



TRINIDAD AND TOBAGO

**Act No. 29 of 1966**

[L.S.]

AN ACT to amend the Income Tax Ordinance and to provide for the taxation of short-term capital gains and to make better provisions for the taxation of company profits and for matters incidental thereto or consequential thereon.

*[Assented to 27th September, 1966]*

Enactment

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

**1.** This Act may be cited as the Finance Act, 1966.

Short title

## PRELIMINARY

Construction  
of Acts and  
Ordinance.  
Ch. 33. No. 1

**2.** (1) In this Act, a reference to the Ordinance shall be read and construed as a reference to the Income Tax Ordinance.

(2) In this Act and the Ordinance and in any Act passed after this Act "Corporation Tax Acts", except so far as the context otherwise requires means Part II of this Act (including provisions relating to income tax), together with the provisions of the Ordinance as far as it applies for the purposes of corporation tax and any enactment relating to corporation tax.

Application of  
Acts and  
Ordinances

**3.** (1) Except as otherwise expressly provided in this Act, the Ordinance or any other enactment, the provisions of the Ordinance shall not apply for the purposes of the Corporation Tax Acts, and the provisions of those Acts shall not, subject to this section, affect the operation of the Ordinance as it relates to individuals but the provisions of the Income Tax (In Aid of Industry) Ordinance, the Aid to Pioneer Industries Ordinance, and any other enactment conferring deductions, allowances and exemptions for the purposes of income tax, shall continue to have effect for such purposes as well as for the purposes of the Corporation Tax Acts.

Ch. 33. No. 3  
Ch. 33. No. 2

(2) Sections 59 to 63 shall apply in relation to persons charged with tax under the Ordinance as they apply in relation to a person charged to tax under the Corporation Tax Acts with any necessary modifications and adaptations.

## PART I

## AMENDMENTS TO INCOME TAX ORDINANCE

Construction  
of Part I

**4.** For the purpose of ascertaining the chargeable income of any person and the tax thereon for any former year of assessment or year of income prior to the year of income from which this Part comes into operation the provisions of the Ordinance that are replaced or amended by this Part shall continue to operate as if those provisions had not been replaced or amended by this Part; and no amendment contained in this Part shall render invalid any claim made or any assessment, objection or appeal made or pending or affect any liability with respect to tax arising before the commencement of this Part, except as is otherwise expressly provided by this Act.

5. (1) Section 2 of the Ordinance is repealed and replaced as follows—

Section 2 of  
Ordinance  
repealed and  
replaced

Interpretation “2. (1) In this Ordinance—

“Appeal Board” means the Appeal Board established under section 43;

“assessment” includes a re-assessment;

“Board of Inland Revenue” or “Board” means the Board of Inland Revenue established by section 3;

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

“chargeable income” means the aggregate amount of the income of any person from the sources specified in section 5, remaining after allowing the appropriate deductions and exemptions under this Ordinance;

“close company” has the same meaning as in Schedule V of the Finance Act, 1966;

“company” has the meaning assigned to that expression for the purposes of the Corporation Tax Acts by subsection (1) of section 42 thereof;

“corporation tax” means the tax charged under the Corporation Tax Acts by section 43 thereof;

“distribution” has the meaning assigned to that expression in section 23;

“earned income” means any income of an individual arising in respect of—

- (a) any gains or profits immediately derived by the individual from any trade, business, profession or vocation carried on, or exercised by the individual either as an individual

or in the case of a partnership as a partner personally acting therein; or

- (b) any gains or profits from any employment or office 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 16 or paid by the employer on behalf of the employee under an approved pension fund plan referred to in section 16A to 16F, 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 Trinidad and Tobago for the purpose of leave granted in respect of the employment or office where such passage is actually utilised; or
- (c) any pension, superannuation or other allowances, 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 has contributed to such pension, superannuation or other allowance or not;

“employer” in relation to an employee or officer means the person from whom the employee or officer receives his remuneration;

“former year of assessment” means the period of twelve months commencing on the 1st January in each year that before the commencement of the Income Tax (Amendment) Act, 1963, was the year for which tax was charged, levied and collected upon the chargeable income of any person for the year immediately preceding that year;

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

“incapacitated person” means an infant, person of unsound mind, idiot or insane person;

“Minister” means the member of the Cabinet to whom responsibility for Finance is assigned;

“non-resident company” has the meaning assigned to that expression for the purposes of the Corporation Tax Acts in section 42 thereof;

“penalty” means any amount or other sum (other than interest) imposed or charged on a person in addition to any tax payable on an assessment made under the provisions of this Ordinance, and includes a fine recoverable on summary conviction;

“person” includes, subject to subsection (2), a company;

“participator” has the same meaning as in paragraph 4 of Schedule V to the Finance Act, 1966;

“resident company” has the meaning assigned to that expression for the purposes of the Corporation Tax Acts in section 42 thereof;

“royalties” has the meaning assigned to that expression for the purposes of the Corporation Tax Acts by section 42 thereof;

“short term capital gains” means chargeable gains accruing on the disposal of an asset within twelve months of its acquisition;

“trade” includes a business, and every trade, manufacture, adventure or concern in the nature of a trade or business;

“withholding tax” means the tax so referred to in section 23A;

“year of income” means the period of twelve months commencing on the 1st January, in each year;

“tax” means income tax imposed by this Ordinance.

(2) For years of income after the year of income 1965 the provisions, other than section 23A, of this Ordinance relating to the charge of income tax shall not apply to the profits or gains accruing or arising—

(a) to a resident company; or

(b) to a non-resident company, if the profits or gains are within the charge (as defined by section 42 (1) of the Corporation Tax Acts) to corporation tax.”

(2) References in the Ordinance and in any other enactment relating to any matter for which the Commissioner of Inland Revenue has heretofore been responsible, to “Commissioner” shall be read and construed as references to the “Board”, together with such other grammatical alterations as thereby become necessary.

**6.** Section 3 of the Ordinance is repealed and replaced as follows :

Board of  
Inland  
Revenue

“3 (1) For the purposes of this Ordinance there is hereby established a Board of Inland Revenue.

Section 3 of the  
Ordinance  
repealed and  
replaced

(2) The Board shall consist of three Commissioners whose offices shall be public offices within the meaning of section 105 of the Constitution of Trinidad and Tobago.

(3) The Governor-General shall appoint one of the Commissioners to be Chairman and the Chairman shall preside at all meetings of the Board.

(4) Subject to any regulations made by the Governor-General for the purpose, the Board may regulate its own procedure.”

**7.** (1) Section 5 of the Ordinance is repealed and replaced as follows—

Charge to  
income tax

“5. (1) Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for each year of income upon the income of any person accruing in or derived from Trinidad and Tobago or elsewhere, and whether received in Trinidad and Tobago or not in respect of—

Section 5 of  
Ordinance  
repealed and  
replaced

- (a) gains or profits from farming, agriculture, forestry, fishing or other primary activity;
- (b) gains or profits from the operation of mines or the exploitation of natural or mineral resources;
- (c) gains or profits from any other trade or business;
- (d) gains or profits from the practice of any profession or vocation or management charges for the provision of personal services and technical and managerial skills;
- (e) gains or profits from any employment or office including pensions or emoluments within the meaning of section

53C and 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 16 or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 16A to 16F, and the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment or office whether in money or otherwise; but not including the payment for any passage from or to Trinidad and Tobago for the purpose of leave granted in respect of the employment where such passage is actually utilised;

- (f) short term capital gains;
- (g) interest, discounts, annuities or other annual or periodical sums;
- (h) rents for real property and royalties from the operation of mines, quarries or other natural resources and the annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment and not for the purpose of gain or profit, such annual value being that assessed to any house rate, or taxes under the Lands and Buildings Taxes Ordinance or under the Port-of-Spain Corporation Ordinance or under the San Fernando Corporation Ordinance or under the Arima Corporation Ordinance;
- (i) rentals and royalties for the use or the right to use—
  - (i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or

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formulae, trade marks, motion picture films, films or tape for radio and television broadcasting, or other like properties or rights, or

- (ii) information concerning industrial, commercial or scientific knowledge, experience or skill;
- (j) premiums, commissions, fees and licence charges;
- (k) dividends or other distributions;
- (l) gains or profits or amounts deemed to be income of that person under this Ordinance;
- (m) any annual gains or profits not falling under any of the foregoing paragraphs.

(2) In the case of income arising outside Trinidad and Tobago to a person who is not ordinarily resident or not domiciled therein tax shall be payable on the amount received in Trinidad and Tobago, so however, that where any employment or office is exercised by any such person in Trinidad and Tobago, gains or profits from the employment or office, whether received in Trinidad and Tobago or not, shall be treated as income arising therein.

(3) The provisions of the First Schedule shall have effect for the computation of short term capital gains and generally for the purposes of the charge to tax thereon.

(4) Where a person has ceased to hold any employment or office and any pension or annual payment is paid to him, or his widow, or child, or to any relative or dependent of his by the person by whom he was employed, or by the successors of that last mentioned person, then, notwithstanding that the pension or annual payment is paid voluntarily or is capable of being discontinued, any amount paid in respect of that pension or

annual payment shall be deemed to be income of the person to whom, and for the year of income in which, it is so paid."

(2) Notwithstanding any enactment to the contrary, in the case of earned income arising outside of Trinidad and Tobago before the date of the passing of this Act to a person who is ordinarily resident or domiciled in Trinidad and Tobago, the tax shall be payable for the year of income 1966, only in respect of the amount received in Trinidad and Tobago.

Section 8 of  
Ordinance  
repealed and  
replaced

**8.** Section 8 of the Ordinance is repealed and replaced as follows :—

Exemptions

- "8. (1) There shall be exempt from the tax—
- (a) the official emoluments received by the Governor-General and such person appointed to perform the functions of the office of the Governor-General under section 21 of the Constitution set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order in Council, 1962;
  - (b) the official emoluments received by persons exempt under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act, 1965;
  - (c) wound and disability pensions granted to members of Her Majesty's Forces;
  - (d) gratuities to members of Her Majesty's Forces in respect of service rendered during the wars which began on the 14th August, 1914 and the 3rd September, 1939;
  - (e) the income arising under a scholarship, exhibition, bursary or any other similar education endowment held by a person receiving full-time instruction at a university, college, school or other educational establishment;
  - (f) the income arising from investments of any fund or scheme approved by the Governor-General under paragraph (c) of subsection (1) of section 16.

1965

(2) Nothing in section 46 of the Corporation Tax Acts shall be construed so as to exempt in the hands of the recipients any dividends, interests, bonuses, salaries or wages paid or credited to any person wholly or in part out of the income so exempt."

9. The Heading and sections 10, 11, and 12 of the Ordinance are repealed and replaced as follows—

Sections 10, 11 and 12 of Ordinance repealed and replaced

*"Computation of Income*

Computation of income generally

10. In computing the income of any person for a year of income from any source specified in section 5 for the purpose of ascertaining the chargeable income of that person for that year, there shall be allowed to that person all outgoings and expenses wholly and exclusively incurred during the year of income by that person in the production of the income from that source, so, however, that in the case of gains or profits from employment or office under section 5 (1) (e), the expenses allowable shall be those which are wholly, exclusively and necessarily incurred.

Allowances in certain cases

11. (1) For the purpose of ascertaining the chargeable income of any person for any year of income from any trade, business, profession or vocation, there shall be allowed—

(a) where that person has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation that has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as represents 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;

(b) a reasonable amount for 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 that year;

- (c) bad debts incurred in any trade, business, profession, or vocation, proved to the satisfaction of the Board to have become bad during the year of income, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said year, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year, so, however, that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or doubtful debts, shall, for the purpose of this Ordinance, be treated as receipts of the trade, business, profession, or vocation for that year;
- (d) rates and taxes on real estate (but not including income tax);
- (e) premiums paid on any fire insurance policy entered into with an insurance company, the agents or managing directors of which are liable to pay a contribution under section 13 of the Fire Brigades Ordinance, on property used in acquiring the income upon which the tax is payable;
- (f) any annual sums paid by such person (being an employer) in respect of an employee by way of the employer's contribution to any approved fund or scheme referred to in paragraph (c) of subsection (1) of section 16;

- (g) in the case of a lump sum payment made by such person (being an employer) in respect of an employee's past services by way of the employer's contribution to any approved fund or scheme, referred to in paragraph (c) of subsection (1) of section 16, one-tenth of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made, but only if the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme;
- (h) amounts contributed by an employer or employee to a trust under an approved pension fund plan to the extent provided by sections 16A to 16F;

(2) Where deductions have been allowed under paragraph (b) of subsection (1) to any person in ascertaining his chargeable income for a year of income from any trade, business, profession or vocation, and that person ceases to have any interest in plant and machinery and buildings in respect of which the deductions have been allowed, a balancing allowance or a balancing charge shall be made, and for the purposes of ascertaining such allowance or charge, the provisions of section 4 and section 17, as the case may be, of the Income Tax (In Aid to Industry) Ordinance shall apply.

Deductions  
not allowed

12. In ascertaining the chargeable income of any person for any year of income, no deduction shall be allowed from the income in respect of—

- (a) any disbursements or expenses not being monies wholly and exclusively laid out or expended for the purpose of producing the income;
- (b) domestic or private expenses;
- (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 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 the production of the income;
- (g) any amounts paid or payable in respect of foreign income tax, except in accordance with the provisions of this Ordinance or of any double taxation arrangements entered into with the foreign country;
- (h) sums paid by any person by way of interest upon any money borrowed by that person for use in the production of the income, unless—
  - (i) the person receiving such interest is chargeable to tax, or
  - (ii) such interest is exempt in the hands of the person entitled to receive it by virtue of the provisions of this Ordinance or any other enactment;
- (i) payments within the meaning of section 23B, unless the payer has accounted for and paid over withholding tax to the Board.”

