

LAWS OF THE WEST INDIES

CHAPTER 151

INCOME TAX (FEDERAL EMOLUMENTS)

CHAPTER 151

THE INCOME TAX (FEDERAL EMOLUMENTS)  
ACT, 1958

ARRANGEMENT OF SECTIONS

*Section*

1. Short title.
2. Application.
3. Interpretation.
4. Appointment of administrative authority.
5. Official secrecy.
6. Charge of income tax.
7. Residents.
8. Basis of assessment.
9. Exemptions.
10. Deductions allowed.
11. Allowance for wear and tear.
12. Deductions not to be allowed.
13. Deduction for individuals.
14. Deduction for wife—Maintenance and alimony—Deduction for children—Deduction in respect of relatives taking charge of widower's or widow's children or acting as housekeeper—Deduction in respect of dependent relatives.
15. Deduction in respect of life insurance and contribution to Widows' and Orphans' fund.
16. Deduction in respect of wife's earned income.
17. Deductions to be made only in the case of residents and non-resident British subjects.
18. Wife's income.
19. Rates as per schedule.
20. Chargeability of trustees, etc.
21. Chargeability of agent of person residing out of the Federation.
22. Acts, etc., to be done by trustees, etc.
23. Lists to be prepared by representative or agent.
24. Agents, etc., of non-residents to be assessed.
25. Indemnification of representative.
26. Deceased persons.
27. Artificial transactions, transfers to minors and in trust.
28. Returns of personal incomes.

29. Power of Commissioner to require returns.
30. Commissioner to make assessments—Acceptance of return—Refusal of return—Assessment in default of return—Additional tax for non-return of income—Commissioner may remit additional tax—Judge's discretion re additional tax.
31. Appointment of agent in the United Kingdom.
32. Lists of persons assessed and notices of assessment.
33. Notices to be served on persons assessed—Objections to assessment.
34. Appeals against assessments—Notice of appeal and delay for appealing—Attendance of appellant—Notice of date of hearing to be given to Commissioner and the appellant—Burden of proof—Judge's power as to assessment—Notice to appellant of Judge's assessment—Mode of hearing appeal—Costs of appeal—Finality of appeal—Power to state case—Rules—Appellant to give security for payment of tax.
35. Assessments, etc., not void by reason of errors therein in names and descriptions.
36. Omissions and undercharges may be rectified within three years.
37. Circumstances under which repayment may be made.
38. Relief in respect of United Kingdom Income tax—Certificate of United Kingdom Commissioners—Computation of rate of tax.
39. Relief in respect of Commonwealth income tax—Residents—Non-residents—Commonwealth income tax defined—Computation of rate of tax—Resident defined.
40. Period within which a claim may be made for relief from double taxation.
41. Arrangements for relief from double taxation of income.
42. Tax credits, Interpretation—General requirement of residence—Limits on total credit—Effect on computation of income of allowance of credit—Miscellaneous.
43. Power of Commissioner to require schedule of particulars—Power of Commissioner to require persons to attend before him.
44. Tax payable by deduction at source.
45. Date of payment—Procedure in cases where objection or appeal is pending—Collection of tax after determination of objection or appeal.
46. Penalty for non-payment of tax; and enforcement of payment.
47. Recovery of tax.
48. Issue of warrants to enforce payment.
49. When assessment has already been made—When assessment has not been made—Charging tax during a chargeable year and before assessment.
50. Construction.
51. Certificates—Judgments.

LAWS OF THE WEST INDIES

INCOME TAX (FEDERAL EMOLUMENTS)

Cap. 151

3

52. Garnishments—Service of garnishees.
53. Signatures of notices.
54. Service of notice.
55. False statements and returns.
56. Penalties for offences.
57. Limitation of time for prosecutions.
58. Saving for criminal proceedings.
59. Governor-General may remit tax.
60. Regulations.

SCHEDULES.

First Schedule.

Second Schedule.

Third Schedule.

**AN ACT** to provide for levying income tax upon income derived from the sources specified in paragraph 9 of the Exclusive Legislative List in the Third Schedule to the Constitution. <sup>Act 19/1958.</sup>

*Date of assent* .. .. . 31st December, 1958  
*Commencement* .. .. . 3rd January, 1958

1. This Act may be cited as the Income Tax (Federal Emoluments) Act, 1958. <sup>Short title.</sup>

2. This Act shall apply to the Turks and Caicos Islands and to the Cayman Islands. <sup>Application.</sup>

3. In this Act, unless the context otherwise requires— <sup>Interpretation.</sup>

“body of persons” means any body politic, corporate, or collegiate and any company, fraternity, fellowship or society of persons whether corporate or not corporate;

“chargeable income” means the aggregate amount of the income of any person from the source specified in section 6 of this Act remaining after allowing the appropriate deductions and exemptions under this Act;

“Commissioner” means the Commissioner or Commissioners charged with the administration of this Act;

“company” means any company incorporated or registered under any law in force in the Federation, and any company which, though incorporated or registered outside the Federation, carries on business or has an office or place of business therein:

“earned income” means, in relation to any individual, any income arising in respect of—

- (a) any gains or profits from any employment, including any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in paragraph (c) of subsection (1) of section 15 of this Act and the estimated annual value of any quarters or board, residence or of any other allowance granted in respect of employment whether in money or otherwise, but not including the payment for any passage from or to the Federation for the purpose of leave granted in respect of the employment where such passage is actually utilised; or
- (b) any pension, superannuation or other allowance, deferred pay or compensation for loss of office given in respect of the past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation or other allowance or not;

“guardian” in relation to an infant, includes parent;

“incapacitated person” means any infant, married woman, person of unsound mind, idiot or insane person;

“income tax” includes surtax and any other tax, however described, which is imposed, charged or levied upon income;

“income year” means any year following the 31st day of December, 1957 in respect of which was paid the income in relation to which the expression is used;

“law of the Territory of residence” does not include this Act;

“person” includes a body of persons;

“personal allowances” means—

- (a) in relation to federal income, the allowances provided for by sections 13, 14, 15, and 16 of this Act;
- (b) in relation to territorial income the allowances provided for from time to time under the provisions specified in the First Schedule of this Act.

“Territory of residence” means the Territory in which the taxpayer ordinarily resides during the income year, and the term “territorial” shall be construed accordingly.

4. For the due administration of this Act the Governor-General may appoint a Commissioner or Commissioners and such other officers and persons as may be necessary and shall furnish such Commissioner or Commissioners with warrants of appointment under his hand.

5. (1) (a) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income or items of the income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect.

(b) Every such oath as is required by this section may be made and subscribed—

- (i) by the Commissioner, before the Registrar of the Federal Supreme Court, and

(ii) by any person other than the Commissioner, before the Commissioner who is hereby authorised to administer such oath.

(2) Every person having possession of or control over any document, information, returns, or assessment lists or copies of such lists relating to the income or items of income of any person who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists or copies to any person—

(a) other than a person to whom he is authorised by the Governor-General to communicate it, or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence.

(3) Where, under any law in force in any Commonwealth country or in any place under Her Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in the Federation the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that Commonwealth country or in that place under Her Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in the Federation or from income tax in that part or place aforesaid.

Charge of  
income tax.

6. Income tax shall, subject to the provisions of this Act, be payable in accordance with the rules specified in the Second Schedule to this Act, upon earned income, whether received in the Federation or not, derived from emoluments or allowances (including pensions, gratuities and other like allowances but not including travelling and subsistence allowances) paid on or after the 3rd day of January, 1958 from the public funds of the Federation to the President, Vice-President or a member of the Senate, or to the Speaker, Deputy Speaker or a member of the House of Representatives or to persons who are in the service of the Crown in respect of the government of the Federation, which service, for the purposes of this Act, includes service as a judge of any federal court or as a member of the Council of State.

