal is filed and the court hearing the appeal orders the delay of the payment thereof – according to the updated sum thereof on the date of the decision on the appeal.
- (b) The sum of the financial penalty shall be updated on January 1 each year (in this section – “the Date of Update”) according to the percentage of the rise in the Index published by the Central Bureau of Statistics, as known on the date of the update in the preceding year and on the matter of the first date of update – according to the Index known on January 1, 2011; the aforesaid sum shall be rounded off to the nearest multiple of 1,000 New Israeli shekels.

- (c) The director shall publish by way of a notice in *Reshumot* the sum of the updated financial penalty.

### **Linkage Differentials and Interest**

- 35. If a financial penalty has not been paid on time, linkage differentials and interest shall be added thereto for the period of the arrears until the payment thereof (in this chapter – “Addition for Arrears”).
- 36. The Tax Ordinance (Collection) shall apply to the collection of the financial penalty and the addition for arrears.

### **Appeal to the Magistrate’s Court**

- 37. (a) The decision of the director pursuant to this chapter may be appealed to the Magistrate’s court within 30 days of the date of delivery of the decision.
- (b) The filing of an appeal pursuant to this section shall not delay the payment of the financial penalty unless the director agreed thereto or if the Court has ordered otherwise.
- (c) If the Court decides to accept the appeal filed pursuant to this section, subsequent to the payment of the financial penalty according to the provisions of this chapter, the financial penalty shall be refunded, with the addition of linkage differentials and interest from the date of the payment thereof until the date of refund thereof.

### **Maintaining Criminal Liability**

- 38. (a) Payment of the financial penalty shall not derogate from the criminal liability of an owner of a petroleum right of a petroleum project due to a violation.
- (b) If an indictment is brought against an owner of a petroleum right of a petroleum project by reason of offense violation according to section 31, he shall not be obligated as a result thereof to make the payment of the financial penalty and if he paid – the amount he paid shall be refunded, with the addition of linkage differentials and interest from the date of payment thereof until the date of refund thereof.

## **Chapter X: Enforcement Authorities**

### **Appointment of Supervisory Tax assessing officers**

39. (a) The Minister may appoint tax assessing officers, from among the tax assessing officers, who shall have the authorities given in section 40, all or in part, to carry out the provisions pursuant to this law (in this section – “Supervisory Tax Assessing Officer”).
- (b) A supervisory tax assessing officer shall not be appointed unless all the following are fulfilled with respect to him:
- (1) The Israel Police declares, no later than 3 months from the date of receiving information on the tax assessing officer, that it has no objection to the authorization thereof for reasons of public security, including due to his criminal past;
  - (2) He received suitable training within the sphere of the authorities to be granted thereto pursuant to section 40, as the Minister has directed;
  - (3) He meets additional qualification criteria as the Minister, in consultation with the Minister of Internal Security, has directed.

### **Enforcement Authorities**

40. If a suspicion arises that an offense according to this law has been committed, a supervisory tax assessing officer may –
- (1) Investigate any person connected to the offense, as aforesaid, or who is likely to have knowledge pertaining to the offense, as aforesaid; the provisions of Articles 2 and 3 of the Criminal Procedure Ordinance (Testimony) shall apply to an investigation pursuant to this sub-section, *mutatis mutandi*:
  - (2) Request a search warrant according to Article 23 of the Criminal Procedure Ordinance (Arrest and Search) (New Version) 5729-1969 from the Court and execute it; the provisions of Articles 24 (a) (1), 26 to 28 and 45 of the aforesaid Ordinance shall apply, *mutatis mutandi*, to a search pursuant to this sub-section.

## **Chapter XI: Miscellaneous**

### **Fine for Arrears**

41. (a) If a person is in arrears more than 7 days in the payment of the levy he is obligated to pay pursuant to section 9 or payment of any part thereof, a fine, shall be added to the sum in arrears in the amount of the linkage differentials

and interest from the date determined for payment until payment of the amount in arrears (in this section – “Conclusion of the Fine Period”).

- (b) To a fine as aforesaid in sub-section (a) linkage differentials and interest shall be added from the conclusion of the fine period until the date of payment of the fine, and the fine shall be viewed as a tax liability on the matter of Article 195A of the Ordinance.