Section 15 of  
Ordinance  
amended

**10.** Section 15 of the Ordinance is amended as follows—  
(a) by repealing and replacing subsection (3) thereof as follows:

Deduction  
for main-  
tenance of  
children

“(3) In ascertaining the chargeable income of any individual who proves to the satisfaction of the Board that he had the custody of and maintained at his own expense any child—

- (a) born in the year of income; or
- (b) who at the commencement of that year was under the age of 16 years,

there shall be allowed a deduction of \$240.00, so however that, subject to subsection (4), such deduction shall continue to be allowed where any such child, in Trinidad and Tobago—

- (i) receives full-time instruction in any trade or technical school, secondary school or other school;
- (ii) serves wholly as an apprentice, or under articles or indentures, with a view to qualifying in a trade or profession,

notwithstanding such child has attained the age of sixteen years.

Deduction  
for educa-  
tion of  
certain  
children

(4) Subject to subsection (5), in ascertaining the chargeable income of any individual who proves to the satisfaction of the Board that he had during a year of income the custody of and maintained at his own expense any child who has attained the age of ten years and who in the course of that year, whether in Trinidad and Tobago or elsewhere—

- (a) received full-time instruction at any trade or technical school, secondary school or other school,
- (b) serves wholly as an apprentice, or under articles or indentures, with a view to qualifying in a trade or profession,

there shall be allowed a deduction of the expenses thereby actually incurred in such year but not exceeding nine hundred and sixty dollars, if such child for that purpose resided away from the individual's only or main residence during the year.

Proviso

(5) Where any such child as is mentioned in subsections (3) and (4) is entitled in his own right to any income including income to which he is entitled as the holder of a scholarship, exhibition, bursary, or other similar educational endowment and any emoluments paid to the child during the

period of service as an apprentice, the deduction allowed under the said subsections (3) and (4) shall not exceed the amount by which two hundred and forty dollars or nine hundred and sixty dollars, as the case may be, exceeds such income.

Only or  
main  
residence  
of parent

(6) So far as it is necessary for the purposes of this section to determine which of the two or more residences is an individual's main residence for any period,

(a) the individual may conclude that question by notice in writing to the Board given within two years from the beginning of that period, but subject to a right to vary that notice by a further notice in writing to the Board as respects any period beginning not earlier than two years before the giving of the further notice;

(b) subject to paragraph (a), the question shall be concluded by the determination of the Board, which may be as respects either the whole or specified parts of the period of ownership in question,

and notice of any determination of the Board under paragraph (b) shall be given to the individual who may appeal to the Appeal Board against the determination within thirty days of service of the notice.

Definition  
of "child"

(7) In this section "child" includes a step-child or illegitimate or adopted child."

(b) by renumbering subsections (4) and (5) as (8) and (9) thereof.

New section 15A  
inserted

**11.** The Ordinance is amended by inserting immediately after section 15 the following—

Deduction  
for higher  
education

"15A. (1) Subject to this section, in ascertaining the chargeable income of any individual who is a relative and who proves to the satisfaction of the Board that he maintained during a year of income at his own expense any child who, at the commencement of the year, was above the age of sixteen years and who in the course of that

year, whether in Trinidad and Tobago or elsewhere received full-time university education or other education at a standard equivalent thereto in technical or professional fields, there shall be allowed a deduction of the expenses thereby actually incurred in such year, but not exceeding nineteen hundred and twenty dollars, if such child for that purpose resided away from the individual's only or main residence during the year.

(2) Where any such child as is mentioned in subsection (1) is maintained at the joint expense of two or more individuals who are relatives, the Board may, in its discretion, apportion the amount of the deduction allowed in proportion to the amount of the expenses incurred, but so, however, that in any other case the deduction shall be allowed to one such individual only and in the order mentioned in subsection (4).

(3) The provisions of subsections (5), (6) and (7) of section 15 shall have effect for the purposes of this section with the substitution in subsection (5) of the said section 15 of a reference to nineteen hundred and twenty dollars for the reference to nine hundred and sixty dollars occurring therein.

(4) In this section "relative" means a parent, grand-parent, uncle, aunt, brother or sister and includes a person *in loco parentis*".

12. (1) Subparagraph (ii) (B) of paragraph (b) of subsection (1) of section 16A of the Ordinance is amended by inserting after the words "determinable amount" occurring in line 8 thereof, the words "at maturity, of any periodic or other amount".

Section 16A of  
Ordinance  
amended

(2) Section 16A of the Ordinance is further amended by the addition thereto of the following subsection—

"(13) In ascertaining the chargeable income of any person for any year of income there shall be allowed a deduction of the premiums paid by him as an annuitant under an approved deferred annuity plan to the extent provided by this section and by sections 16B to 16F".

Section 16D of  
Ordinance  
amended

**13.** Section 16D of the Ordinance is amended by adding the following paragraph to subsection (5) thereof—

“(d) is not in receipt of a pension or annuity under any fund, scheme or plan referred to in paragraphs (a), (b) and (c)”.

New section  
16F added

**14.** The Ordinance is amended by the insertion of the following section after section 16E—

Conversion  
of certain  
policies  
into local  
currency

“16F. (1) Notwithstanding the provisions of sections 16 to 16E, but subject to this section, no deduction shall, for the year of income 1966, and subsequent years of income, be allowed—

(a) in respect of any insurance or contract, as the case may be, unless—

(i) such insurance or contract is made with an insurer registered in accordance with the provisions of the Insurance Act, 1966; and

(ii) such insurance or contract is in the currency of the British Caribbean Currency Board or in Trinidad and Tobago currency or, if in some other currency, is converted into Trinidad and Tobago currency;

(b) in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme are payable only in the currency of the British Caribbean Currency Board or Trinidad and Tobago currency or if payable in some other currency are converted within a reasonable period of time to be made payable in Trinidad and Tobago currency, such period to be determined by the Minister.

(2) Nothing in this section shall apply—

(a) to any such insurance or contract as is mentioned under subsection (1) (a), if—

- (i) such insurance or contract had been made before the 1st January, 1953, with a company legally established in any foreign country and not carrying on the business of life insurance in Trinidad and Tobago;
  - (ii) such insurance or contract had been made before the 1st January, 1966, with a company legally established in any Commonwealth country or in the Republic of Ireland and not carrying on the business of life insurance in Trinidad and Tobago;
  - (iii) such insurance or contract had been made before the 1st January, 1966, with a company legally established in any Commonwealth country or in the Republic of Ireland and carrying on the business of life insurance in Trinidad and Tobago and such insurance or contract had been made by an individual who at the time of such making was not resident in Trinidad and Tobago and such insurance or contract is not payable in Trinidad and Tobago;
- (b) to any such contribution as is mentioned under subsection (1) (b) if the person who makes such contribution entered outside of Trinidad and Tobago into the agreement to make such contribution and if at the time of entering into such agreement the beneficiary was not resident and not domiciled in Trinidad and Tobago and if the benefits payable under the fund, plan or scheme to which such contribution relates are not payable in Trinidad and Tobago.”

Section 17 of  
Ordinance  
amended

15. Section 17 of the Ordinance is amended by deleting the proviso thereto.

Section 18 of  
Ordinance  
amended

16. Section 18 of the Ordinance is amended—

(a) by renumbering section 18 as section 18 (1), and

(b) by adding the following subsection thereto:

“(2) Where the income of a married woman living with her husband is charged in the name of the husband he shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of such income, and, subject to the proviso to subsection (1), for the payment of tax chargeable thereon.”

Sections 18E, 18F,  
18H and 18I of  
Ordinance  
repealed

17. (1) Sections 18E, 18F, 18H and 18I of the Ordinance are hereby repealed and sections 18G and 18J are renumbered as sections 18E and 18F.

(2) Section 18B (1) of the Ordinance is amended by substituting for the words “sections 18B to 18J” occurring therein the words “sections 18E to 18F and in Schedule VII, of the Finance Act, 1966”, and in section 18E as renumbered by substituting for the reference to section 18E occurring therein a reference to paragraph 1 of Schedule VII of the Finance Act, 1966.

Sections 19, 19A,  
19B, 19C, 19D  
and 20 and Third  
Schedule of  
Ordinance  
repealed

18. Sections 19, 19A, 19B, 19C, 19D and 20 and the Third Schedule of the Ordinance are hereby repealed.

Section 22 of  
Ordinance  
amended.  
Schedule II

19. Section 22 of the Ordinance is amended by substituting a reference to the Second Schedule for the reference to the First Schedule occurring therein.

Sections 23 to 24  
repealed and  
replaced

20. The Heading and sections 23, 23A, 23B and 24, of the Ordinance are repealed and replaced as follows—

*“Tax on Distributions and other payments*

Meaning of  
distribution 23. (1) In relation to any company “distribution” means—

(a) any dividend paid by the company including a capital dividend;

- (b) any other distribution of the assets of the company (whether in cash or otherwise) in respect of shares of the company, except so much as represents the repayment of share capital, or is equal in amount or value to any new consideration given on the distribution;
- (c) any redeemable share capital or security issued by the company in respect of shares in the company, to the extent that such share capital or security is not issued for a new consideration;
- (d) any interest or other distributions out of assets of the company in respect of securities of the company (except so much if any, of any such distribution as represents the principal thereby secured), where the securities are either—
  - (i) securities issued as mentioned in paragraph (c);
  - (ii) securities convertible directly or indirectly into shares of the company;
  - (iii) securities under which a consideration given by the company for the use of the principal secured is to any extent dependent on the result of the company's business or any part of it, under which the consideration so given represents more than a reasonable commercial return on the use of that principal; or
  - (iv) securities issued by the company to a non-resident company, where the former is a subsidiary of the latter or both are subsidiaries of a third company.

(e) any such amount as is required to be treated as a distribution by subsection (3) or (4).

(2) In subparagraph (iv) of paragraph (d) of subsection (1), a body corporate shall be deemed to be a subsidiary of any other body corporate if and so long as not less than half of its share capital of all classes of stock, or half of the total combined voting power in respect of all classes of stock is owned by that other body corporate, whether directly or through any other body corporate, or other bodies corporate, or partly through any other body corporate or other bodies corporate.

(3) Where on a transfer of assets or liabilities by a company to its members or to a company by its members the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the difference.

(4) Where, after the first day of January, 1966, a company—

(a) repays any share capital, or has done so at any time after the commencement of the accounting period for the year of income 1966, and

(b) at or after the time of that repayment (but not before the year of income 1966) issues as paid up otherwise than by the receipt of a new consideration any share capital, not being redeemable share capital,

the amount so paid up shall be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of the share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as a distribution.

(5) Where—

(a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after the commencement of the accounting period for the year of income 1966; and

(b) any amount so paid up does not fall to be treated as a distribution,

then for the purposes of subsections (1) to (4), distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

(6) In subsection (5) “relevant distributions” means so much of any distribution made in respect of shares representing the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.

(7) For the purposes of subsections (5) and (6) all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

(8) In this section “whole-time service director” has the same meaning as in Schedule V to the Finance Act, 1966.

(9) In this section, “new consideration” means consideration not provided directly or indirectly out of assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution, so, however, that where share capital has been issued at a premium representing new consideration, any part of that premium afterwards

applied in paying up the share capital shall be treated as new consideration also for that share capital.

(10) A distribution shall be treated under this section as made, or consideration as provided, out of assets of a company if the cost falls on the company.

(11) The following kinds of expenditure when paid by a close company to a participator shall be treated as distributions—

- (a) interest, or other consideration paid or given by the company to a participator who is also a director (other than a whole-time service director) or an associate of such participator for the use of money advanced by any person, or to a person who is an associate of such director for the use of money so advanced;
- (b) any annuity or other annual payment other than interest;
- (c) any rent, royalty or other consideration paid for the use of property other than money.

(12) For the purposes of paragraph (c) of subsection (11) in the case of tangible property or copyrights, the excess only over what the Board may consider to be reasonable consideration therefor, shall be treated as a distribution.

Schedule II

Rates of  
withhold-  
ing tax

Second  
Schedule

23A. (1) Subject to the provisions of this Ordinance, there shall be levied and paid income tax, in this Ordinance, referred to as withholding tax, at the rate set out in the Second Schedule—

- (a) on any distribution made to any person not resident in Trinidad and Tobago and to every non-resident company;
- (b) on any payment made to any person not resident in Trinidad and Tobago or to any person on behalf of such non-

resident person, and to every non-resident company, where such person or company is not engaged in trade or business in Trinidad and Tobago, so however that in the case of a payment of income arising outside Trinidad and Tobago to such a person or company withholding tax shall not be payable.

(2) Where, after the first day of January, 1966, a person or company makes any payment or distribution to any such person as is mentioned in subsection (1), or to any non-resident company, the person or the company shall under this subsection, within thirty days, account for and pay income tax in respect of the payment or distribution aforesaid at the rate referred to in subsection (1).

(3) Where the payment or distribution is to be made to a person who is not resident in Trinidad and Tobago or to a non-resident company, and such person or company is resident in a country with which there is a double taxation agreement or Order under section 49 the person or company making the payment shall, nevertheless, deduct tax at the rate specified in paragraph 2 of the Second Schedule, unless the person or company making the payment satisfies the Board that a reduced rate of withholding tax applies under or by virtue of the double taxation agreement, or Order under section 49.