7. For the purposes of this Act a person shall be <sup>Residents.</sup> deemed to be resident in the Federation who—

- (i) resides in any of the Territories, or
- (ii) is in the service of the Crown in respect of the government of the Federation in an office the duties of which require that he shall reside outside the Federation and who immediately before his appointment to any such office was normally resident in a Territory, and for the purposes of this Act that Territory shall be deemed to be the Territory of residence for such person for any income year during which such person was so required to reside outside the Federation.

8. Subject to the provisions of this Act, tax in <sup>Basis of assessment.</sup> respect of the year 1958 and each succeeding year shall be charged, levied and collected, upon the chargeable income of any person in respect of such year whether such income is received in such year or in any subsequent year.

9. (1) The official emoluments received by the officer <sup>Exemptions.</sup> administering the government of the Federation in respect of the period in which he is administering the government, and the official emoluments drawn by the Governor-General in respect of any period spent on leave, shall be exempt from tax under this Act and under any other law in force in any Territory which provides for the levying of income tax.

(2) Any income liable to tax under section 6 of this Act shall be exempt from tax under any other law in force in any Territory which provides for the levying of income tax.

(3) Where any allowance to any such person as is specified in section 6 of this Act is certified by the Financial Secretary to represent compensation—

- (a) for the extra cost of having to live outside the Federation in order to perform his duties, or
- (b) for the actual expenses incurred by such person in performing his duties as a representative of the Federation outside of the Federation,

that allowance shall not be deemed to be income for the purposes of this Act or any other law in



force in any Territory which provides for the levying of income tax.

Deductions  
allowed.

10. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred during the income year by such person in the production of the income, including—

- (a) sums paid by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income:

Provided that—

- (i) the income of the person who receives or is entitled to receive the interest is specifically exempted from tax under the law of the Territory of residence of the taxpayer, or
- (ii) where such person's income is not so exempt, the interest is chargeable to tax under the law of the Territory of residence of the taxpayer;
- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
- (c) where any person engaged in any trade, business, profession, or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession, or vocation, and which has become obsolete, an amount equivalent to the cost of the plant or machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

- (d) any sum expended for repair of premises, plant, and machinery employed in acquiring the income or for the renewal, repair, or alteration of any implement, utensil, or article so employed;
- (e) annuities or other annual payments paid out of income liable to tax under section 6 of this Act and whether payable within or out of the Federation, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract:

Provided that no voluntary allowances or payments of any description shall be deducted;

Provided further that no deduction under this paragraph shall exceed an amount which bears to the total annuities and other annual payments the same proportion as the amount liable to tax under section 6 of this Act bears to the amount of his total income from all sources;

- (f) rates and taxes on real estate (but not including income tax);
- (g) premiums paid on any fire insurance policy entered into with an insurance company approved by the Governor-General on property used in acquiring the income upon which the tax is payable;
- (h) such other deductions as may be authorised by resolution of the Senate and the House of Representatives.

(2) The Governor-General may, by regulations, provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

11. In ascertaining the chargeable income of any person engaged in a trade, business, profession, or vocation, there shall be allowed as a deduction a reasonable amount for <sup>Allowance for wear and tear.</sup>

the exhaustion by wear and tear of any plant and machinery, and any buildings used exclusively for housing such plant and machinery, owned by him, arising out of the use or employment of such plant or machinery in the trade, business, profession, or vocation during the income year:

Provided that such plant or machinery was used or employed in the production of such income.

Deductions  
not to be  
allowed.

12. For the purpose of ascertaining the chargeable income of any person, no deduction shall be allowed in respect of—

- (a) domestic or private expenses;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital;
- (d) any capital employed in improvements;
- (e) any sum recoverable under an insurance or contract of indemnity;
- (f) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of acquiring the income;
- (g) any amounts paid or payable in respect of the United Kingdom income tax or surtax or Commonwealth income tax as defined by this Act.

Deduction  
for  
individuals.

13. In ascertaining the chargeable income of an individual there shall be allowed a deduction of one thousand two hundred dollars.

Deduction  
for  
wife.

14. (1) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had during the income year his wife living with him or wholly maintained by him and that he is not entitled in computing the amount of his income for that year for the

LAWS OF THE WEST INDIES

purposes of this Act to make any deduction in respect of the sums paid for the maintenance of his wife under paragraph (a) of subsection (2) hereof there shall be allowed a deduction of four hundred and eighty dollars.

(2) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the income year, paid—

Maintenance and alimony.

- (a) a maintenance or separation allowance to his wife in accordance with the terms of a registered deed of separation or an order of any court of competent jurisdiction, or
- (b) alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction,

there shall be allowed a deduction of such maintenance or separation allowance or such alimony.

(3) In ascertaining the chargeable income of any individual who proves to the satisfaction of the Commissioner that he had the custody of and maintained at his own expense any child born in the income year or who at the commencement of that year was under the age of sixteen years or who in the course of that year received full time instruction as a student at a university, university college, college, school, trade, or other technical school, or was serving as an apprentice under articles entered into for a period of not less than two years, there shall be allowed a deduction—

Deduction for children.

- (a) in respect of every such child who in the course of that year resided in the Territory of residence of the individual or resided outside that Territory but did not receive full time instruction as a student outside that Territory at a university, university college, secondary school, trade or other technical school, the sum of two hundred and forty dollars;
- (b) in respect of every such child who has attained the age of ten years and who in the course of that year received full time instruction as a

student at a university, university college, secondary school, trade or other technical school in that Territory and for that purpose resided away from the place where such individual is ordinarily resident, the sum actually paid for his board and lodging and education in such year, but not exceeding in any case the sum of nine hundred and sixty dollars;

- (c) in respect of every such child who has attained the age of ten years and who in the course of that year received full time instruction as a student outside that Territory at a university, university college, secondary school, trade or other technical school the sum actually paid for his board and lodging and education in such year, but not exceeding in any case the sum of twelve hundred dollars:

Provided that no deduction shall be allowed under paragraph (a) hereof in respect of any child who was entitled in his own right to an income equal to or exceeding two hundred and forty dollars in the income year:

Provided further that the deduction allowed under paragraph (b) or paragraph (c) hereof, in respect of any child who was entitled in his own right to an income in the income year, shall not exceed the amount by which the sum so expended on his board and lodging and education exceeds such income:

Provided further that in calculating the income of the child for the purpose of the foregoing provisos no account shall be taken of any income to which the child is entitled as the holder of a scholarship, exhibition, bursary, or other similar educational endowment, or of any emoluments paid to the child during his period of service as an apprentice.

The expression "child" in this subsection includes a step-child or an adopted child.

(4) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that during the income year he was a widower and that a female relative of his or of his deceased wife was resident with him for the purpose of having the charge and care of any child of his or in the capacity of a housekeeper, there shall be allowed, subject as hereinafter provided, a deduction of two hundred dollars in respect of that female relative:

Deduction in respect of relatives taking charge of widower's or widow's children or acting as house-keeper.

Provided that—

- (a) no deduction shall be allowed under this subsection unless the claimant proves that no other individual is entitled to a deduction in respect of the female relative under the provisions of this Act or if any other individual is so entitled, that the other individual has relinquished his claim thereto; and
- (b) no deduction shall be allowed under this subsection where the female relative is a married woman living with her husband, and the husband has claimed and been allowed a deduction under the provisions of subsection (1) of this section; and
- (c) no deductions shall be allowed under this subsection where the claimant has claimed and been allowed in respect of the female relative a deduction under the provisions of subsection (5) of this section; and
- (d) not more than one deduction of two hundred dollars shall be allowed to any claimant under this subsection in any year; and
- (e) this subsection shall apply to a claimant being a widow as it applies to a claimant being a widower with the substitution of "her deceased husband" for "his deceased wife"; and the expression "child" means a child in respect of whom a deduction is allowed under this Act.