#### **Authority to Obligate Conducting Account Books**

- 42. Authorities of the director pursuant to Article 130 of the Ordinance shall be granted thereto on the matter of this law, *mutatis mutandi*.

#### **Authorities of Obtain Information**

- 43. Authorities of a tax assessing officer pursuant to the Chapter II, Part VIII of the Ordinance shall be granted thereto insofar as necessary for the implementation of the provisions according to this law, *mutatis mutandi*.

#### **Taxation Decision**

- 44. On the matter of Chapter 2 in Part IX of the Ordinance, the provisions of this law shall be deemed as tax laws, as aforesaid in sub-section (1) of the definition of “Tax Laws” in Article 158 B of the Ordinance.

#### **Representation of an Owner of a Petroleum Right**

- 45. Article 236 of the Ordinance shall apply to the representation of an owner of a petroleum right of a petroleum project on the matter of the provisions pursuant to this law, *mutatis mutandi*.

#### **Service of Notices**

- 46. The provisions of Article 238 of the Ordinance shall apply to the service of notices pursuant to this law.

#### **Collection**

- 47. The provisions of the Tax Ordinance (Collection) shall apply to the collection of the levy.

## **Updating Amounts**

48. The amount determined in the definitions “Exploration Coefficient” and “Establishment Coefficient” in section 4 (b) (2) shall be updated on January 1 each year (in this section – “the Date of Update”), according to the rate of increase of the Consumer Price Index published by the Central Bureau of Statistics known on the date of update in the preceding year, and on the matter of the first date of update – according to the Index known on January 1, 2011; the aforesaid sum shall be rounded off to the nearest 1,000 New Israeli shekels. The director shall publish by way of a notice in *Reshumot* the updated sums.

## **Director’s Authorities**

49. The authorities of the tax assessing officer pursuant to this law shall also be given to the director.

## **Confidentiality**

50. The provisions of Articles 231 to 235 D of the Ordinance shall apply to the execution of the provisions of this law, *mutatis mutandis*.

## **Execution and Regulations**

51. The Minister of Finance is charged with the execution of this law, and he shall be entitled to enact regulations to ensure its execution, inter alia, with regard to forms, reports, affidavits and notifications that may be required in accordance with the provisions of this law.

## **Amendment of the Income Tax Law (#184)**

52. In the Income Tax Law –

- (1) In section 3, following sub-section (c) shall come:

“(c1) Sums received by the person owing payment of the levy pursuant to the Petroelum Profits Taxation Law, 5771-2011 that are refunded thereto due to overpayment of the levy shall be deemed as earnings or profit from a business or occupation of the person who received such, at the time of receipt thereof”;

- (2) In section 17, following sub-section (14) shall come:

“(15) A levy paid according to the Petroleum Profits Taxation Law, 5771-2011 by a person owing such in accordance with the same law.”

## **Chapter XII: Fund to Manage Monies from the Levy on Petroleum Profits**

### **Fund to Manage Monies from the Levy on Petroleum Profits**

53. (a) The government shall establish a fund to manage the monies received from the levy on petroleum profits in accordance with this law, which shall be used for social-economic purposes.
- (b) The fund shall be established by way of a law that will set forth its method of operations, the manner in which the monies managed thereby are spent and the purposes for which they are to be transferred; the said draft bill shall be submitted to the Knesset not later than 4 Heshvan 5772 (November 1, 2011).

## **Chapter XIII: Application and Transitional Provisions**

### **Application and Transitional Provisions**

54. (a) During the period from the date of commencement of this law (hereinafter – “the Date of Commencement”) and until 19 Tevet 5776 (December 31, 2015), the definition of the “relative levy rate” in section 2 (c) shall read as follows:

“‘Relative levy rate’ – the rate as specified herein below, calculated with respect to each month of the tax year in accordance with the relative levy coefficient in the same month:

- (1) If the relative levy coefficient is less than 1.5 – 0%;
  - (2) If the relative levy coefficient is at 1.5 or more, but less than 2.3 – 20% with an addition of 37.5% of the difference between the relative levy coefficient and 1.5;
  - (3) If the relative levy coefficient is 2.3 or more – 50%.”
- (b) For the purpose of calculating the petroleum, profits of a petroleum project for the tax year wherein the date of commencement occurs, current revenues

and current payments, as defined in section 3(b), that were received or were paid out, as the case may be, shall be taken into account, on the date of commencement or thereafter.