(4) A person liable under subsection (2) to account for and pay over withholding tax to the Board who fails so to do is guilty of an offence, and the provisions of subsection (4) of section 53B shall apply accordingly.

(5) Notwithstanding the provisions of section 5, where a payment or distribution that is subject to withholding tax is made to any person not resident in Trinidad and Tobago or to any non-resident company, income tax under section 5 or corporation tax shall not be payable in respect of such payment or distribution.

(6) Where an office or a branch or agency of any non-resident company engaged in trade or business in Trinidad and Tobago, remits or is deemed to remit any part of the profits of such non-resident company accruing in or derived from Trinidad and Tobago, such office or branch or agency of the non-resident company shall be liable to account for and pay over income tax in respect of such profits in accordance with the provisions of this section as if the remitting of such profits was a distribution.

(7) For the purpose of subsection (6) an office or a branch or agency of a non-resident company shall be deemed to have remitted all the profits thereof, except to the extent that the office or the branch or agency has reinvested to the satisfaction of the Board such profits or any part thereof in Trinidad and Tobago, other than in the replacement of fixed assets.

(8) In subsections (6) and (7) "profits" means profits after the payment of any income tax or corporation tax, and shall be deemed to include any amount authorised to be deducted as submarine well allowance by the Income Tax (In Aid of Industry) Ordinance in ascertaining the chargeable profits of any company for the purposes of corporation tax.

Meaning of  
"payment"

23B. In sections 23 to 24—

"payment" means a payment of income accruing in or derived from Trinidad and Tobago, other than a distribution, not being a payment in respect of which deductions or repayments of tax may fall to be made under section 53B, with respect to—

- (a) interest on any debt, mortgage or other security;
- (b) rentals;
- (c) royalties;
- (d) management charges or charges for the provision of personal services and technical and managerial skills;
- (e) premiums (other than premiums paid

to insurance companies and contributions to pension funds and schemes) commissions, fees and licences;

(f) discounts, annuities or other annual or periodic payments;

(g) such other sources of income as may, from time to time be prescribed.

Loans to  
directors  
of close  
companies

23C. (1) Subject to subsection (2), where, after the 1st January, 1966, a close company, otherwise than in the ordinary course of its business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator, the amount of such loan or advance shall be deemed to be a distribution made in the year of income in which the loan was made, unless the loan is repaid within one year after the end of such year of income and it is established that the repayment was not made as part of a series of loans and repayments.

(2) Where in any subsequent year of income a participator or associate repays any part of a loan deemed to be a distribution made under subsection (1), relief shall be given to such participator or associate by setting off against the tax payable on his chargeable income for the year the tax attributable to the proportionate part of the loan which was included in his chargeable income for the year in which the loan was deemed to be a distribution.

Settlements  
in favour  
of partici-  
pators of  
close  
companies

23D. Any income, which, by virtue of any settlement made directly or indirectly by a close company may accrue to or may be received by a participator of the company or an associate of a participator, shall be deemed to be a distribution by the company to such participator or associate as the case may be.

Discharge  
of liability  
for with-  
holding  
tax

23E. Where a person or a company is liable under section 23A to account for income tax deducted or withheld in respect of any payment or distribution made by them, the person or

company shall as against any person entitled to the payment or distribution, be acquitted and discharged of so much money as is represented by the withholding tax as if that sum had actually been paid.

Certificate  
for deduc-  
tion of tax

23F. (1) Where, after the commencement of the Finance Act, 1966, a person or a resident company makes any payments or distribution which is subject to withholding tax, the payer shall furnish to the recipient of the payment or distribution a statement in writing showing the gross amount of the payment, the amount of the withholding tax and the actual amount paid.

(2) The duty imposed by subsection (1) shall be enforceable at the suit or instance of the person entitled to the statement.

Dividend  
income  
allowance

24. (1) Where an individual who is resident or ordinarily resident in Trinidad and Tobago receives a distribution from a resident company there shall be made to that individual a dividend income allowance calculated in the manner set out in the Fifth Schedule.

(2) Where an approved fund or scheme established in Trinidad and Tobago or a charity exempt from the payment of income tax or corporation tax on its profits and gains receives a distribution, the provisions of subsection (1) shall apply as if the distribution had been received by an individual.

(3) The provisions of this section shall be applied so as to allow the payment by the Board, to the individual, approved fund or scheme or charity of any excess of the dividend income allowance over the amount of the tax charged under the assessment.

(4) In this section and in the Fifth Schedule "distribution" does not include a preference dividend (as defined by section 42 of the Corporation Tax Acts) or a distribution made out of—

- (a) the profits of the life insurance business of an assurance company; or
- (b) profits, in the hands of a company, not within the charge (as defined by sec-

tion 42 of the Corporation Tax Acts) before 1st January, 1966 to income tax or after that date to corporation tax; or

(c) capital.”

**21.** Section 26 of the Ordinance is amended by deleting the words “not being a British Subject or a firm or company whose principal place of business is situated in a Commonwealth country or in a Territory under Her Majesty’s protection, or a branch thereof,” occurring in subsection (2) thereof.

Section 26 of Ordinance amended

**22.** Section 30 of the Ordinance is repealed and replaced as follows—

Section 30 of Ordinance repealed and replaced

Agents, &c., of non-resident to be assessed

“30. Any resident agent, trustee, mortgagor or other person who pays or transmits any dividend, interest, rent, loan, royalty, management charge or other income derived from any source within Trinidad and Tobago to a non-resident person shall be deemed to be the agent of such non-resident person and shall, subject to section 23A be assessed and pay the tax accordingly.”

**23.** Section 32 of the Ordinance is repealed.

Section 32 of Ordinance repealed

**24.** Section 34D of the Ordinance is repealed and replaced as follows—

Section 34D of Ordinance repealed and replaced

Special provisions for certain settlements

“34D. (1) Notwithstanding anything in this Ordinance to the contrary, where a deduction is allowable in respect of the maintenance and education of a child under the provisions of section 15A any income that may accrue to or be received by the child under and by virtue of any settlement made directly or indirectly by any person, shall be deemed to be the income of the disponent.

(2) Notwithstanding the provisions of section 34A, income which by virtue of any settlement made for a period of not less than two years accrues to or is received by a charitable body or non-proprietary sporting club or association or a public institution, shall be deemed to be the income of such body, club, association, institution or trustee, as the case may be.”

Sections 34G  
and 34H added

25. The Ordinance is amended by inserting immediately after section 34F the following sections—

Limitations  
on certain  
settlements

“34G. (1) Notwithstanding any rule of law to the contrary, but subject to this section, where, by virtue of any disposition made on or after the 17th day of December, 1965 directly or indirectly by any person, any income may accrue to or may be received by any other person, and the income is under section 34H to be treated as the income of that other person, such portion of the income under the disposition as exceeds 25 per cent. of the total income of the disponer, shall be deemed to be the income of the disponer.

(2) Where under or by virtue of any disposition made directly or indirectly by any person before the 17th day of December, 1965, (herein referred to as the “former disposition”) any income may accrue to or be received by any other person, the provisions of subsection (1) shall apply to such portion of the income under any disposition made after that date as exceeds the percentage, if any, of the total income of the disponer remaining after subtracting from 25 per cent. the percentage of the total income represented by the income under the former disposition.

(3) Nothing in subsection (1) shall apply so as to cause any part of the income under any such disposition to be treated as the income of any person other than the disponer, unless the disponer has accounted for and paid over to the Board any withholding tax for which he is liable under section 23A.

(4) In this section—

“disposition” has the same meaning as in subsection (7) of section 34 and includes a settlement as defined by section 34E;

“disponer”, in relation to a disposition includes any person by whom the disposition was made;

“total income” means the aggregate amount of the income of the disponer from the sources specified in section 5

before making any deductions allowed by any provision of this Ordinance other than sections 10, 11 and 13 of this Ordinance and the Income Tax (In Aid of Industry) Ordinance.

Deductions  
for  
settlements

34H. Where under or by virtue of any disposition (as defined by section 34G) made directly or indirectly by any person any income may accrue to or may be received by any other person, such income shall, to the extent that it is not otherwise directed to be regarded by any provision of this Ordinance, be treated as the income of the donee, and not as the income of any other person."

26. Section 35 of the Ordinance is repealed.

Section 35 of  
Ordinance  
repealed

27. Section 38C of the Ordinance is amended—

Section 38c of  
Ordinance  
amended

(a) in subsection (1) by deleting the words "whether or not an objection to or an appeal from the assessment is outstanding" occurring at the end thereof;

(b) by inserting the following subsection as subsection (2) thereof—

"(2) Where any person disputes an assessment under the provisions of subsection (1), such person shall nevertheless within the time limited by subsection (1) pay to the Board the part of the tax stated in the notice to be payable by him and any interest and any penalties then remaining unpaid that is not in dispute";

(c) by renumbering subsection (2) thereof as subsection (3) and by inserting at the commencement thereof the words "Notwithstanding anything in this section to the contrary."

28. Section 42 of the Ordinance is amended—

Section 42 of  
Ordinance  
amended

(a) by inserting in subsection (2) thereof after the words "by notice of objection in writing," occurring in lines 2 and 3 thereof the words "delivered to the Board";

- (b) by repealing subsection (3) thereof;  
 (c) by renumbering subsection (4) as subsection (3) thereof, and by adding thereto the following subsections :

“(4) Where, within six months after the service of the notice of objection, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

(5) Where an objection against an assessment has been made before the passing of the Finance Act, 1966, and proceedings in respect of that objection are subsequent to the date of the coming into operation of the said Act still pending before the Board then unless such objection is determined by the Board within one year from the passing of the Act, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

(6) Upon the expiration of the time for giving notice of appeal to the Appeal Board under section 43D, the person who has disputed his assessment, shall, if no appeal is then pending, within thirty days, pay to the Board of Inland Revenue any part of the tax that was in dispute and any interest and penalties remaining unpaid as is determined by the Board of Inland Revenue.”

Sections 43 to 43E  
 of Ordinance  
 repealed and  
 replaced

**29.** The heading “APPEALS” and sections 43 to 43E of the Ordinance are repealed and replaced as follows :—

#### APPEAL BOARD

Establishment and jurisdiction of the Appeal Board “43. (1) An Appeal Board is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Ordinance or by any other enactment.

(2) The Appeal Board shall consist of a Chairman and such other members as may be appointed under or in pursuance of section 43A, of whom one may be the Vice-Chairman.

(3) The Appeal Board shall be a superior court of record and have an official seal which shall be judicially noticed.

(4) The Appeal Board shall have jurisdiction to hear and determine—

(a) appeals from the decision of the Board of Inland Revenue upon objections to assessment under the provisions of this Ordinance;

(b) appeals from such other decisions of the Board of Inland Revenue or of any other person under the provisions of this Ordinance as may be prescribed by or under this Ordinance;

(c) such other matters as may be prescribed by or under this Ordinance or any other enactment.

(5) A Registrar to the Appeal Board and such other officers, clerks and employees as may be required to carry out the business of the Appeal Board shall be appointed in manner authorised by law.

Constitu-  
tion of the  
Appeal  
Board

43A. (1) The Chairman and the Vice-Chairman of the Appeal Board shall be a barrister of not less than ten years' standing.

(2) The offices of Chairman and Vice-Chairman shall be public offices and are offices to which section 84 of the Constitution of Trinidad and Tobago (hereinafter referred to as the Constitution) apply.

(3) The members of the Appeal Board, other than the Chairman and Vice-Chairman (hereinafter referred to as ordinary members) shall be appointed by the Governor-General from among such persons as appear to the Governor-General to be qualified by virtue of their knowledge of or experience in law, commerce, finance, industry, accountancy, taxation or the valuation of property,

(4) Ordinary members hold office for such term, not exceeding three years, as may be determined by the Governor-General at the time of their appointment, and are eligible for re-appointment.

(5) An ordinary member may, at any time by notice in writing to the Governor-General, resign his office.

(6) The Governor-General may, on the recommendation of the Judicial and Legal Service Commission, remove from office any ordinary member for inability or misbehaviour, or on the ground of any employment or interest which appears to the said Commission to be incompatible with the functions of a member of the Appeal Board.

(7) Where an ordinary member is ill, or otherwise unable to act, or where his office is vacant, the Governor-General may appoint a temporary member to act in the stead of such member during his illness, or incapacity, or until the office is filled, as the case may be.

(8) No defect in the qualification or appointment of any member of the Appeal Board shall vitiate any proceedings thereof.

Conditions  
of service  
of members  
of the  
Appeal  
Board

43B. (1) There shall be paid to the substantive Chairman the same salary and allowances as a Judge of the High Court, and such other allowances as the Governor-General may determine; and the said salary and allowances shall be a charge on the Consolidated Fund.

(2) The other terms of service (other than the provisions relating to pension) of a Judge of the High Court shall also apply to the substantive Chairman.

(3) There shall be paid to the Vice-Chairman, to a person appointed to act in or perform the functions of the Chairman or Vice-Chairman, and to ordinary members of the Appeal Board such salary or remuneration and such allowances as may be prescribed by Order of the Governor-General; and such salary or remuneration and allowances shall be a charge on the Consolidated Fund.

(4) The salary remuneration, allowances and the other terms of service of the Chairman and of any other member of the Appeal Board shall not be altered to his disadvantage after his appointment and during his tenure of office.

(5) The offices of Chairman and Vice-Chairman of the Appeal Board are pensionable offices for the purposes of the Pensions Ordinance.

(6) This section shall be deemed to have had effect as from the 1st January, 1966.