Deduction  
in respect of  
dependent  
relatives.

(5) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that during the income year he maintained at his own expense any person being his or his wife's father or mother (not being an unmarried or widowed mother) or his or his wife's aunt or grandmother or a child, brother or sister of his or of his wife, who is incapacitated by old age or infirmity from maintaining himself or herself, or being his or his wife's unmarried or widowed mother whether incapacitated or not, and in any of the above cases, being a person whose total income from all sources does not exceed two hundred dollars a year, there shall be allowed a deduction of two hundred dollars in respect of each person whom he so maintained:

Provided that—

- (a) where two or more persons jointly maintain any such person as aforesaid, the deduction to be made under this subsection shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person; and
- (b) this subsection shall apply to a claimant being a female person as it applies to a claimant being a male person with the substitution of "husband" for "wife".

Deduction  
in respect  
of life  
insurance  
and contri-  
bution to  
Widows'  
and  
Orphans'  
fund.

15. (1) In ascertaining the chargeable income of any individual who—

- (a) has made insurance on his life or the life of his wife, or has contracted for any deferred annuity on his life or the life of his wife, with any company, as defined in this Act, carrying on the business of life insurance, or with any other body of persons carrying on the business of life insurance which is legally established in the United Kingdom or in any Commonwealth country or in the Republic of Ireland, or with any registered friendly society, or with any approved body of persons carrying on the business of life insurance; or

- (b) before the first day of July, 1958 has made insurance on his life or the life of his wife, or has contracted for any deferred annuity on his life or the life of his wife, with any body of persons legally established in any foreign country and not carrying on the business of life insurance in the Federation; or
- (c) has made a contribution to any widows and orphans pensions scheme under any law in force in the Federation or in the United Kingdom or in any Commonwealth country, or to any approved fund or scheme,

there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contract or of the annual amount of such contribution, as the case may be:

Provided that the aggregate of the premiums and contributions in respect of which relief is given to any person under this subsection shall not exceed an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Act before making the deductions specified in this section and in sections 13, 14 and 15 of this Act.

(2) For the purposes of this section a contribution of an employee paid by an employer on behalf of the employee to an approved fund or scheme referred to in paragraph (c) of subsection (1) of this section shall be deemed to be a contribution to such fund or scheme by the employee.

(3) In this section—

“approved” means approved by the Governor-General;

“any Commonwealth country” includes India, Pakistan, any British Protectorate or protected State, South West Africa, and any territory administered by any of Her Majesty’s Governments under the trusteeship system of the United Nations;

“contract” means an agreement which provides for the payment to the individual by a company of



a pension or annuity to commence at a specified age, or for the payment of a lump sum in lieu of such pension or annuity;

“foreign country” means any country other than the United Kingdom, any Commonwealth country or the Republic of Ireland;

“pension age” means the specified age at which the payment of a pension or annuity under a contract is due to commence;

“registered friendly society” means a friendly society registered under any law in force in the Federation providing for the registration of friendly societies.

(4) Where the insurance or contract referred to in subsection (1) of this section was made after the first day of July, 1958, the deduction allowed by the said subsection shall, subject to the provisions of the said subsection, be limited to seven per centum of the capital sum payable on the insurance policy or contract and no such deduction shall be allowed in respect of the insurance policy unless there is a capital sum payable at death whether in conjunction with any other benefit or not:

Provided that where the insurance or contract was made for a period of not less than ten years by an individual who has attained the age of fifty years, and—

- (a) the insurance policy does not mature before the individual attains the age of sixty-five years; or
- (b) the pension age under such contract is not less than sixty-five years,

the provisions of this subsection limiting the amount of the deduction to be allowed to seven per centum of the capital sum payable on the insurance policy or contract shall not apply:

Provided further that if—

- (a) any such contract is surrendered before the individual attains the pension age, the amount

payable to the individual on such surrender shall be deemed to be part of his income for the year in which the surrender is made;

- (b) the individual who has made any such contract dies before he attains the pension age, the amount payable under the contract on such death shall in equal shares be deemed to be part of the income of the individual for the year in which he died and for each of the two years immediately preceding such year, and the estate of the individual shall accordingly be liable to be assessed by the Commissioner at such amount or additional amount as according to the judgment of the Commissioner ought to be charged, and the provisions of this Act as to notice of assessment, appeal, and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.

16. (1) In ascertaining the chargeable income of any individual there shall be allowed a deduction equal to the amount of any earned income of his wife but not exceeding in any case two hundred and forty dollars. Deduction in respect of wife's earned income.

(2) A deduction shall not be allowed under subsection (1) of this section unless the individual proves to the satisfaction of the Commissioner that his wife has devoted substantially the whole of her time to the conduct of the trade, business, profession or vocation or to the performance of the duties of the employment from which such income is derived.

(3) For the purposes of this section any earned income of an individual's wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office given otherwise than in respect of her past services in any office or employment or profit shall be deemed not to be earned income of his wife.

17. Subject as hereinafter provided, no allowances under sections 13, 14, 15 and 16 shall be made in the case of any individual who is not resident in the Federation:

Deductions to be made only in the case of residents and non-resident British subjects.

Provided that the foregoing provisions shall not apply in the case of any individual who satisfies the Commissioner that he is a British subject, so, however, that no such allowance or relief as aforesaid shall be given so as to reduce the amount of the income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by him by way of tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in the Federation, as the amount of the income subject to income tax so charged bears to the amount of his total income from all sources.

Wife's  
income.

18. The income of a married woman living with her husband, which is liable to tax under this Act shall, if the income of the husband is also liable to tax under this Act for the purpose of this Act, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee:

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

Rates as  
per  
schedule.

19. There shall be levied and paid upon the chargeable income of every person tax in accordance with the rules set forth in the Second Schedule to this Act.

Charge-  
ability of  
trustees,  
etc.

20. A receiver, trustee, guardian, curator or committee in receipt of income liable to tax under section 6 of this Act on behalf of any person, shall be chargeable to tax in respect of such income in like manner and to the like amount as such person would be chargeable if he had received such income, and every such receiver, trustee, guardian, curator or committee shall be answerable for doing all matters and things required to be done under this Act for the purpose of assessment and payment of tax:

Provided that nothing in this section shall affect the liability of any person represented by any such receiver, trustee, guardian, curator or committee to be himself charged to tax in his own name.

21. A person not resident in the Federation (hereinafter in this section referred to as a non-resident person), whether a British subject or not, shall be assessable and chargeable in the name of his trustee, guardian, curator, or committee, or of any attorney, factor, agent or receiver, whether such attorney, factor, agent or receiver has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the Federation and in the actual receipt of such income.

Charge-ability of agent of person residing out of the Federation.

22. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident is chargeable, shall be answerable for all matters required to be done by virtue of this Act for the assessment of the income of any person for whom he acts and for the payment of the tax chargeable thereon.

Acts, etc., to be done by trustees etc.

23. (1) Every person who, in whatever capacity, is in receipt of any money or value being income arising from the source specified in section 6 of this Act of or belonging to any other person who is chargeable in respect thereof, or would be so chargeable if he were resident in the Federation and not an incapacitated person, shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a list in a form approved by the Commissioner, signed by him, containing—

Lists to be prepared by representative or agent.