(c) For a petroleum project whose date of commencement of commercial production occurs prior to the date of commencement, the provisions of this law shall apply with the following amendments:

(1) If a duty to pay the levy applies with respect to a project, as aforesaid, in a tax year wherein the date of commencement occurs, the rate of the levy in the same tax year shall be half of the rate of the levy levied on petroleum profits, if not for the provisions of this sub-section, and not greater than 10%;

(2) If the levy coefficient rose to over 1.5 in a tax year wherein the date of commencement occurs, for the purpose of calculating the levy coefficient in each subsequent tax year, the deduction amount, with the addition of linkage differentials from the conclusion of the tax year wherein the date of commencement occurs until the conclusion of the tax year with respect whereto the levy coefficient is calculated, shall be deducted from the amount of accrued income of the project, in the tax year wherein the date of commencement occurs and in each subsequent tax year; on this matter sub-section –

“Accrued income” – as defined in section 4 (b) (1);

“The Deduction Amount” – the amount that shall be deducted from the accrued income during the tax year wherein the date of commencement occurs, so that the levy coefficient in that year shall be 1.5;

(3) The rate of the levy to be imposed on the petroleum profits of the project in each of the tax years 2012 to 2015 shall be equal to half the rate of the levy that would have been imposed on the petroleum profits, as aforesaid, if not for the provisions of this sub-section, according to the provisions of sections 2 to 5, with the changes set forth in sub-section (2);

(4) Notwithstanding the provisions of section 20 (c), an owner of a petroleum right shall give notice of the selection thereof as aforesaid in the same section, on filing a report pursuant to Article 131 of the Ordinance with respect to the tax year wherein the date of commencement occurs.

(5) Notwithstanding the provisions of sub-sections (1) to (4), a petroleum project as aforesaid in this sub-section may so choose to have the provisions of paragraphs (1) to (4) of this sub-section, or paragraphs (1)

to (3) of sub-section (d) apply thereto. The petroleum project shall inform the director of his choice within 120 days of the date of commencement.

- (d) With respect to a project where the date of commencement of commercial production occurs during the period from the date of commencement until 29 Tevet 5774 (January 1, 2014), the following provisions shall apply:
  - (1) In the definition “the Operating period”, “48” shall replace “24”;
  - (2) In the definition of “the Relative Levy Percentage” in section 2 shall be read so that “1.5” shall be replaced with “2” and “2.3” shall be replaced with “2.8”;
  - (3) Section 20 (b) with respect to a deductible asset as defined in the same section that was purchased from the period between 25 Tevet 5771 (January 1, 2011) and 28 Tevet 5774 (December 31, 2013), 10% shall be replaced with 15%.
- (e) The Minister of Finance, with the agreement of the Minister of National Infrastructures and with the committee’s approval, shall be entitled to extend the determining date noted in the beginning of sub-section (d) (hereinafter, “the Original Date”) for a period not to exceed six months, if he is convinced that up until the original date no commercial production has commenced for reasons that are not dependant upon the owner of the petroleum right, even though the owner of the petroleum right has done his best to ensure that commercial production commences on the original date.
- (f) Notwithstanding the provisions of section 13, with respect to an owner of a petroleum right of a petroleum project who received the petroleum right prior to the date of commencement -
  - (1) The levy coefficient report to be submitted pursuant to the aforesaid section shall include a report with respect to the sum of the components of the levy coefficient of the project during the period from the date of receiving the petroleum right until the conclusion of the tax year wherein the date of commencement occurs;
  - (2) The petroleum profits report to be submitted pursuant to the aforesaid section shall include a report with respect to the sum of petroleum profits of the project during the period from the date of receiving the petroleum right until the conclusion of the tax year preceding the tax year wherein the date of commencement occurs, as well as a report with respect to petroleum profits of the project during the tax year wherein the date of commencement occurs.

- (g) The provisions of Chapter VI shall apply to taxable income or losses of a petroleum partnership during the tax year 2011 and following thereafter.

Signed:

Binyamin Netanyahu – Prime Minister

Yuval Steinitz – Minister of Finance

Shimon Peres – President of the State

Reuven Rivlin – Speaker of the Knesset