Procedure  
of the  
Appeal  
Board

43C. (1) Subject to subsection (2) of section 105 of the Constitution, the jurisdiction and powers of the Appeal Board may be exercised by the Chairman or, the Vice-Chairman, and two other members selected by the Chairman or Vice-Chairman as the case may be, for the purpose.

(2) Subject to rules made under this section the Appeal Board may sit in more than one division at such times and in such places in any part of Trinidad and Tobago as may be most convenient for the determination of proceedings before it.

(3) Unless rules made under this section otherwise provide, fourteen clear days' notice shall be given to the appellant and to the respondent of the date fixed for the hearing of a matter by the Appeal Board.

(4) The Chairman, when present, shall preside, and, in the absence of the Chairman, the Vice-Chairman, shall preside.

(5) The appellant and the respondent may appear before the Appeal Board in person or by counsel or solicitor.

(6) The Appeal Board, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, has all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action.

(7) A summons signed by the Registrar of the Appeal Board shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(8) With the consent of the appellant and the respondent the Appeal Board may order that written submissions be filed in addition to, or in place of an oral hearing.

(9) The decision of the Appeal Board shall be that of the majority of the members present, but so however that, the opinion of the presiding member on any matter arising in the course of any proceedings which, in his opinion, is a question of law, shall prevail.

(10) The decision of the Appeal Board in any proceedings shall be delivered by the presiding member.

(11) The Appeal Board may, subject to the approval of the Governor-General, make rules not inconsistent with this Ordinance governing the carrying on of the business of the Appeal Board and the practice and procedure in connection with appeals, but no such rule shall have effect until it has been published in the *Trinidad and Tobago Gazette*.

(12) The presiding member may, subject to the rules of the Appeal Board and to this Ordinance, determine the procedure to be followed in an appeal.

(13) Where by any enactment there is conferred on the Appeal Board jurisdiction which was previously exercised by another court, tribunal, authority or person (hereinafter called the former tribunal), then, subject to any rules made under this section—

(a) the procedure which governed the exercise of the jurisdiction by the former tribunal shall continue, *mutatis mutandis*, to govern such exercise by the Appeal Board;

- (b) the decisions of the Appeal Board in relation to such exercise are enforceable in the same way as those of the former tribunal;
- (c) the effect of things done in or for the purpose of that jurisdiction by the former tribunal is preserved.

*Appeals against assessment to tax, &c.*

Notices of  
appeal  
against  
assessment  
to tax

43D. (1) Any person who has disputed his assessment by notice of objection under this Ordinance, and who is dissatisfied with the decision of the Board of Inland Revenue therein, may appeal to the Appeal Board and the provisions of this section shall apply thereto, and to every other appeal to the Appeal Board under any other provisions of this Ordinance or any other enactment.

(2) The appeal shall be instituted by filing with the Registrar a notice of appeal and serving a copy thereof on the Board of Inland Revenue within twenty-eight days of the date of the decision by the said Board.

(3) If it be shown to the satisfaction of the Appeal Board that, owing to absence, illness, or other reasonable cause, any person has been prevented from appealing in the time specified, the Appeal Board may extend the time within which the appeal may be heard.

(4) The notice of appeal shall specify the grounds of appeal, and subject thereto, the appeal shall be in such form as may be prescribed by rules of the Appeal Board.

(5) If on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice of appeal, and the omission of that ground from the notice was in the opinion of the Appeal Board not wilful or unreasonable, the Appeal Board shall not by reason of anything in subsection (4) be precluded from allowing the appellant to go into that ground or taking it into consideration.

(6) Immediately after receiving the notice of appeal the Board of Inland Revenue shall forward to the Appeal Board copies of all documents relevant to the decision appealed from.

Hearing  
and deter-  
mination  
of appeals  
against  
assessment  
to tax

43E. (1) An appeal shall be heard *in camera*, unless the Appeal Board, on the application of the appellant, otherwise directs.

(2) The onus of proving that the assessment or other decision complained of is excessive is on the appellant.

(3) The Appeal Board may affirm, reverse or vary the assessment or other decision appealed against in such manner as it thinks just.

(4) If the Appeal Board is satisfied that the assessment is excessive it may reduce the amount of the assessment by the amount of the overcharge, and if it is satisfied that the assessment is insufficient it may increase the amount of the assessment by the amount of the undercharge.

(5) Any tax overpaid as a result of an overcharge determined by the Appeal Board shall be dealt with by repayment.

(6) Any revision of the charge to tax as a result of the appeal shall be dealt with by increase in assessment, or by reduction of the overcharge, as may be necessary.

(7) Except so far as may be provided by rules of the Appeal Board, the Appeal Board shall not have power to order the payment of costs by the Board of Inland Revenue or the appellant.

(8) The decision of the Appeal Board is final on a question of fact; but, subject to sections 43F and 43G, an appeal shall lie on any question of law to the Court of Appeal."

Section 43G of  
Ordinance  
amended

**30.** Subsections (1), (2) and (3) of section 43G of the Ordinance are repealed and replaced as follows :—

"(1) The appellant or the Board of Inland Revenue, if dissatisfied with the decision of the Appeal Board as being erroneous in point of law,

may, within twenty-one days or such other time as may be prescribed by rules of court made under section 43H, appeal against such decision by—

- (a) filing with the Registrar a notice in writing, in the prescribed form, requesting the Appeal Board to state and sign a case for the opinion of the Court of Appeal; and
- (b) serving a copy of the said notice on the Board of Inland Revenue or the appellant, as the case may be.

(2) Where the appellant requires the case to be stated the notice shall be accompanied by a fee of five dollars."

**31.** Subsection (1) of section 46 of the Ordinance is amended by deleting the words "by deduction or otherwise" occurring in line 3 thereof.

Section 46 of Ordinance amended

**32.** (1) Sections 47, 48, 49, 50, 51 and 52 of the Ordinance are repealed and replaced as follows:—

Sections 47 to 52 of Ordinance repealed and replaced

Relief from double taxation

"47. (1) If the Governor-General by Order published in the *Gazette* declares that arrangements specified in the Order have been made with the Government of any country 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 country, and that it is expedient that those arrangements should have effect, then subject to the provisions of the next succeeding section the arrangements shall, notwithstanding anything in any enactment, have effect in relation to income tax in so far as—

- (a) they provide for relief from tax; or
- (b) they provide for—

- (i) charging the income arising from sources in Trinidad and Tobago to persons not resident in Trinidad and Tobago; or
- (ii) determining the income to be attributed to such persons and

their agencies, branches or establishments in Trinidad and Tobago; or

- (iii) determining the income to be attributed to persons resident in Trinidad and Tobago who have special relationships with persons not so resident.

Schedule II

Third  
Schedule

(2) The provisions of Part I of the Third Schedule shall have effect where arrangements which have effect by virtue of this section provide that tax payable under the laws of the country concerned shall be allowed as a credit against tax payable in Trinidad and Tobago.

(3) The Governor-General may by regulations, subject to negative resolution, add to, vary or amend the provisions of the Third Schedule.

(4) Where, under any arrangements which have effect by virtue of this section, relief may be given either in Trinidad and Tobago or in the country with the Government of which the arrangements are made, in respect of any income, and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such assessment may be made as is necessary to ensure that the total amount of the income assessed and the proper credit, if any, is given in respect thereof, and, where the income is entrusted to any person in Trinidad and Tobago for payment, any such assessment may be made on the recipient of the income under the provisions of this Ordinance.

(5) Any arrangements to which effect is given under this section may include provision for relief from tax for periods before the commencement of this section or before the making of the arrangements and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.

(6) Any order made under this section may be revoked by a subsequent Order and such revoking Order may contain such transitional provisions as appear necessary and expedient.

Unilateral  
relief

48. (1) To the extent appearing from the following provisions of this section and Parts II and III of the Third Schedule, relief from income tax shall be given in respect of income tax payable under the law of any country outside Trinidad and Tobago by allowing the last mentioned tax as a credit against income tax payable in Trinidad and Tobago, notwithstanding that there are not for the time being in force any arrangements under the last preceding section providing for such relief.

(2) The said relief (hereinafter referred to in this section and in Parts II and III of the Third Schedule as "Unilateral relief") shall be such relief as would fall to be given under Part I of the Third Schedule if arrangements with the Government of the foreign country containing such provision as appears in so much of Part II of the Third Schedule as applies to that country were in force by virtue of the last preceding section, and any reference occurring in the said Part I which imports a reference to relief under arrangements for the time being in force by virtue of the last preceding section shall be deemed to import also a reference to unilateral relief:

Provided that—

- (a) the total credit to be allowed by way of unilateral relief in the case of any income shall not, if the country is within prescribed commonwealth countries, exceed one-half and in any other case one quarter of the sum of the limits specified in regulation 4 and paragraph (1) of regulation 5 of Part I of the Third Schedule; and
- (b) the provisions of Part I of the Third Schedule shall, as respects unilateral relief, have effect subject to the provisions set out in Part III of the said Third Schedule.

(3) Where unilateral relief may be given in respect of any income and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief, any such assessment may be made as is necessary to ensure that the total amount of income is assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in Trinidad and Tobago for payment, any such assessment may be made on the recipient of the income under the provisions of this Ordinance.

(4) References in this section and in Parts II and III of the Third Schedule to tax payable or tax paid under the law of a country outside Trinidad and Tobago include only references to taxes which are charged on income or profits and correspond to income tax in Trinidad and Tobago, and, without prejudice to the generality of the preceding words, a tax which is payable under the law of a province, state or other part of a country, or which is levied by or on behalf of a municipality or other local body, shall not be deemed for the purposes of this subsection to correspond to income tax.

Power to  
vary with-  
holding tax

49. If the Governor-General by Order published in the *Gazette* so provides, the rate of withholding tax shall be reduced to the extent so provided as respects any person, notwithstanding that there are not for the time being in force any arrangements under section 47 providing for such relief."

(2) Notwithstanding the repeal of sections 47 (3) and 48 and 49 of the Ordinance, until arrangements are made with those of the Commonwealth countries prescribed in Schedule I to which the said sections 47 (3) and 48 and 49 apply under the provisions of the Ordinance, as repealed and replaced by this section, the provisions of the said sections 47 (3) and 48 and 49 shall continue to have effect for the purpose of double taxation relief with respect to those Commonwealth countries, so however that section 49 as enacted by this section shall have effect for purposes of withholding tax.

33. Subsection (1) of section 55A is amended by adding at the end thereof the words "unless the Board, on being satisfied that the difference between those two amounts did not result from the taxpayer's own default, directs and reduction in the rate of interest payable".

Section 55A of  
Ordinance  
amended

34. Subsection (1) of section 56 of the Ordinance is amended by substituting a reference to the Fourth Schedule for the reference to the Second Schedule occurring therein.

Section 56 of  
Ordinance  
amended  
Schedule II

35. Section 64 of the Ordinance is repealed and replaced as follows—

Section 64 of  
Ordinance  
repealed and  
replaced

"64. (1) Where—

Provisions  
as to  
recovery  
of tax and  
penalties

(a) the amount of any tax for the time being due and payable under any assessment does not exceed twelve hundred dollars;

(b) the tax under any assessment is payable by instalments and the sum for the time being due and payable in respect of any of those instalments does not exceed twelve hundred dollars,

the tax shall, without prejudice to any other manner of recovery, be a sum enforceable as a civil debt by proceedings commenced in the name of the Board.

(2) All or any of the sums due in respect of tax from any person and payable to the Board (being sums which are by law sums enforceable as a civil debt) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before a Magistrate or to be issued by a Magistrate, and every document as aforesaid shall as respects such sum be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) A written statement as to the wages, salaries, fees and other emoluments paid for any

period to the person against whom proceedings under this section are brought, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer shall, in any such proceedings be *prima facie* evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

(4) Where a penalty other than a fine, is imposed by or under this Ordinance in addition to tax, the penalty shall be added to the assessment, and collected and recovered in like manner as any tax included in such assessment may be collected and recovered.

(5) Any tax that is by this section a sum enforceable as a civil debt, may be recovered as if it was a simple contract debt in any court of competent jurisdiction.

(6) For the avoidance of doubt it is hereby declared to be the law that any tax charged under the provisions of this Ordinance is a debt due to the Crown and may without prejudice to any other manner in which the same may at any time be lawfully recovered, be sued for and recovered from the person charged therewith in the manner provided in the Crown Suits Ordinance.

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(7) Any person who in the opinion of the Court may be able to give information concerning the property or goods of the person charged may lawfully be summoned to give evidence in any civil or criminal proceedings."

Section 68 of  
Ordinance  
repealed and  
replaced

**36.** Section 68 of the Ordinance is repealed and replaced as follows—

Traders,  
&c.. to  
keep  
accounts,  
books and  
records in  
English  
Language

"68. (1) Every person engaged in any trade, business or profession, and every person who is required by or pursuant to this Ordinance, to deduct or withhold and to pay taxes or other amounts shall keep in the English Language proper records and books of account (including an annual inventory) at his place of business or residence in Trinidad and Tobago or at such other place as may be approved by the Board, and in

such form as required by the Board and containing such information as will enable the taxes payable under this Ordinance or the taxes or other amounts that should have been deducted, withheld or paid to be determined.

(2) Where a person has failed to keep adequate records and books of account for the purposes of this Ordinance, the Board may require him to keep such records and books of accounts as it may specify and that person shall thereafter keep records and books of account as so required.

(3) Every person required by this section to keep records and books of account shall retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account for a period of at least six years from the year of income to which the records or books relate, so, however, that where the Board by notice in writing so requires, a person shall retain any such record or book of account and every such account or voucher as aforesaid until written permission for their disposal is obtained from the Board.