- (a) a true and correct statement of all such income;
- (b) the name and address of every person to whom the same shall belong.

(2) Every person who refuses, fails or neglects to comply with the provisions of this section shall be guilty of an offence.

24. Any resident agent, trustee or other person who transmits income liable to tax under this Act, to a non-resident person shall be deemed to be the agent of such non-resident person and shall be assessed and shall pay the tax accordingly.

Agents, etc., of non-residents to be assessed.

Indemnification of representative.

25. (1) Every person answerable under this Act for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Act.

(2) For the purposes of this section, every person who is liable under any contract to pay money to a non-resident shall be deemed to be the person having the control of money and to be acting in a representative capacity for the payment of income tax belonging to the non-resident and all money due by him under the contract shall be deemed to be money which comes to him on behalf of the non-resident.

Deceased persons.

26. When any person dies during the income year or within two years after the expiration thereof, and no assessment has been made upon him for that year, the personal representative of such person shall be liable for and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person, if he were alive, would be liable to do under this Act.

Artificial transactions, transfers to minors and in trust.

27. (1) Where the Commissioner is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious, or that full effect has not, in fact, been given to any disposition, the Commissioner may disregard any such transaction or disposition, and the persons concerned shall be assessable accordingly.

(2) Where, under or by virtue of a disposition made directly or indirectly by any disponent, the whole or any part of what would otherwise have been the income of that disponent is payable to or for the benefit, whether present or future and whether on the fulfilment of a condition or the happening of a contingency, or as the result of the exercise of a power or discretion conferred on any person, or otherwise, of a minor, such disponent shall, nevertheless, during the period of the minority of such minor, be liable to be taxed

in respect of the sums so payable as if the disposition had not been made, and subsequent to such period of minority, such disposer shall continue to be liable to be taxed in respect of the sums so payable as if such disposition had not been made unless the Commissioner is satisfied that the disposition was not made for the purpose of avoiding tax.

(3) Subsections (1) and (2) of this section shall have effect whether the transaction or disposition was effected or made before or after the commencement of this Act.

(4) In this section, "disposition" includes any settlement, trust, grant, covenant, agreement, arrangement or transfer of assets.

(5) A discretion conferred on the Commissioner by this section may be exercised, on appeal under section 34, by the Judge of the Federal Supreme Court hearing the appeal.

(6) Nothing in this section shall prevent any income under any disposition from being treated for the purposes of tax as the income of the person making the disposition in any case in which this section does not apply.

28. (1) Every person chargeable with tax under this Act shall, on or before the prescribed date in every year, deliver to the Commissioner a true and correct return of the whole of his income from every source whatsoever for the income year, and shall, if absent from the Federation, give the name and address of an agent residing in the Federation.

Returns of  
personal  
incomes.

(2) Returns required under the provisions of this section shall be in a form approved by the Commissioner.

(3) Any person who refuses, fails or neglects to deliver any return required under the provisions of this section shall be guilty of an offence.

29. (1) The Commissioner may, by notice, require any person, or the attorney of any person, or the secretary, attorney, manager, agent or other principal officer of a company residing in the Federation, to make returns under this Act within the time specified in such notice.

Power of  
Commis-  
sioner to  
require  
returns.

(2) Any person who, after being required by the Commissioner to make a return, fails or neglects to do so within the time specified, shall, whether or not any liability to tax is involved, be guilty of an offence.

Commissioner to make assessments.

30. (1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the day prescribed for delivering the returns.

(2) Where a person has delivered a return, the Commissioner may—

Acceptance of return.

(a) accept the return and make an assessment accordingly; or

Refusal of return.

(b) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and assess him accordingly.

Assessment in default of return.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of such person and assess him accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his refusal, failure, or neglect to deliver a return.

(4) If at any time within three years after the expiration of the income year, the Commissioner shall make an assessment which results in a person being charged to tax for the income year in an amount in excess of the amount of tax calculated on the basis of the return of income rendered by such person, the Commissioner may (unless the person assessed proves to the Commissioner's satisfaction that the omission or incorrectness of the return did not amount to fraud, covin, art of contrivance, or gross or wilful neglect) charge such person, in addition to the total tax otherwise charged in the assessment, further tax not exceeding the amount of the excess so disclosed.

(5) If any person neglects or refuses to render a return of income as required by this Act, the Commissioner may (unless such person proves to the Commissioner's satisfaction that the neglect or refusal was for reasonable cause and ought fairly to be excused) charge such person additional tax not exceeding the amount of tax which would have been payable if this subsection had not been enacted.

Additional tax for non-return of income.

(6) Nothing in the preceding subsections shall be construed as derogating from any other provisions of this Act.

(7) The provisions of this Act shall apply to any additional tax charged by virtue of this section as they do to tax ordinarily chargeable under this Act.

(8) Without prejudice to the powers conferred by section 60 the Commissioner may for reasons which may appear to him sufficient, at any time remit in whole or in part any additional tax charged under this section.

Commissioner may remit additional tax.

(9) A discretion to charge additional tax vested in the Commissioner by this section may be exercised, on appeal under section 34 by the Judge of the Federal Supreme Court:

Judge's discretion re additional tax

Provided that, if the Judge shall confirm the decision of the Commissioner to charge additional tax and shall find that the additional tax imposed by the Commissioner did not exceed the maximum additional tax which could properly be charged, the appeal as regards the additional tax shall be dismissed.

31. For the purposes of facilitating the assessment of the income of persons residing in the United Kingdom, the Governor-General may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Act, and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner, on receipt of the report, shall enter the amount reported in the assessment list:

Appointment of agent in the United Kingdom.



Provided that if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration:

Provided also, that nothing in this section shall prevent the right of appeal to a Judge of the Federal Supreme Court conferred by section 34.

Lists of persons assessed and notices of assessment.

32. (1) After completing his assessment, the Commissioner shall prepare lists of persons liable to tax under this Act.

(2) Such lists (herein called the assessment lists) shall contain the names and addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of the tax payable by him, and such other particulars as may be necessary.

Notices to be served on persons assessed.

33. (1) The Commissioner shall cause to be served on each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next subsection.

Objections to assessment.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within twenty-one days from the date of the service of the notice of assessment:

Provided that the Commissioner, upon being satisfied that, owing to absence from the Territory of residence, sickness, or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in subsection (2) of this section, the Commissioner may require the person giving the notice of objection to furnish

such particulars as the Commissioner may deem necessary with respect to the income of the person assessed, and to produce all books or other documents in his custody or under his control relating to such income and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged, on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the amount so agreed shall be the amount at which such person shall stand assessed, and the assessment shall be confirmed or amended accordingly:

Provided always, that in the event of any person who under subsection (2) of this section, has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed, his right of appeal to a Judge of the Federal Supreme Court, under the provisions of this Act, against the assessment made upon him, shall remain unimpaired.

34. (1) Any person who, being aggrieved by an assess- Appeals  
ment made upon him, has failed to agree with the Commis- against  
sioner in the manner provided in subsection (4) of the last assess-  
preceding section, may appeal against the assessment to a ments.  
Judge of the Federal Supreme Court in chambers within  
twenty-one days from the date of the refusal of the Com-  
missioner to amend the assessment as desired and in such Notice of  
case shall give notice in writing of such appeal to the appeal and  
Commissioner within twenty-one days from the date of such delay for  
refusal: appealing.

Provided that, notwithstanding the lapse of such period of twenty-one days, any person may appeal against such assessment if he shows to the satisfaction of a Judge of the Federal Supreme Court in chambers, that owing to absence from the Territory of residence, sickness or other reasonable cause, he was prevented from appealing or from

giving such notice to the Commissioner within such period, and that there has been no unreasonable delay on his part.

(2) Such appeal shall be by summons, and evidence shall be received at the hearing if tendered.

Attendance  
of appel-  
lant.

(3) Every person appealing shall attend before the Judge in person on the day and at the time fixed for the hearing of his appeal:

Provided that if it be proved to the satisfaction of the Judge that, owing to absence from the Territory of residence, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the Judge may postpone the hearing of the appeal for such reasonable time as he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk, or servant of the appellant, on his behalf.

Notice of  
date of  
hearing to  
be given to  
Commis-  
sioner and  
the appel-  
lant.

(4) Thirty clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Commissioner and the appellant of the date fixed for the hearing of the appeal.

Burden of  
proof.

(5) The onus of proving that the assessment complained of is excessive shall be on the appellant.

Judge's  
power as  
to assess-  
ment.

(6) If the Judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

Notice to  
appellant  
of Judge's  
assessment.

(7) Notice of the amount of tax payable under the assessment as determined by the Judge shall be served by the Commissioner upon the appellant.

Mode of  
hearing  
appeal.

(8) All appeals shall be heard in camera, unless the Judge shall, on the application of the appellant, otherwise direct.

LAWS OF THE WEST INDIES

INCOME TAX (FEDERAL EMOLUMENTS)

Cap. 151

27

(9) The costs of the appeal shall be in the discretion of the Judge hearing the appeal and shall be a sum fixed by the Judge. Costs of appeal.

(10) The decision of the Judge hearing the appeal shall be final: Finality of appeal.

Provided that the Judge hearing such appeal may, if he so desires, and shall, on the application of the appellant or the Commissioner, state a case on a question of law for the opinion of the Full Court. Power to state case.

(11) Rules of court may be made by the authority having for the time being power to make rules or orders regulating the practice and procedure of the Federal Supreme Court for the purpose of governing such appeals and providing for the method of tendering evidence and appointing places for the hearing of such appeals and prescribing the procedure to be followed on a case being stated. Rulés.

(12) Notwithstanding anything contained in sub-section (2) of section 45 if the Judge is satisfied that tax in accordance with his decision upon the appeal may not be recovered, the Judge may require the appellant forthwith to furnish such security for payment of the tax, if any, which may become payable by the appellant as may seem to the Judge to be proper. If such security is not given the tax assessed shall become payable forthwith and shall be recoverable forthwith. Appellant to give security for payment of tax.

35. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or any Act amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding. Assessments, etc., not void by reason of errors therein in names and descriptions.

(2) An assessment shall not be impeached or affected—

- (a) by reason of a mistake therein as to—
- (i) the name or surname of a person liable, or
  - (ii) the description of any income, or
  - (iii) the amount of tax charged;
- (b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment, the notice thereof shall be duly served on the person intended to be charged, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Omissions and under-charges may be rectified within three years.

36. Where it appears to the Commissioner that any person liable to tax has not been assessed, or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within three years after the expiration of the income year assess such person at such amount or additional amount as according to his judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal, and other proceedings under this Act shall apply to such assessment or additional assessment and to the tax charged thereunder.

Circumstances under which repayment may be made.

37. (1) If the Commissioner is satisfied that any person in respect of any income year has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, the Commissioner shall cause the amount so paid in excess to be refunded to the person as soon as practicable.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any income year as regards which that person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that he has received notice of the assessment made upon him for that year, unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver

a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

38. (1) Any person who has paid, by deduction or otherwise, or is liable to pay, tax under this Act for any income year on any part of his income and who proves to the satisfaction of the Commissioner that he had paid, by deduction or otherwise, or is liable to pay income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Act paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Act exceeds half the appropriate rate of United Kingdom tax. If, however, the rate of tax appropriate to his case under this Act exceeds the appropriate rate of United Kingdom tax, he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax:

Relief in respect of United Kingdom income tax.

Provided that where in the case of any individual, but for this proviso, the amount of tax payable under this Act after allowance of any relief as aforesaid, when added to the amount of income tax payable in the United Kingdom in respect of the same part of his income after allowance of such relief as is granted by section 27 of the Finance Act, 1920 (which amount is hereinafter referred to as "the net United Kingdom tax") would exceed the greater of the amounts of tax which, but for the reliefs aforesaid, would be payable under this Act and in the United Kingdom respectively (which amounts are hereinafter referred to respectively as "the gross Federal tax" and "the gross United Kingdom tax"), the Commissioner may, if he is satisfied that special hardship would otherwise be caused, grant such additional relief from the tax payable under this Act as he may think fit up to an amount which, when added to the net United Kingdom tax, will be equivalent to the gross Federal tax or the gross United Kingdom tax, whichever is the greater.

(2) For the purposes of this section, a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United

Certificate of United Kingdom Commissioners.

Kingdom tax or the net United Kingdom tax in any particular case.

Computation of rate of tax.

(3) For the purposes of this section, the expression "rate of tax" when applied to tax paid or payable under this Act, means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of any relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Act has been charged for that year.

Relief in respect of Commonwealth income tax.

Residents.

39. (1) If any person resident in the Federation who has paid, by deduction or otherwise, or is liable to pay tax, under this Act for any income year on any part of his income, proves to the satisfaction of the Commissioner that he has paid by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax under this Act paid or payable by him on that part of his income at a rate thereon to be determined as follows—

- (a) if the Commonwealth rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Act the rate at which relief is to be given shall be the Commonwealth rate of tax;
- (b) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Act.

Non-residents.

(2) If any person not resident in the Federation who has paid by deduction or otherwise, or is liable to pay, tax under this Act for any income year on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that income year in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Act on that part of his income at a rate thereon to be determined as follows—

- (a) if the Commonwealth rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Act, the

rate at which relief is to be given shall be one-half of the Commonwealth rate of tax;

- (b) if the Commonwealth rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Act exceeds one-half of the Commonwealth rate of tax.

(3) For the purposes of this section, the expression "Commonwealth income tax" means any income tax charged under any law in force in any Commonwealth country or in any place under Her Majesty's protection (other than the United Kingdom or the Federation), provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and the Federation in a manner similar to that provided in this section.

Commonwealth income tax defined.

(4) For the purposes of this section, the rate of tax under this Act shall be computed in the manner provided by subsection (3) of the last preceding section, and the Commonwealth rate of tax shall be computed in a similar manner.

Computation of rate of tax.

(5) Where a person is, for any income year, resident both in the Federation and in a part or place in which Commonwealth income tax is charged, he shall, for the purposes of this section, be deemed to be resident where, during that year, he resides for the longer period.

Resident defined.

40. A claim for relief under sections 38 and 39 shall be made within two years from the end of the income year to which it relates:

Period within which a claim may be made for relief from double taxation.

Provided that such a claim, though not made within the said period of two years shall be admitted if made within six years from the end of the said income year and within six months from the date upon which the relevant amount of United Kingdom income tax or of Commonwealth income tax, as the case may be, has been ascertained.



Arrange-  
ments for  
relief from  
double  
taxation of  
income.

41. (1) If the Governor-General by order declares that arrangements specified in the order have been made with the Government of any territory outside the Federation with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.

(2) On the making of an order under this section with respect to arrangements relating to the United Kingdom section 38 of this Act shall cease to have effect and shall be deemed to have ceased to have had effect from the beginning of the first income year for which arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) On the making of an order under this section with respect to arrangements relating to the United Kingdom, part of the Commonwealth countries (other than the United Kingdom or the Federation) section 39 of this Act shall cease to have effect as respects that territory except in so far as the arrangements otherwise provide.

(4) Any order made under this section may be revoked by a subsequent order.