(4) Every person who fails to keep such records, books of account and every account or voucher as may be required to be so kept by this section is guilty of an offence.

Powers of  
inspection  
of records

68A. (1) The Board may for any purpose related to the administration or enforcement of this Ordinance require any person, except a person engaged in confidential professional relationship with such person, to give it information with respect to his income or assessment or assets or the income or assessment or assets of any other person or to permit it or any person duly authorised by it in writing to inspect any record of any monies, funds or other assets held by that person on his own behalf or which may be held by him for, or of any monies due by him to, any other person.

(2) Notwithstanding any rule of law to the contrary, but subject to this section, the Board may, for the purpose of determining any objection to an assessment, require by writing any bank or any officer thereof to furnish information in writing or may summon any such officer to appear before it to give evidence respecting the assessment or to furnish statements of accounts and affairs verified in the manner specified by it, and the Board may examine such officer on oath or otherwise.

(3) Where the Board proposes to exercise the powers conferred on it under subsection (2) it shall give notice of its intention so to do, to the person who has disputed his assessment and shall inform such person of his rights under this section.

(4) If the person who has disputed his assessment is aggrieved by the proposal of the Board to exercise its powers under subsection (2), he may, within seven days of receipt of notice thereof from the Board, apply to a Judge in Chambers for a declaration of his rights in the matter, and the Judge shall hear and determine such application and shall make such order as the justice of the case requires.

(5) A person is guilty of an offence who—

(a) fails to give to the Board any information in accordance with the provisions of this section; or

(b) fails to produce for the inspection of the Board or any person duly authorised by it any records which he may be required by the Board or such duly authorised person to produce.

Powers of  
entry for  
certain  
purposes

68B. (1) Subject to this section and to section 68A, the Board or any person authorised by it for any purpose related to the administration or enforcement of this Ordinance may, at all reasonable times, enter into any premises or place where any business is carried on or any property

is kept or anything is done in connection with any business or any books or where records are, or are required to be kept pursuant to this Ordinance, and

- (a) audit or examine the books and any account, voucher, letter, telegram or other document, which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Ordinance;
- (b) examine property described by an inventory or any property, process or matter the examination of which may, in its opinion, assist it in determining the accuracy of an inventory or in ascertaining the information that is or is required to be contained in the books or records or the amount of any tax payable under this Ordinance;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give it all reasonable assistance with its audit examination and to answer all questions relating to the audit or examination either orally, or if it so requires, in writing, on oath or by statutory declaration and, for that purpose require the owner or manager to attend at the premises or place with it;
- (d) search, if necessary with the assistance of any police officer, any building, receptacle or place for documents, books, records, papers or things which may afford evidence as to the violation of any provision of this Ordinance or the regulations;
- (e) if, during the course of the audit or examination, it appears to it that there has been a violation of this Ordinance or the regulations, seize and take away any of the records,

books of account, vouchers, letters, telegrams, and other accounts and retain them until they are produced in any proceedings.

(2) Admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier, so, however, that if any person is aggrieved by any such notice he may, within the said period of 24 hours, so inform the Board in writing, and thereupon the provisions of subsection (4) of section 68A shall apply as if the reference to subsection (2) occurring therein was a reference to subsection (1) of this section.

(3) If it is shown to the satisfaction of a magistrate on sworn information in writing—

(a) that admission to any premises has been refused, or that refusal is apprehended, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1),

the magistrate may by warrant under his hand authorise the Board by any authorised officer to enter the premises, if need be by force, except that such a warrant shall not be issued unless the magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the giving of such notice would defeat the object of the entry. Where it is shown to the satisfaction of the magistrate that the giving of the notice would defeat the object of the entry, the provisions of this subsection shall apply notwithstanding anything to the contrary in subsection (2).

(4) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) If any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace, discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he is, unless such disclosure was made in the performance of his duty, liable to a fine of one thousand five hundred dollars, or to imprisonment for twelve months.

(7) Every person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevent or attempts to prevent any person from doing any such thing and any person who unless he is unable to do so fails or refuses to do anything he is required by or pursuant to this section to do is guilty of an offence and liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for two years or to both such fine and imprisonment."

**37.** Section 69 of the Ordinance is repealed and replaced as follows—

Offence in  
respect of  
fraud

"69. A person is guilty of an offence, and in addition to any penalty otherwise provided liable on summary conviction to a fine of two thousand five hundred dollars or to imprisonment for three years or to both such fine and such imprisonment who—

- (a) knowingly or recklessly makes or participates in or assents to or acquiesces in the making of, false or deceptive statements, or representations, in a return, certificate, statement, declaration or answer filed as required by or under this Ordinance or any regulations;
- (b) with intent to evade payment of a tax imposed by this Ordinance, destroys, alters, mutilates, secretes or otherwise disposes of any records or books of account;
- (c) knowingly or recklessly makes, or assents to or acquiesces in the making

Section 69 of  
Ordinance  
repealed and  
replaced

of false or deceptive entries, or omits or assents to or acquiesces in the omission to enter a material particular in any records or books of account;

- (d) wilfully, in any manner evades or attempts to evade, compliance with this Ordinance or payment of taxes imposed by this Ordinance; or
- (e) conspires with any person to commit an offence described in paragraphs (a) to (d)."

Section 71 of Ordinance repealed and replaced

**38.** Section 71 of the Ordinance is repealed and replaced as follows—

Offences and penalties

"71. (1) Every person guilty of an offence under this Ordinance is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months or to both such fine and imprisonment.

(2) Where a person is guilty of an offence under this Ordinance, the Court may, in addition to any penalty which it may impose, make an Order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such Order for imprisonment in default for any period not exceeding two years as it may consider fit."

Section 78 of Ordinance amended

**39.** Section 78 of the Ordinance is amended by substituting for the words "Commissioner" and "Deputy Commissioner" the words "Board" and "Commissioner" respectively, and by making such other grammatical alterations as thereby become necessary.

New section 78A added

**40.** The Ordinance is amended by the insertion after section 78 thereof of the following section—

Indemnity for liability

"78A. The Board, a Commissioner or any officer acting under its authority shall be indemnified against any liability with respect to any act or thing performed or done by it or in its name in connection with any duty imposed by this Ordinance".

Schedules of the Ordinance amended  
Schedule II

**41.** The First and Second Schedules of the Ordinance are repealed and replaced by the Second and Fourth Schedules thereto given in Schedule II of this Act, and the First, Third and Fifth Schedules to the Ordinance are given in the said Schedule II.

## PART II

## TAXATION OF COMPANIES

*Preliminary*

## 42. (1) In this Part—

Definitions

- “branch or agency” means any factorship, agency, receivership, branch or management;
- “chargeable profits” means the aggregate amount of the profits of any company specified in section 43 remaining after allowing the appropriate deductions and exemptions under this Part;
- “company” means any body corporate or unincorporated association, but does not include a partnership;
- “corporation tax” or “tax” means the tax charged by section 43;
- “distribution” has the meaning assigned to it by section 23 of the Ordinance;
- “investment company” has the meaning assigned to that expression in section 46 (3);
- “new consideration” has in other provisions the same meaning as in subsection (5) of section 23 of the Ordinance;
- “non-resident company” means a company not controlled in Trinidad and Tobago, whether or not such company is—
- (i) incorporated in Trinidad and Tobago, or
  - (ii) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;
- “preference dividend” means a dividend payable on a preferred share or preferred stock at a fixed gross rate per cent., issued by a resident company before 31st January, 1966, or, where a dividend is payable on such a preferred share or preferred stock partly at a fixed gross rate per cent., and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent;

“profits” means income and includes short-term capital gains;

“resident company” means a company that is controlled in Trinidad and Tobago, whether or not such company is—

(i) incorporated in Trinidad and Tobago, or

(ii) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago,

“royalties” means—

(a) amounts paid as consideration for the use of, or the right to use—

(i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tapes for radio or television broadcasting, or other like properties or rights; or

(ii) information concerning industrial, commercial or scientific knowledge, experience or skill;

(b) royalties, rentals, or other amounts paid in respect of the operation of mines, quarries or other natural resources;

“short-term capital gains” means chargeable gains accruing on a disposal of an asset within twelve months of its acquisition;

“subsidiary company” has the meaning provided for the purposes of section 23 (1) (d) (iv) of the Ordinance by subsection (2) of the said section 23;

“withholding tax” has the same meaning as in section 2 of the Ordinance;

“a source of income” is “within the charge to” corporation tax or income tax if that tax is chargeable on the income arising from it or would be so chargeable if there were any such income, and references to a person, or to income being within the charge to tax, shall be similarly construed.

(2) Without prejudice to any other case in which a company is engaged in or carrying on trade or business in Trinidad and Tobago, a company shall be deemed to be engaged in or carrying on trade or business in Trinidad and Tobago if it has an office or place of business in Trinidad and Tobago or has a branch or agency therein.

(3) Except as otherwise provided by this Part and except in so far as the context otherwise requires, expressions used in the Ordinance have the same meaning in this Part as in the Ordinance; but no provision of this Part as to the interpretation of any expression, other than a provision expressed to extend to the use of that expression in the Ordinance, shall be taken to affect its meaning in the Ordinance as it applies for the purposes of corporation tax.

(4) For all purposes of the Corporation Tax Acts, dividends, including preference dividends, shall be treated as paid on the date when they become due and payable.

(5) Except as otherwise provided by this Part any apportionment to different periods which falls to be made thereunder shall be made on a time basis according to the respective lengths of those periods.

(6) For the purposes of the definition of "resident company" and "non-resident company", the place where such a company is to be regarded as controlled is the place where the mind or management of the company is ordinarily situated.

### *Imposition of Corporation Tax*

43. Subject to the provisions of this Part, corporation tax shall be payable at the rate specified in Schedule III for each year of income upon the profits of any company, accruing in or derived from Trinidad and Tobago or elsewhere and whether received in Trinidad and Tobago or not in respect of—

Charge of  
corporation tax  
Schedule III

- (a) farming, agriculture, forestry, fishing, or other primary activity;
- (b) the operation of mines or the exploitation of natural or mineral resources;
- (c) any other trade or business;

- (d) any profession or vocation or management charges or charges for the provision of personal services and technical and managerial skills;
- (e) short-term capital gains;
- (f) interest, discounts, annuities or other annual or periodic payments received for the use of capital;
- (g) rents paid for immovable property and royalties from the operation of mines, quarries or other natural resources and the annual value of land and improvements thereon used by or on behalf of the owner or used rent-free by the occupier for the purpose of residence or enjoyment and not for the purpose of gain or profit, such annual value being that assessed in house rates or taxes under the Lands and Buildings Taxes Ordinance or under the Port-of-Spain Corporation Ordinance or under the San Fernando Corporation Ordinance or under the Arima Corporation Ordinance;
- (h) rentals and royalties paid for the use or the right to use—
  - (i) copyrights, artistic or scientific work, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tape for radio and television broadcasting, or other like properties or rights, or
  - (ii) information concerning industrial, commercial or scientific knowledge, experience or skill;
- (i) premiums, commissions, fees and licence charges;
- (j) dividends and other income received from non-resident companies, out of profits not derived from or accruing in Trinidad and Tobago, and from persons (including a partnership) not being companies;
- (k) preference dividends;
- (l) profits or amounts deemed to be profits of a company under this Part;
- (m) any annual profits not falling under any of the foregoing paragraphs.

44. (1) Subject to any exceptions provided for by this Part, a resident company shall be chargeable to corporation tax on all its profits wherever arising. General scheme  
of corporation tax

(2) Where a non-resident company is carrying on a trade or business in Trinidad and Tobago, the profits thereof that are chargeable to corporation tax shall be any income directly or indirectly accruing in or derived from Trinidad and Tobago.

(3) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust or arising under any partnership in any case in which it would be so chargeable if the profits accrue to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corporation tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.

#### *Basis of Assessment and Exemptions*

45. (1) Corporation tax shall be charged for each year of income upon the chargeable profits of the company arising in that year; so, however, that the provisions of this Part shall be read and construed as imposing the charge to corporation tax on the profits of the company for the year of income 1966 and subsequent years in respect of the profits of the accounting period ending within that year and so for subsequent years of income. Basis of  
assessment

(2) Except as otherwise provided by this Part, corporation tax shall be assessed upon the full amount of the profits accruing or arising, whether or not received in Trinidad and Tobago, in the year of income without any other deduction than is authorised by this Act.

46. (1) There shall be exempt from corporation tax— Exemptions
- (a) distributions, other than preference dividends, received by a company from a resident company;
  - (b) profits of an investment company;
  - (c) profits of a local authority arising from its activities as such as well as from any trade or business carried on by such local authority;

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- (d) profits arising from a trade or business carried on by a co-operative society so registered under any enactment in force in Trinidad and Tobago;
- (e) the profits of any sporting body of persons, that are approved by the Governor-General by writing under his hand, derived from public or private subscriptions or donations, whether by deed or covenant or otherwise, or derived from charges for admission to witness sporting events, or from the provision of refreshments to patrons who witness sporting events;
- (f) the profits of a trade union registered under the Trade Unions Ordinance, being a trade union which is precluded by its rules from assuring to any person a gross sum exceeding nine hundred and sixty dollars or an annuity exceeding two hundred and forty dollars per annum, in so far as such profits are applicable and is applied solely for the purpose of provident benefits, and for the purposes of this paragraph the expression "provident benefits" shall be taken to include any payment expressly authorised by the rules of the trade union, which is made to a member during sickness or incapacity from personal injury or while out of work or to an aged member by way of superannuation, or to a member who has met with an accident, or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member, or the wife of a member, or as provision for the children of a deceased member;
- (g) profits of any ecclesiastical, charitable or educational institution of a public character, approved by the Governor-General by writing under his hand, in so far as such profits are not derived from a trade or business carried on by such institution;
- (h) profits of the Post Office Savings Bank and any other institution established for the encouragement of thrift which the Governor-General may declare to be exempt;

- (i) profits arising from investment of any fund or scheme approved by the Governor-General under paragraph (c) of subsection (1) of section 16 of the Ordinance;
- (j) profits of any statutory or registered building or friendly society;
- (k) interest receivable on any loan charged on the public revenue declared by the Governor-General by Order to be so exempt.