(5) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 5 of this Act shall not prevent the disclosure to any authorised officer of the government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(6) The Governor-General may make rules for carrying out the provisions of any arrangements having effect under this section.

Tax  
credits  
Interpre-  
tation.

42.(1) The provisions of this section shall have effect where, under arrangements having effect under section 41 of this Act, tax payable in respect of any income in the terri-

tory with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income under this Act; and in this section the expression "foreign tax" means any tax payable in that territory which under the arrangements is to be so allowed and the expression "income tax" means tax chargeable under this Act.

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit: General requirement of residence.

Provided that credit shall not be allowed against income tax for any income year unless the person entitled to the income was resident in the Federation for that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Act and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 41 of this Act) on the total income of the person entitled to the income by the amount of his total income. Limits on total credit.

(4) Without prejudice to the provisions of the preceding subsection, the total credit to be allowed to a person for any income year for foreign tax under all arrangements having effect under section 41 of this Act shall not exceed the total income tax payable by him for that income year.

(5) In computing the amount of the income no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income), but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor. Effect on computation of income of allowance of credit.

(6) The preceding subsection shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3) of this section, and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 41 of this Act.

Miscellaneous.

(7) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any income year if he elects that credit shall not be allowed in the case of his income for that year.

(8) Any claim for an allowance by way of credit shall be made not later than two years after the end of the income year, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(9) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either under this Act or otherwise, nothing in this Act limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether under this Act or otherwise, as are material in determining whether any and if so what credit falls to be given.

Power of Commissioner to require schedule of particulars.

43. (1) The Commissioner may, by notice in writing, require any person to furnish him within a specified time with a schedule containing such particulars as he may require for the purposes of this Act with respect to the income of such person.

(2) Any person who fails or neglects duly to furnish such schedule shall be guilty of an offence.

(3) The Commissioner may, by not less than fourteen days' notice in writing, require any person to attend before him or any person designated by him and give evidence with respect to his income, and to produce all books or other documents in his custody or under his control relating to such income.

Power of Commissioner to require persons to attend before him.

(4) Any person who, without lawful excuse, refuses or neglects to attend or give evidence in pursuance of such notice or to produce such books or other documents, or who refuses to answer any lawful question touching the matters under consideration or knowingly or wilfully gives any false evidence under this section, shall be guilty of an offence.

44. (1) The tax payable under this Act shall be paid by way of deductions from any payments made from the public funds of the Federation of or on account of the emoluments or allowances specified in section 6 of this Act, being the income upon which the tax is chargeable:

Tax payable by deduction at source.

Provided that—

- (i) nothing in this section shall be construed as to affect a person's liability for the payment of any tax payable under this Act otherwise than by way of deduction under this section;
- (ii) where after an assessment has been made in accordance with the provisions of this Act—
  - (a) any amount collected by way of deduction is found to be in excess of the amount of tax shown in the assessment to be payable, the excess shall be refunded as soon as practicable;
  - (b) the amount of tax shown in the assessment to be payable is found to be in excess of the amount collected by way of deduction, the excess may be deducted from any subsequent payments made from the public funds of the Federation of or on account of the emoluments or allowances specified in section 6 of this Act.

(2) All deductions of tax payable under section 6 of this Act shall be made in accordance with the rules set out in the Third Schedule to this Act.

(3) The Governor-General may from time to time and for the purposes of this section amend or revoke the rules set out in the Third Schedule to this Act, or make new rules.

Date for payment.

45. (1) Subject to the provisions of section 44 of this Act the tax appearing in the assessment lists shall be payable to the Commissioner on or before the prescribed date, or dates, and a different date or dates may be prescribed for different classes of persons.

Procedure in cases where objection or appeal is pending.

(2) Collection of any tax remaining due after an assessment has been made shall in cases where notice of an objection or an appeal has been given, remain in abeyance until such objection or appeal is determined:

Provided that the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Collection of tax after determination of objection or appeal.

(3) Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal, as the case may be, shall be payable within thirty days from the receipt by the person assessed of the notification of the tax payable and if such tax is not paid within such period, payment thereof may be enforced under the provisions of this Act.

Penalty for non-payment of tax; and enforcement of payment.

46. If any tax is not paid on or before the prescribed date, a sum shall be added thereto calculated at the rate of twelve per centum per annum of the amount of such tax remaining unpaid, and if any amount of such tax is not paid within twelve months after the prescribed date, at the rate of fifteen per centum per annum of the amount of such tax

remaining unpaid, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

47. In the event of any tax or any portion thereof not being paid on or before the date on which it becomes payable, the same shall be recoverable by distress and sale of the goods, chattels, and lands belonging to the person making default in payment or in any other manner provided by this Act. Recovery of tax.

48. (1) It shall be lawful for the Commissioner to issue directions under his hand addressed to the Commissioner of a Territory requiring him to enforce payment of the tax payable under this Act, in the same manner as the tax due under the law of the Legislature of that Territory which provides for the levying of income tax (in this section referred to as the "territorial tax law") may be recovered or collected or as payment of such tax may be enforced. Issue of warrants to enforce payment.

(2) Where the Commissioner issues a direction under the provisions of this section, any amount of tax stated therein to be due shall for the purposes of the territorial tax law be deemed to be tax due under that law:

Provided that any tax collected by the Commissioner of a Territory pursuant to the provisions of this section shall be paid to the Commissioner.

(3) The production of a direction issued under the provisions of this section shall be prima facie evidence in all courts of the amount of tax stated therein to be due.

(4) For the purpose of this section the expression "Commissioner of a Territory" means the person charged with the administration of the territorial tax law.

49. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave the Federation before such tax becomes payable without having paid such tax, he may by notice in writing to such person demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be When assessment has already been made.

payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

When  
assessment  
has not  
been made.

(2) If in any particular case the Commissioner has reason to believe that tax payable under this Act may not be recovered, he may at any time and as the case may require—

- (a) forthwith by notice in writing require any person on the amount of the chargeable income to make a return and to furnish particulars of the income of the person who is liable to such tax;
- (b) make an assessment upon such last mentioned person on the amount of the chargeable income so returned, or if default is made in making such return or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable;
- (c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to his satisfaction.

Charging  
tax during  
a chargeable  
year and  
before  
assessment.

(3) If in any particular case the Commissioner has reason to believe that tax upon any income chargeable to such tax may not be recovered, he may at any time—

- (a) by notice in writing to the person by whom the tax would be payable determine a period for which tax shall be charged and require such person to render within the time specified therein returns and particulars of such income for that period;
- (b) make an assessment upon such person in the amount of the income returned, or if default is made in making a return or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable.

(4) Notice of assessment made in accordance with the provisions of subsections (2) and (3) of this section shall be given to the person assessed, and any tax so assessed (in accordance with the provisions of subsections (2) and (3) of this section) shall be payable on demand made in writing under the hand of the Commissioner, and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(5) Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under subsections (2) and (3) of this section shall have the rights of objection and appeal conferred by sections 33 and 34, and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(6) The provisions of subsections (2) and (3) of this section shall not affect the powers conferred upon the Commissioner by section 36.

50. For the avoidance of doubt it is hereby declared <sup>Construction.</sup> to be the law that any tax payable under this Act not paid on the day on which it becomes payable is a debt due to the Crown in right of its government of the Federation and, without prejudice to any other manner in which the same may be lawfully recovered, is recoverable in the manner provided in any law in force in the Federation which makes provisions for the determination of claims by the Crown in right of its government of any Territory.

51. (1) Where any amount payable to the Commissioner <sup>Certificates.</sup> under any of the provisions of this Act has not been paid within thirty days after payment thereof became due, the Commissioner may make out a certificate in such form as may be prescribed stating the amount payable and the name, the trade or profession and the usual or last known place of abode of the person by whom such amount is payable.

(2) On production thereof to the Registrar of the <sup>Judgments.</sup> Federal Supreme Court, a certificate made under this section shall be registered by him in the said Court and when so



registered shall have the same force and effect, and all proceedings may be taken thereon, as if the said certificate were a judgment for the Crown obtained in the said Court for a debt of the amount specified in the certificate together with any interest required to be paid by this Act to the day of payment.

(3) Rules of Court may be made by the authority having for the time being power to make rules and orders regulating the practice and procedure of the Federal Supreme Court providing for the procedure to be followed upon the registration of such certificates.

(4) All reasonable costs and charges attendant upon the registration of the certificate shall be recoverable in like manner as if they had been included in such certificate.

Garnish-  
ments.

52. (1) When the Commissioner has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Act, he may, by registered letter or by a letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to him on account of the liability of the second-mentioned person under this Act.

(2) The receipt of the Commissioner for moneys paid as required under this section shall to the extent of the payment be a good and sufficient discharge of the original liability—

(a) of the person who pays such moneys to the Commissioner to the person liable to make a payment of tax under this Act;

(b) of the person liable to make a payment of tax under this Act to the Commissioner.

(3) Where the Commissioner, under this section, has required an employer to pay to him on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement shall be applicable to all future payments by the

employer to the employee in respect of remuneration until the liability of the employee under this Act is satisfied and shall operate to require payments to the Commissioner out of each payment of remuneration due to the employee of such amount as may be stipulated by the Commissioner in the registered or other letter.

(4) Every person who has discharged any liability to a person liable to make a payment of tax under this Act without complying with a requirement under this section shall be liable to pay to the Commissioner as a debt due to the Crown an amount equal to the liability discharged or the amount which he was required under this section to pay to the Commissioner whichever is the less.

(5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) of this section may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service of garnishees.

(6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) of this section may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

53. (1) Every notice or direction to be given by the Commissioner under this Act shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice or direction shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon: Signatures of notices.

Provided that any notice in writing under this Act to any person requiring him to furnish particulars to

the Commissioner, or any notice under this Act requiring the attendance of any person or witness before the Commissioner shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any direction or notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

Service of  
notice.

54. (1) Notice may be served on a person either personally or by being sent by post to his last known business or private address:

Provided that service by post in the case of a notice requiring the attendance of any person or witness before the Commissioner shall be by registered post.

(2) A notice sent by post shall be deemed to have been served, in the case of persons resident in the Territory in which the notice was posted not later than the fifteenth day succeeding the day when posted, and in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

False state-  
ments and  
returns.

55. Any person who—

- (a) for the purpose of obtaining any deduction, rebate, reduction, or payment in respect of tax for himself or for any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations;
- (b) aids, abets, assists, counsels, incites, or induces another person—
  - (i) to make or deliver any false return or statement under this Act, or

[The inclusion of this page is authorised by S.I. 14/1959]

Printed by Yuille's Printerie Limited, Trinidad,  
by authority of the Government of The West Indies.

- (ii) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Act;

shall be guilty of an offence.

56. Any person guilty of an offence under this Act shall, unless some other penalty is specifically provided for such offence, be liable, on summary conviction to a fine of four hundred and eighty dollars. Penalties for offences.

57. Prosecutions for offences under this Act may be commenced at any time within three years next after the cause of complaint arose. Limitation of time for prosecutions.

58. The provisions of this Act shall not affect any criminal proceedings under any other law. Saving for criminal proceedings.

59. The Governor-General may subject to such conditions as he may think fit, remit or refund the whole or any part of the tax payable or paid as the case may be by any person if he is satisfied that it would be just and equitable to do so. Governor-General may remit tax.

60. (1) The Governor-General may make regulations generally for carrying out the provisions of this Act, and may, in particular, by those regulations provide— Regulations.

- (a) for the deduction of tax from payments made from the public funds of the Federation or on account of the emoluments or allowances specified in section 6 of this Act;
- (b) for the payment of tax by monthly or other instalments;
- (c) for any such matters as are authorised by this Act to be prescribed; and
- (d) for any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make regulations for the purpose of carrying this Act into execution.

(2) The Governor-General may from time to time by order delete or add to the provisions specified in the First Schedule to this Act.

## FIRST SCHEDULE

## Section 3

Territory	Provisions providing for personal allowances
Antigua .. ..	Sections 17, 18, 19, 20, 21 22 and 23 of the Income Tax Ordinance, 1957 (Ordinance No. 13 of 1957).
Barbados .. ..	Section 20 of the Income Tax Act, 1920 (Act 1921 - 6).
Dominica .. ..	Sections 14, 15, 16, 17 and 18 of the Income Tax Ordinance, 1925 (Ordinance No. 15 of 1925).
Grenada .. ..	Sections 16, 17, 18, 19, 20, 21 and 22 of the Income Tax Ordinance 1956 (Ordinance No. 32 of 1956).
Jamaica .. ..	Sections 12 and 13 of the Income Tax Law, 1954 (Law No. 59 of 1954).
Montserrat .. ..	Sections 14, 15, 16, 17, 18 and 19 of the Income Tax Ordinance, 1945 (Ordinance No. 6 of 1945).
Saint Christopher Nevis and Anguilla	Sections 14, 15, 16, 17, 18, 19 and 19A of the Income Tax Ordinance 1945 (Ordinance No. 10 of 1945).
Saint Lucia .. ..	Sections 15, 16, 17, 18 and 19 of the Income Tax Ordinance, 1947 (Ordinance No. 8 of 1948).
Saint Vincent .. ..	Sections 14, 15, 16, 17, 18, and 19 of the Income Tax Ordinance, 1956, (Ordinance No. 1 of 1956).
Trinidad and Tobago	Sections 14, 15, 16, and 18A of the Income Tax Ordinance (Chapter 33 No. 1).

## SECOND SCHEDULE

## Section 6

**Rules for determining the amount of tax payable under the Act**

1. These Rules may be cited as the Income Tax (Federal Emoluments) (Assessment) Rules, 1958.
2. For the purposes of these Rules —
  - “federal income” means income liable to tax under section 6 of the Act.
  - “gross chargeable income” means —
    - (a) in relation to federal income, the aggregate amount of the income of any person from the source specified in section 6 of the Act remaining after allowing the appropriate deductions and exemptions under the Act, other than personal allowances;

[The inclusion of this page is authorised by S.I. 14/1959]

Printed by Yuille's Printerie Limited, Trinidad,  
by authority of the Government of The West Indies.

(b) in relation to territorial income, the aggregate amount of the income (other than federal income) of any person from the sources specified in the law of the Territory of residence which provides for the levying of income tax as income upon which tax shall be payable, remaining after allowing the appropriate deductions and exemptions under that law, other than personal allowances;

“scheduled rates” means the rates set out in the Table to these Rules;

“taxpayer” means any person in receipt of income liable to tax under section 6 of the Act;

“territorial income” means income liable to tax under any law of the Territory of residence which provides for the levying of income tax;

“the Act” means the Income Tax (Federal Emoluments) Act, 1958.

3. Where the taxpayer, during the income year, is not resident in the Federation or is in receipt of no income liable to tax under the law of the Territory of residence, the tax payable under the Act shall be calculated upon his chargeable income at the scheduled rates.