(2) For the purposes of paragraph (e) of subsection (1)—

“sporting body of persons” means a body of persons established for the purpose of promoting or advancing sporting events, being a body of persons, to a share in the profits of which no member or person other than another sporting body of persons is entitled, and being a body of persons whose profits are applied wholly to the promotion or advancement of sporting events or to the provision of facilities or amenities for competitors in, or for members of the public who attend, sporting events :

Provided that a body of persons shall not cease to be a sporting body of persons by reason only of the fact that a portion of its profits is donated to any charitable or educational institution of a public character; and

“sporting events” means athletics, badminton, basket ball, billiards, amateur boxing, amateur wrestling, cricket, cycling, flying, model aeroplane flying, football, golf, hockey, netball, polo, swimming, tennis, weight lifting, yachting, and such other activities as may be prescribed.

(3) For the purposes of this section—

“local authority” means the Port-of-Spain Corporation, established under the Port-of-Spain Corporation Ordinance, the San Fernando Corporation, established under the San Fernando Corporation Ordinance and the Arima Corporation, established under the Arima Corporation Ordinance as the case may be;

“ investment company ” means a resident company that in respect of a year of income satisfies the following conditions—

- (a) 100 per cent. of the assets thereof are situate in Trinidad and Tobago;
- (b) at least 80 per cent. of its property owned throughout the year was shares, bonds, marketable securities;
- (c) not less than 90 per cent. of its profits was derived from shares, bonds, or marketable securities;
- (d) not more than 50 per cent. of its gross revenue for the year was from interest;
- (e) at no time in the year did more than 10 per cent. of its property consist of shares, bonds, marketable securities of any one company or debtor, other than those of the Government;
- (f) at no time in the year was the number of shareholders of the company less than fifty, none of whom at any time in the year held more than 25 per cent. of the shares or the capital stock of the company;
- (g) 90 per cent. or more of its profits (other than dividends or interest received in the form of shares, bonds, or other securities that had not been sold before the end of the year of income) was distributed to its shareholders within six months following the end of the accounting period for that year of income.

#### *Computation of Profits*

General rules  
for computation  
of income

47. (1) Except as otherwise provided by this Part, the chargeable profits of a company shall be computed in accordance with income tax principles relating to the provisions of the Ordinance applied by section 58 and all questions as to the amounts which are or are not to be taken into account as profits, or in computing profits, or charged to tax as a person's profits or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law as applied by section 58 and practice.

(2) For the purpose of this section "income tax law" means, in relation to any year of income, the law applying, for the year of income, to the charge on individuals of income tax, except that—

- (a) it includes also such provisions of the Ordinance applying for the year of income 1966 as make special provision for companies in relation to matters referred to in subsection (1); and
- (b) it does not include such of the provisions of the Ordinance so applying as make special provision for individuals in relation to those matters.

(3) Subject to any enactment applied by this Part which expressly authorises such an allowance, no allowance shall, subject to subsections (4) and (5), be made in ascertaining the chargeable profits—

- (a) in respect of distributions; or
- (b) in respect of any annuity or other annual payment.

(4) Subsection (3) (a) shall not apply when the company makes a distribution that is a preference dividend, paid on or after 1st January, 1966, but so however that—

- (i) the deduction that is allowed in ascertaining the chargeable profits shall not exceed the amount of the preference dividend;
- (ii) the deduction shall be allowed only in the year of income in which such preference dividend has actually been paid.

(5) Subsection (3) (b) shall not apply when the company makes a covenanted donation to charity. In this subsection "covenanted donation to charity" means a payment under a settlement as defined by section 34G of the Ordinance, made by the company in favour of a body of persons or trust established for charitable or educational purposes, or a sporting body of persons as defined by section 46 (2).

(6) Without prejudice to the generality of subsection (1), any provision of the Ordinance which confers an exemption from income tax, or which provides for a person to be charged to income tax on any amount (whether expressed to be income or not, and whether an actual amount or not), shall have the like effect for purposes of corporation tax so far as is consistent with this Part.

Export  
allowances

Schedule IV

48. (1) Where a company has made export sales during any of the three immediately preceding years of income then, in computing the tax chargeable for any year of income of such company there shall be set off for the purposes of collection against the tax chargeable on the chargeable income of such company an export allowance calculated in the manner set out in Schedule IV, if the company in a claim made for the purpose satisfies the Board that the provisions of this section and of Schedule IV are applicable to it.

(2) Notwithstanding that a company has made no export sales during any of the three immediately preceding years of income the provisions of subsection (1) shall apply to the extent specified in Schedule IV if the company in a claim made for the purpose satisfies the Board that the provisions of this section and of Schedule IV are applicable to it.

(3) All exports shall be eligible for export allowance except—

- (a) re-exports;
- (b) sugar;
- (c) mineral oil and its products;
- (d) pioneer products;
- (e) any other product specified from time to time by Order made by the Governor-General.

(4) The export allowance shall be made only to the company named in the shipping documents as the exporter, and in no case shall the allowance be made more than once in respect of any one export. Every claim for an export allowance shall be accompanied by all such documents as may be necessary to satisfy the Board that the exports for which the allowance is claimed have in fact been made.

Carry over  
of export  
allowances

49. Where there is an insufficiency of tax against which the export allowance can be offset, the whole or any part of the allowances not offset in the year of income may be carried forward for a period not exceeding five years to be offset against tax charged in any of those years of income.

Deductions and  
additions in  
computation of  
profits for  
capital allow-  
ances and related  
charges

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50. (1) In computing for purposes of corporation tax a company profits for any year of income there shall be made in accordance with this section all such deductions and additions as are required to give effect to the provisions of the Income Tax (In Aid of Industry) Ordinance which

relate to deductions and allowances and charges in respect of capital expenditure, as those provisions are applied by this Part.

(2) Allowances and charges which fall to be made for any year of income in computing the profits of a trade shall be given effect by treating the amount of any allowance as a trading expense of the trade in that year, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that year.

### *Close Companies*

51. (1) A close company shall distribute as dividend profits which can be distributed without detriment to the company's business. Power to direct distribution of certain profits

(2) With a view to preventing the avoidance of the payment of tax through the withholding from distribution of the profits of a close company which could otherwise be distributed, it is hereby enacted that where it appears to the Board that such a company has not distributed to its members as dividend, profits which could be distributed without detriment to the company's existing business, the Board, by notice in writing to the company, may direct that such profits shall thereupon be distributed, so however, that in determining whether any company has or has not distributed profits that could be distributed as aforesaid, the Board shall have regard to the current needs and future development requirements of the company's business.

(3) Where, during any year of income, a close company, on an application made in the prescribed manner and within the prescribed time, satisfies the Board on the basis of concrete evidence that such distribution would be prejudicial to the current needs or to the future development requirements or both of the company, the Board may relieve such company from compliance with the directions under this section to such extent as it may consider appropriate, and the company shall thereupon be so relieved, so, however that if the Board refuses so to relieve the company or makes any direction with which the company is dissatisfied, the company aggrieved thereby may appeal to the Appeal Board within 28 days of receipt of notice of such refusal or direction with which the company is dissatisfied, notwithstanding no assessment has been made.

Deductions  
for director's  
remuneration

52. (1) In computing the profits of a close company for any year of income for the purpose of ascertaining the chargeable profits of such company, the deduction that may be made for the remuneration by way of fees of director other than a whole-time service director shall not, subject to this section, exceed 10 per cent. of the chargeable profits, before making the deduction for that remuneration or for initial allowances, other than the allowance in respect of annual depreciation provided for by the Income Tax (In Aid of Industry) Ordinance, but so that the deduction does not exceed \$3,000 for each such director.

(2) In computing the profits of a close company for any year of income there may be allowed a deduction for the remuneration by way of fees paid to any director, who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity of an amount not exceeding—

- (a) \$15,000, in the case of the highest paid director;
- (b) \$10,000, in any other case,

so however, that where any such director receives remuneration by way of a salary as a full-time employee of the company, the company may not claim as a deductible expense an amount in excess of \$6,000 in respect of the fees so paid.

(3) Notwithstanding anything in this section to the contrary, where any sum paid to a director of a close company exceeds an amount which in the opinion of the Board appears to be fair and reasonable in view of the time provided by the director to the affairs of the company, the Board may deem the excess of the amount paid to such director over what is considered to be fair and reasonable, to be a distribution by the company to such a director.

Supplementary  
provisions  
about close  
companies  
Schedule V

53. The provisions of Schedule V shall have effect for the interpretation and operation of the foregoing sections of this Act relating to close companies, and those sections shall have effect subject to and in accordance with the provisions of that Schedule.

#### *Special Classes of Companies*

Special pro-  
visions as to  
Insurance  
Companies  
and Shipping  
Companies, &c.  
Schedule VI

54. The provisions of Schedule VI shall have effect for the purpose of ascertaining the chargeable profits and the tax payable thereon of Insurance Companies (including Life Insurance Companies) Shipping Companies, and Air Navigation Companies.

55. The provisions of Schedule VII shall apply for the purpose of ascertaining the chargeable profits and the tax payable thereon of approved mortgage and other companies, and notwithstanding anything to the contrary in this or in any other enactment, the provisions of sections 18B to 18E of the Ordinance, as renumbered shall apply to an approved mortgage or other company referred to in the said Schedule for the purposes of this Part.

Approved  
Mortgage  
Companies, &c.  
Schedule VII

56. (1) Except in so far as this Part otherwise provides, the Income Tax (In Aid of Industry) Ordinance and any provisions of the Ordinance relating to the making of allowances or charges under or in accordance with the said (In Aid of Industry) Ordinance shall apply equally for purposes of corporation tax and for purposes of income tax.

Application and  
adaptation of  
Ordinance as to  
capital allowance  
and other matters

(2) For purposes of corporation tax the right to an allowance or liability to a charge for a year of income and the rate or amount of any such allowance or charge, shall be determined under the provisions referred in subsection (1) by applying the law in force for the year of income.

(3) Where by virtue of this Part any provision of the Ordinance applies both to income tax and to corporation tax, it shall not be affected in its operation by the fact that they are distinct taxes but, so far as consistent with this Part, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and for that purpose in any such provision of the Ordinance references to a deduction or allowance for the purpose of ascertaining chargeable income or to a specified provision of that Ordinance shall, in the absence of or subject to any express adaptation made by this Act, be construed as being or including a reference to any corresponding deduction or allowance for the purpose of ascertaining chargeable profits or to any corresponding provision of this Part.

57. (1) Subject to any express amendments made by this Part, sections 47 and 48 of the Ordinance together with any other enactment relating or referring to double taxation relief shall have effect in relation to corporation

Double taxation  
relief

tax and profits chargeable thereto as they are expressed to have effect in relation to income tax and income chargeable thereto.

(2) Where dividends are paid by a company resident in a country outside Trinidad and Tobago to a company resident in Trinidad and Tobago which controls directly or indirectly not less than one-quarter of the voting power of the company paying the dividends, then for the purpose of allowing credit against corporation tax in respect of the dividends in accordance with the Third Schedule to the Ordinance, any Trinidad and Tobago tax payable by the first-mentioned company in respect of its profits (whether income tax or corporation tax) and any tax so payable under the law of any country outside Trinidad and Tobago shall be taken into account as if it were tax payable under the law of the first-mentioned country.

(3) For the purposes of this section a company shall be deemed to control, directly or indirectly, not less than one-quarter of the voting power in another company if a third company having such control also controls directly or indirectly not less than one-half of the voting power in the first-mentioned company.

Application  
of certain pro-  
visions of the  
Ordinance

58. The corporation tax shall be under the care and management of the Board of Inland Revenue and, subject to sections 47 and 50, the provisions of the Ordinance in the table below shall apply in relation to corporation tax as they apply in relation to income tax chargeable under the Ordinance but subject to any necessary modifications and adaptations:

#### TABLE

##### INCOME TAX PROVISIONS APPLIED TO CORPORATION TAX

Section 2 (Interpretation).  
 Sections 3 and 4 (Administration).  
 Section 7 (Chargeable income of certain persons).  
 Sections 10, 11, 12, and 13 (Deductions and Allowances).  
 Section 16 (1) (c) (Approved fund or scheme with respect to deductions allowed at section 11 (1) (f) (g) and (h)).  
 Section 16A to 16F (Approved Pension Fund Plans).  
 Sections 18B to 18F as renumbered (Income tax exemptions in respect of newly constructed dwelling houses).  
 Sections 25 to 31 (Trustees, agents, &c.).  
 Sections 34, 34A to 34H (Settlements).  
 Sections 36, 36A, 37 (Returns).

## TABLE—Continued

Sections 38A to 38D (Payment of tax by instalments).  
 Sections 39 and 40 (Assessments).  
 Sections 40 and 41 (Assessments lists, &c.).  
 Section 42 (Notices of Assessments).  
 Sections 43 to 43H (Appeals).  
 Sections 44 and 45 (Errors in Assessments and additional Assessments).  
 Sections 46 (1) and (2) (Repayment of tax).  
 Section 55 (3) (Interest for non-payment of tax).  
 Sections 56, 57, 58, 59, 62 (Collection).  
 Sections 63, 64, 64A and 64B (Recovery).  
 Sections 65 and 66 (Notices).  
 Section 67 (Imprisonment of defaulters).  
 Sections 68, 68A, 68B and 69 to 74 (General provisions).  
 Section 75 (Regulations).  
 Sections 77 and 78 (Miscellaneous powers of the Board).  
 Sections 79 to 87 (Expenses allowance to Directors and others).  
 The First, Third and Fourth Schedules.

## MISCELLANEOUS AND GENERAL

59. (1) An auctioneer, and any person carrying on a <sup>Special return</sup> trade of dealing in any description of tangible moveable property, or of acting as an agent or intermediary in dealings in any description of tangible moveable property, may be required by the Board to deliver a return giving particulars of any transaction effected by or through him in which any asset which is tangible moveable property is disposed of.

(2) No person shall be required under this section to include in a return particulars of any transaction effected before 1st January, 1966 or more than six years before the service of the notice requiring him to deliver the return to the Board.

60. Any person in whose name any shares of a company are registered shall if required by notice in writing by the Board, state in writing whether or not he is the beneficial owner of those shares, and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name, and if any person on being so required neglects or fails to comply with the notice <sup>Nominee share-</sup>  
<sup>holdings</sup>

within the time limited by the notice, he shall be liable to a penalty of twice the amount of tax that would be chargeable at the highest rate in respect of the amount of the income apportioned to such shares. In this paragraph references to "shares" include references to "securities" and "loan capital."

Partnerships

61. A return of a partnership under sections 36 and 38 of the Ordinance as applied by this Part shall include—

- (a) with respect to any disposal of partnership property during a period to which any part of the return relates the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal, and
- (b) with respect to any acquisition of partnership property the particulars required under section 36.

Information as to non-resident companies and trusts

62. A person holding shares or securities in a non-resident company or who is interested in settled property under a settlement the trustees of which are not resident in Trinidad and Tobago may be required by a notice issued by the Board to deliver to it such particulars as it may consider are required to determine whether the company or trust falls within section 26 of the Ordinance as applied by this Part and whether any chargeable gains have accrued to that company, or to the trustees of that settlement, in respect of which the person to whom the notice is given is liable to tax by virtue of the said section 26 of the Ordinance.

Valuation

63. (1) If for the purposes of this Part the Board authorises any public officer to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the officer so authorised to inspect it at all reasonable times.

(2) If any person wilfully delays or obstructs the officer acting in pursuance of this paragraph he shall be liable on summary conviction to a fine of five hundred dollars.

Priority of tax in bankruptcy

64. In a bankruptcy, corporation tax shall have the same priority as income tax.

## PART III

## MISCELLANEOUS AMENDMENTS

65. (1) Sub-Section (1a) of Section 15 of the Income Tax (In Aid of Industry) Ordinance is amended by the insertion after the words "capital expenditure incurred" occurring in lines 2 and 3 thereof, the words "during the tax holiday period".

(2) Section 60 of the Income Tax (In Aid of Industry) Ordinance is repealed and replaced as follows—

Deductions  
and allow-  
ances for  
year of  
discharge  
of tax

"60. (1) All deductions in respect of any allowances authorised to be made or allowed by this Ordinance that would, but for the passing of the Income Tax (Amendment) Act, 1963, have been allowed under the Income Tax Ordinance in ascertaining the chargeable income of any person for what would have been the year of assessment 1963 had the said Act not been passed, shall be treated for all the purposes of this Ordinance as having been allowed for what would have been the said year of assessment 1963; and the provisions of this Ordinance that relate to the reduction of the amount of capital expenditure or other expenditure for the purpose of computing the annual allowances and other allowances for any year of income, shall apply accordingly.

Section 60 of  
the Income Tax.  
(In Aid of Indus-  
try) Ordinance re-  
pealed and replaced

(2) Subsection (1) shall be construed so as to include deductions under the Income Tax Ordinance in respect of all allowances authorised to be made or allowed by this Ordinance, notwithstanding any allowance—

- (a) was not claimed by the person entitled thereto;
- (b) is, by any other provision of this Ordinance, deemed to be a deduction for the purposes of the Income Tax Ordinance only when granted;
- (c) is, by virtue of section 1A to be made or allowed only for the year of income 1963 and subsequent years of income."

(3) Subsection (2) of this section of this Act shall be deemed to have come into operation on the 1st day of January, 1963.

General as to  
exemption

66. (1) Notwithstanding any enactment to the contrary, where under any enactment conferring exemption from income tax or corporation tax with respect to distributions or payments of interest made to members of a company that is exempt from income tax or corporation tax, the period during which such company may distribute profits that are exempt from tax is limited, such company may nevertheless distribute the exempt profits at any time thereafter and every such sum when so distributed is exempt from the payment of income tax or corporation tax in the hands of such members, if a special account showing the distribution and payments of interest made by the exempt company is maintained by the company to the satisfaction of the Board of Inland Revenue.

(2) Where by any enactment conferring exemptions from income tax or corporation tax with respect to the distributions or payments of interest made to members of a company that is itself exempt from tax, a member of such a company is another company, then that other company is entitled at any time to distribute a sum equal to the exempt distributions or payments of interest received by it to its members, and every such sum when so distributed is exempt from the payment of income tax or corporation tax in the hands of such members, if a special account showing the distribution and payments of interest received from the exempt company is maintained by the other company to the satisfaction of the Board of Inland Revenue.

Enactments  
amended.  
Schedule VIII

67. The enactments given in the first column of Schedule VIII are amended to the extent set out in the second column thereof.

Commencement  
and Validation

68. This Act shall be deemed to have come into operation on the 1st day of January, 1966.

#### SCHEDULE I

[Section 32 (2)]

#### COMMONWEALTH COUNTRIES PRESCRIBED FOR PURPOSES OF DOUBLE TAXATION RELIEF (TRANSITIONAL PROVISIONS)

Antigua  
Barbados  
Dominica  
Grenada  
Guyana  
Jamaica  
Montserrat  
Saint Christopher, Nevis and Anguilla  
Saint Lucia  
Saint Vincent

## SCHEDULE II

(Section 41)

## Schedules for the Purposes of the Income Tax Ordinance

## "FIRST SCHEDULE

(Section 5)

## SUPPLEMENTARY PROVISIONS ABOUT CAPITAL GAINS

*Preliminary*

## 1. (1) In this Schedule—

"allowable loss" means any loss that is permitted to be deducted Interpretation  
in computing the chargeable gains of any person for a year  
of income under paragraphs 3 and 5;

"assets" means all forms or property whether situated in  
Trinidad and Tobago or not, including—

(a) options, debts and incorporeal property generally;

(b) any currency other than the currency of Trinidad and  
Tobago;

(c) any form of property created by the person disposing  
of it, or otherwise coming to be owned without being  
acquired;

"branch or agency" means any factorship, agency, receivership,  
branch or management;

"chargeable gains" means every gain accruing on the disposal  
of an asset after the commencement of the Finance Act, 1966  
except so far as otherwise expressly provided by this  
Schedule;

"control" shall be construed in accordance with paragraph 3 of  
Schedule V of the Finance Act, 1966;

"disposal" except as otherwise expressly provided by this  
Schedule has the meaning assigned to that expression in  
paragraph 4;

"legatee" includes any person taking under a testamentary  
disposition or on an intestacy or partial intestacy, whether  
he takes beneficially or as trustee, and a *donatio mortis  
causa* shall be treated as a testamentary disposition and  
shall not be treated as a gift;

"market value" in relation to any asset means subject to  
paragraph 7 the price which that asset might reasonably  
be expected to fetch on a sale in the open market;

"non-resident company" has the meaning assigned to that  
expression for the purposes of the Corporation Tax Acts  
in section 42 thereof;

"person" includes a company;

"part disposal" has the meaning given by subparagraph (2);

“personal representative” means an executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties, includes any person who takes possession of, or intermeddles with, the property of the deceased person without the authority of the personal representative or the Court;

“principal” means, in relation to a branch or agency, the person, by whatever name called, managing or in charge of the branch or agency;

“resident company” has the meaning assigned to that expression for the purposes of the Corporation Tax Acts in section 42 thereof;

“short-term capital gains” means chargeable gains accruing on a disposal of an asset within twelve months of its acquisition;

“trading stock” in relation to any trade, means any property of any description whether real or personal being either—

(a) property such as is sold in the ordinary course of the trade or would be so sold if it were mature, or if its manufacture, preparation or construction were complete; or

(b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in subparagraph (a),

(2) For the purposes of this Schedule—

(a) references to a disposal of an asset include references to a part disposal of the asset;

(b) there is a part disposal of an asset where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal, and generally, there is a part disposal of an asset where, on a person making a disposal, any description of property derived from the asset remains undisposed of.

(3) In the case of a disposal within the meaning of paragraph 4 (1) (a), (b) and (c), the time of the disposal shall be the time when the right to the capital sum is derived as described in that subsection.

(4) A hire purchase or other transaction under which the use and enjoyment of an asset is obtained by a person for a period at the end of which the property in the asset will or may pass to that person shall be treated for the purposes of this Schedule, both in relation to that person and in relation to the person from whom he obtains the use and enjoyment of the asset, as if it amounted to an entire disposal of the asset to that person at the beginning of the period for which he obtains the use and enjoyment of the asset, but subject to such adjustments of tax, whether by way of repayment or discharge of tax or otherwise, as may be required, where the period for which that person has the use and enjoyment of the asset terminates without the property in the asset passing to him.

## PART I

## GENERAL

2. Where a person is not resident and not ordinarily resident in Trinidad and Tobago the tax shall be so charged on chargeable gains accruing on the disposal of assets that are immovable property situate in Trinidad and Tobago.

3. In ascertaining the chargeable gains accruing to any person chargeable with tax in a year of income, there may be deducted any allowable loss accrued to that person in that year of income and, (so far as such loss has not been allowed as a deduction in ascertaining chargeable gains accruing in any previous year of income), any allowable loss accruing to that person in any previous year of income, not earlier than the year of income 1966. Computation  
of chargeable  
gains

4. (1) Subject to subparagraph (4), and to the exceptions in this Schedule, there is for the purposes of this Schedule a disposal of assets by their owner where the right to any capital sum is derived from assets notwithstanding that no asset is acquired by the person paying the capital sum, and this subsection applies in particular to the right to— Disposal  
of assets

- (a) capital sums by way of compensation for any kind of damage or injury to assets or for the loss, destruction or dissipation of assets or for any depreciation or risk of depreciation of an asset.
- (b) capital sums under a policy of insurance of the risk of any kind of damage or injury to, or the loss or depreciation of, assets,
- (c) capital sums in return for forfeiture or surrender of rights, or for refraining from exercising rights.

(2) Subject to the provisions of this Schedule, a person's acquisition of an asset and the disposal of it to him shall for the purposes of this Schedule be deemed to be for a consideration equal to the market value of the asset—

- (a) where he acquires the asset otherwise than by way of a bargain made at arm's length and in particular where he acquires it by way of gift or by way of distribution from a company in respect of shares in the company, or
- (b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments, or otherwise in consideration for or in recognition of his or another's services or past services in any office or employment or of any other service rendered by him or another, or
- (c) where he acquires the asset as trustee for creditors of the person making the disposal.

(3) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled), this Schedule shall apply as if the

property were vested in, and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is the nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).

(4) In this paragraph "capital sum" means any money or money's worth which is not excluded from the consideration taken into account in the computation under this Schedule.

#### Losses

5. (1) Except as otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal.

(2) Except as otherwise expressly provided, all the provisions of this Schedule which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain, and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss, and part not, and references in this Schedule to an allowable loss shall be construed accordingly.

(3) Subject to the provisions of this Schedule the occasion of the entire loss, destruction, dissipation or extinction of an asset shall, for the purposes of this Schedule, constitute a disposal of the asset whether or not any capital sum by way of compensation or otherwise is received in respect of the destruction, dissipation or extinction of the asset.

(4) For the purposes of the last foregoing subparagraph, a building and any permanent or semi-permanent structure in the nature of a building, may be regarded as an asset separate from the land on which it is situated, but where either of those subparagraphs apply in accordance with this subparagraph, the person deemed to have made the disposal of the building shall be treated as if he had also sold, and immediately re-acquired the site of the building or structure (including in the site any land occupied for purposes ancillary to the use of the building or structure) for a consideration equal to its market value at that time.

(5) A loss accruing to a person in a year of income shall not be an allowable loss for the purposes of this Schedule unless, he would be chargeable to income tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.

(6) In no case shall any allowable loss be deducted from income other than short-term capital gains, nor shall any loss under the Ordinance be deducted in computing short-term capital gains.

6. (1) Rights and winnings obtained by participating in pool betting or lotteries or games with prizes, lawfully carried on under or by virtue of the provisions of the Gambling and Betting Act, 1963, shall not be chargeable assets and no chargeable gain or allowable loss shall accrue on their disposal.

(2) No chargeable gain shall accrue—

(a) upon the disposal by an individual of currency of any description acquired by him for personal expenditure outside Trinidad and Tobago of himself or his family or dependants (including expenditure on the provision or maintenance of any residence outside Trinidad and Tobago);

- (b) from sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation;
- (c) from winnings from betting lawfully carried on under or by virtue of the provisions of the Gambling and Betting Act, 1963, including pool betting and lotteries or games with prizes;
- (d) on the disposal of an asset by an individual or a company which is under the provisions of this Ordinance or of the Corporation Tax Acts, exempt from tax;
- (e) on the disposal of any security in Trinidad and Tobago;
- (f) private motor-cars, household goods and owner-occupied houses disposed of for \$5,000 or under.