4. (1) Where the taxpayer is, during the income year, in receipt of income liable to tax under the law of the Territory of residence, the tax payable by him under the Act shall be an amount which bears —

to the figure resulting from the application of the scheduled rates to the sum remaining after the federal personal allowances to which he is entitled have been deducted from the aggregate of his federal gross chargeable income and territorial gross chargeable income

the same proportion —

as his federal gross chargeable income bears to the aggregate of his federal gross chargeable income and territorial gross chargeable income.

(2) Where the territorial income consists of profits or gains derived from any business, trade, profession or vocation and the accounts of such business, trade, profession or vocation are usually made up for an annual period ending on a date other than the 31st day of December (such period being hereinafter referred to as the “accounting year”), the Commissioner may direct that the income in respect of an accounting year which terminates within an income year shall be treated as the income in respect of that income year:

Provided that where the Commissioner has given such a direction in respect of any income year, the income in respect of any subsequent income year shall be treated as being the income in respect of each succeeding period of twelve months immediately following the termination of the first accounting year, subject to any such adjustment as in the opinion of the Commissioner may be just and reasonable.

5. Where —

- (a) the taxpayer is a married woman living with her husband, and
- (b) the husband is, during the income year, not in receipt of income liable to tax under this Act and is in receipt of income liable to tax under the law of his Territory of residence, and
- (c) under that law the income of a married woman living with her husband is deemed to be the income of the husband,

then the tax payable under the Act by the taxpayer shall be calculated in accordance with the provisions of rule 4 above, as if the husband were regarded as the person in receipt of the income liable to tax under the Act.

#### Table of Scheduled Rates

For every dollar of the first	1,000 dollars	..	..	..	6 cents
For every dollar of the next	1,000 dollars	..	..	..	8 cents
For every dollar of the next	1,000 dollars	..	..	..	12 cents
For every dollar of the next	1,000 dollars	..	..	..	18 cents
For every dollar of the next	1,000 dollars	..	..	..	25 cents
For every dollar of the next	1,000 dollars	..	..	..	28 cents
For every dollar of the next	1,000 dollars	..	..	..	30 cents
For every dollar of the next	3,000 dollars	..	..	..	35 cents
For every dollar of the next	4,000 dollars	..	..	..	40 cents
For every dollar of the next	4,000 dollars	..	..	..	45 cents
For every dollar of the next	4,000 dollars	..	..	..	55 cents
For every dollar of the next	6,000 dollars	..	..	..	65 cents
For every dollar of the next	32,000 dollars	..	..	..	75 cents
For every dollar of the next	6,000 dollars	..	..	..	85 cents
For every dollar of the remainder of the income		..	..	..	90 cents

### THIRD SCHEDULE

### Section 44

1. These Rules may be cited as the Income Tax (Federal Emoluments) (Deductions) Rules, 1958.
2. In these Rules, unless the context otherwise requires —
  - “approved” means approved by the Commissioner;
  - “Commissioner of a Territory” shall have the same meaning as that assigned under section 48 of the Act;
  - “income payment” means a payment of or on account of emoluments or allowances being income liable to tax under the provisions of section 6 of the Act, and includes any sum, which upon the making of such payment, is withheld or deducted in respect of monies due from the taxpayer;

the expressions "taxpayer" and "territorial income" shall have the same meanings respectively as they have for the purposes of the Income Tax (Federal Emoluments (Assessment) Rules, 1958;

"the Act" means the Income Tax (Federal Emoluments) Act, 1958.

3. Subject to the provisions of these Rules, the Commissioner shall make such arrangements as he may deem necessary to provide for the tax payable under the Act to be deducted from income payments made to a taxpayer in respect of an income year.

4. (1) Subject to the provisions of these Rules, all deductions of tax under these Rules shall be calculated —

- (a) after taking into account in accordance with the provisions of the Income Tax (Federal Emoluments) (Assessment) Rules, 1958, the federal personal allowances to which the taxpayer is entitled and in respect of which he has filed a statement in accordance with rules 6 and 7 of these Rules;
- (b) so as to ensure, as far as possible, that all tax shall have been deducted during the income year;

Provided that additional deductions may be made of such amounts and over such periods as the Commissioner considers fair and reasonable for the purpose of collecting tax due in respect of any previous income year;

- (c) so as to ensure, as far as possible, that the total amount deducted in respect of an income year shall be deducted in equal instalments from all income payments made or due in respect of that year;
- (d) notwithstanding that at the time when a deduction is made the entire income on which the tax is payable has not yet been paid, or become payable, to the taxpayer.

(2) For the purpose of calculating the amount of tax to be deducted from an income payment it may be assumed —

- (a) in relation to any income payment that the total amount of income payments made in respect of that part of the income year which ends with the income payment in question will bear the same proportion to the total amount of income payments to be made in respect of the whole income year as that part of the year bears to the whole year;
- (b) that the total amount of territorial income for the income year will be the same as the amount of territorial income last assessed by the Commissioner for an income year:

Provided that the Commissioner may, in his discretion, direct that, in respect of any income year, and other amount shall be treated as representing the estimated total income payments or the estimated total territorial income.



(3) Where upon the coming into operation of the Act tax becomes payable in respect of income earned prior to the enactment of the Act, such tax shall be collected by deductions of such amounts made over such periods as the Commissioner shall direct.

5. Where an income payment is made to a taxpayer in respect of a retroactive increase of emoluments or allowances, the amount to be deducted from such payment shall be the difference between —

- (a) the amount that would have been deducted if such payment had been made by way of addition in equal instalments to the total number of income payments made during the period to which the retroactive payments relates, and —
- (b) the amounts actually deducted in respect of that period prior to the making of the retroactive payment.

6. Every taxpayer who wishes his federal personal allowances to be taken into account for the purpose of calculating the amounts to be deducted from income payments to him in respect of the income year to which the declaration relates, may file with the Commissioner a statement of such allowances in the approved form and containing such particulars as the Commissioner may require.

7. Subject to the provisions of rule 8, every taxpayer who wishes to file a statement of personal allowances under rule 6 shall do so —

- (a) within seven days of his becoming a taxpayer and within the first seven days of the commencement of each succeeding income year;
- (b) within seven days of any change in the circumstances of the taxpayer resulting in a change of the amount of personal allowances to which he is entitled;
- (c) within such other period as the Commissioner may, in his discretion, permit.

8. A taxpayer who has filed a statement of personal allowances under rule 6 and whose circumstances have changed so as to result in a reduction of the allowances to which he is entitled shall, within seven days of such change, file with the Commissioner a revised statement of allowances.

9. Any taxpayer who —

- (a) files with the Commissioner under rule 6 a statement of personal allowances knowing or having reasonable cause to believe the same to be false, or
- (b) wilfully fails or neglects to comply with the provisions of rule 8 of these Rules,

shall be guilty of an offence and shall be liable on conviction by a court of summary jurisdiction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[The inclusion of this page is authorised by S.I. 14/1959]

Printed by Yuille's Printerie Limited, Trinidad,  
by authority of the Government of The West Indies.

10. The Commissioner may require any return of income liable to tax under the law of the Territory of residence to be certified by the Commissioner of that Territory as being the same as the amount of income returned by the taxpayer under the law of the Territory.

11. If any question shall arise as to the amount of tax to be deducted on making any income payment such question shall be determined by the Commissioner.

12. The prescribed date for the purpose of section 28(1) of the Act is —

- (a) in the case of a person who received no territorial income in respect of the income year, the 15th day of January in the year following the income year;
- (b) in the case of a person who received territorial income in respect of the income year, the 31st day of March in the year following the income year;
- (c) in the case of a person in respect of whom the Commissioner has given a direction under rule 4(2) of the Income Tax (Federal Emoluments) (Assessment) Rules, 1958, the ninetieth day after the termination of the accounting year.