(3) In this paragraph "security" includes any loans, stock or similar security whether of the Government of Trinidad and Tobago or any other Government, or of any public or local authority in Trinidad and Tobago or elsewhere, or of any company, or whether secure or unsecured.

7. (1) In any case where it considers it proper the Board may determine the market value of any asset. Valuation

(2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time.

(3) If and so far as the question in dispute on any objection to or appeal against an assessment to tax on chargeable gains, or against a decision on a claim under this Schedule is a question of the value of any land, or of a lease of land then the question shall be determined by the Appeal Board.

(4) If and so far as any such appeal involves the question of the value of any shares or securities in a resident company, that question shall be determined by the Appeal Board.

## PART II

### COMPUTATION

#### *General*

8. The following provisions of this Schedule shall have effect for computing for the purposes of this ordinance the amount of a gain accruing on the disposal of an asset.

#### *Expenditure—General Provisions*

9. (1) Subject to the following provisions of this Schedule, the sums allowable as a deduction from the consideration in the computation under this Schedule of the gain accruing to a person on the disposal of an asset shall be restricted to—

- (a) the amount or value of the consideration, in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together

with the incidental costs to him of the acquisition or, if the asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset;

(b) the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset;

(c) the incidental costs to him of making the disposal.

(2) For the purposes of this paragraph and for the purposes of all other provisions of this Part the incidental costs to the person making the disposal, of the acquisition of the asset or of its disposal shall consist of expenditure wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal, being fees, commission or remuneration paid for the professional services of any surveyor or valuer, or auctioneer, or accountant, or agent or legal adviser and costs of transfer or conveyance (including stamp duty) together—

(a) in the case of the acquisition of an asset, with costs of advertising to find a seller; and

(b) in the case of a disposal, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of the computation under this Schedule, including in particular expenses reasonably incurred in ascertaining market value where required by this Part.

#### *Part Disposal*

10. (1) Where a person disposes of an interest or right in or over an asset and, generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under subparagraphs (a) and (b) of paragraph 9 (1) are attributable to the asset shall, both for the purposes of the computation under this Schedule of the chargeable gain accruing on the disposal and for the purpose of applying this Schedule in relation to the property which remains undisposed of, be apportioned.

(2) This paragraph shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is disposed of, or wholly attributable to what remains undisposed of.

#### *Premiums under policies of insurance*

11. There shall be excluded from the sums allowable as a deduction in the computation under this Schedule of the gain accruing to a person on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

*Consideration due after time of disposal*

12. (1) If the consideration, or part of the consideration, taken into account in the computation under this Schedule is payable by instalments, the chargeable gain (or allowable loss) accruing on the disposal shall as regards the whole of the consideration be treated for all the purposes of this Part as accruing at the time when the disposal was made, so however that the amount of tax payable on the chargeable gain so accruing shall be paid to the Board in proportionate parts to the proportions of the amounts of the instalments of consideration payable in the respective years of income.

(2) In the computation under this Schedule consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it, and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account is subsequently shown to the satisfaction of the Board of Inland Revenue to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

*Contingent Liabilities*

13. (1) In the first instance no allowance shall be made in the computation under this Schedule—

- (a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by, the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease;
- (b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor;
- (c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.

(2) If it is subsequently shown to the satisfaction of the Board of Inland Revenue that any such contingent liability has become enforceable, and is being or has been enforced, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

*Foreign Tax*

14. Subject to the provisions of this Part as regards double taxation relief the tax chargeable under the law of any country outside Trinidad and Tobago on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation under this Schedule.

*Supplemental*

15. (1) No deduction shall be allowable in a computation under this Schedule more than once from any sum or from more than one sum.

(2) For the purposes of any computation under this Schedule any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of this Schedule, be such method as appears to the Board of Inland Revenue or on appeal to the Appeal Board to be just and reasonable.

*Appropriations to and from stock in trade*

16. (1) Subject to subparagraph (3), where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a gain or loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.

(2) Where an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.

(3) Subparagraph (1) shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to income tax or corporation tax in respect of the profits of the trade and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that subparagraph, and where that subparagraph does not apply by reason of such an election, the profits of the trade shall be computed accordingly, except that if a person making an election under this subparagraph is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

*Transactions between connected persons*

17. (1) This paragraph shall apply where a person acquires an asset and the person making the disposal is connected with him.

(2) Without prejudice to the generality of paragraph 4 (2) the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.

(3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible from a chargeable gain accruing to him on some other disposal of an asset.

*Husband and Wife*

18. (1) If, in any year of income, and in the case of a woman who in that year of income is a married woman living with her husband the man disposes of an asset to the wife, or the wife disposes of an asset to the man, both shall be treated as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

*Connected persons*

19. (1) Any question whether a person is connected with another shall for the purposes of this Part be determined in accordance with the following subparagraphs (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's husband, or is a relative, or the husband or wife or a relative of the individual or of the individual's husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor.

(Sections 2, 22 and 23A)

## SECOND SCHEDULE

Scales of Rates of Income Tax payable on the Net Chargeable Income.

(1) Subject to paragraph (2) in the case of a person—

For every dollar of the first 1,000 dollars	... 5 cents
For every dollar of the next 1,000 dollars	... 8 cents
For every dollar of the next 1,000 dollars	...13 cents
For every dollar of the next 1,000 dollars	...20 cents
For every dollar of the next 1,000 dollars	...28 cents
For every dollar of the next 1,000 dollars	...32 cents
For every dollar of the next 1,000 dollars	...35 cents
For every dollar of the next 3,000 dollars	...40 cents
For every dollar of the next 4,000 dollars	...45 cents
For every dollar of the next 4,000 dollars	...50 cents
For every dollar of the next 4,000 dollars	...60 cents
For every dollar of the next 6,000 dollars	...70 cents
For every dollar of the next 32,000 dollars	...80 cents
For every dollar of the remainder of the chargeable income	90 cents

(2) In the case of withholding tax, 30 per cent. except that where there is a double taxation agreement, or Order under section 49, such lesser rate as may be therein provided.

(Sections 47 and 48)

## THIRD SCHEDULE

## DOUBLE TAXATION REGULATIONS

## PART I

PROVISIONS AS TO RELIEF FROM INCOME TAX  
BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX

*Interpretation*

1. (1) In this Part of these Regulations—
  - “Trinidad and Tobago tax” means income tax;
  - “foreign tax” means in relation to any country, arrangements with the Government of which have effect by virtue of section 47 of the Ordinance, any tax chargeable under the laws of that country for which credit may be allowed under the arrangements;
  - “foreign income tax” means any foreign tax which corresponds to income tax;
  - “total income” means the aggregate amount of the income of any person from the sources specified in section 5 of the Ordinance for a year of income.

(2) Where arrangements having effect by virtue of the said section 47 of the Ordinance provide for any tax chargeable under the laws of the country concerned being treated as income tax, that tax shall, notwithstanding anything contained in this regulation be treated as foreign income tax or foreign tax other than foreign income tax as the case may be.

(3) Any reference in these Regulations to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the country with the Government of which the arrangements were made.

#### *General*

2. (1) Subject to the provisions of these Regulations where, under the arrangements, credit is to be allowed against any Trinidad and Tobago tax chargeable in respect of any income, the amount of the Trinidad and Tobago taxes so chargeable shall be reduced by the amount of the credit.

(2) Nothing contained in this regulation authorises the allowance of credit against any Trinidad and Tobago tax against which credit is not allowable under the arrangements.

#### *Requirement as to residence*

3. Credit shall not be allowed against tax for any year of income unless the person in respect of whose income the tax is chargeable is resident in Trinidad and Tobago for that year.

#### *Limit on total credit*

4. The credit shall not exceed the amount which would be produced by computing the amount of the income of the person in question in accordance with the provisions of the Ordinance, 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 47 of the Ordinance) on the total income by the amount of the total income.

5. Without prejudice to the provisions of the last preceding regulation, the total credit to be allowed to a person against income tax for any year of income for foreign tax under all arrangements having effect by virtue of section 47 of the Ordinance, shall not exceed the total tax payable by him for that year.

#### *Effect on Computation of Income of Allowance of Credit*

6. (1) In computing the amount of the income—
- (a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);
  - (b) where the income tax chargeable depends on the amount received in Trinidad and Tobago, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income;
  - (c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given

against income tax in respect of the dividend the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit;

but notwithstanding anything in the preceding provisions of this paragraph a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(2) Subparagraphs (a) and (b) of the preceding paragraph (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in regulation (4) 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 47 of the Ordinance.

7. (1) Where, in the case of any dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, if so what, credit is to be given against income tax in respect of the dividend, the foreign income tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

(2) For the purposes of paragraph (1) the relevant profits are—

- (a) if the dividend is paid for a specified period, the profits of that period;
- (b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits;
- (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable:

Provided that if, in a case falling under subparagraph (a) or subparagraph (c) of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said subparagraph (a) or the said subparagraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph) as equal to the excess; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

8. Where—

- (a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or, indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

#### *Miscellaneous*

9. Credit shall not be allowed under the arrangements against Trinidad and Tobago tax chargeable in respect of the income of any person if he elects that credit shall not be allowed in respect of that income.

10. Subject to the provisions of regulation 11, any claim for an allowance by way of credit for foreign tax in respect of any income shall be made not later than six years from the year of income 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.

### PART III

#### *Modifications of provisions of Part I applicable to unilateral relief*

Notwithstanding anything in regulation 3 of Part I of these Regulations (which provides that relief by way of credit shall be given only where the person is resident in Trinidad and Tobago) credit by way of unilateral relief for tax paid under the law of any country in respect of income from an office or employment or profits the duties whereof are performed wholly or mainly in that country may be allowed against tax chargeable in respect of that income if the person is for the particular year of income, resident either in Trinidad and Tobago or that country.

(Section 56)

FOURTH SCHEDULE

TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE

Distress Warrant

To.....

I.....

Board of Inland Revenue, by virtue of the power vested in the Board by section 56 of the Income Tax Ordinance, do hereby authorise you to collect and recover the several amounts—

.....

.....

respectively due for tax, and for the recovery thereof I further authorise you, with the assistance of any constable or constables which assistance he or they are hereby required to give, to forthwith levy by distress the said sums, and also the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels or other

distrainable things of..... or of any part thereof charged with such tax.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid, to break open any building in the day time.

Given under my hand at.....this..... day of....., 19.....

.....  
*Commissioner*

## FIFTH SCHEDULE

(Section 24)

## DIVIDEND INCOME ALLOWANCE

1. The income of any person from any distribution made by a resident company in the year shall be taken to be 170 per cent. of the distribution actually made.

2. Where such income is included in the chargeable income of such person, there shall be set off for the purposes of collection against the tax payable by such person an amount equal to 70 per cent. of the distribution actually made.

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SCHEDULE III

## RATE OF CORPORATION TAX

(Section 43)

For every dollar of the chargeable profits of a company 44 per cent:

Provided that in the case of the life assurance business of an assurance company the rate of tax shall be 15 per centum.

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SCHEDULE IV

## EXPORT ALLOWANCE

(Section 48)

1. Where a company has made export sales during any of the three immediately preceding years of income, the export allowance shall equal an amount calculated at the rate of 1 per cent. of the notional chargeable profits from exports in respect of every 1 per cent. increase in the proceeds from the sales of exports during the year of income over the average annual proceeds from the sales of exports during the three immediately preceding years of income, so however, that the export allowance from any year of income shall not exceed an amount equal to 44 per cent. of the notional chargeable profits from exports in that year.

2. Where a company has made no export sales during any of the three immediately preceding years of income, the export allowance shall equal 44 per cent. of the notional chargeable profits from exports for the year of income.

3. (1) The notional chargeable profits from exports shall be taken to be the amount produced by the formula  $P \times E$ , where—

- (a) P is the chargeable profits of the company for any of the six years of income beginning with the two years immediately preceding and ending with the three years immediately following the year of income for which the allowance is claimed, and
- (b) for the year for which the export allowance is claimed, E is the proceeds from sales of exports (f.o.b.), and S is the proceeds from all sales for that year.
- (2) In computing the proceeds from all sales for the year, where excise duty is paid upon any goods sold the amount of the excise duty shall be deducted.

## SCHEDULE V

(Section 53)

## SUPPLEMENTARY PROVISIONS ABOUT CLOSE COMPANIES

1. (1) For purposes of this Part of this Act a "close company" is one which is under the control of five or fewer participators or of participators who are directors, except that the expression does not apply:—

- (a) to a non-resident company; or
- (b) to a statutory or registered building or friendly society; or
- (c) to a company controlled by or on behalf of the Crown; or
- (d) to a company falling within sub-paragraph (2).

(2) A company is not to be treated as a close company in any case where—

- (a) by reason of beneficial ownership of shares in the company the control of it is in the hands of a company which is not a close company or of two or more companies none of which is a close company; and
- (b) it could only be treated as a close company as being under the control of five or fewer participators, and it cannot be so treated except by taking as one of the participators a company which is not a close company;

but so that references in this sub-paragraph to a close company, shall be construed as applying to any company which, if a resident company, would be a close company.

2. For purposes of the provisions of this Act relating to close companies, a company is to be treated as another's "associated company" at a given time if at that time, or at any time within one year previously, one of the two has control of the other or both are under the control of the same person or persons.

*Control*

3. (1) For purposes of this Part of this Act a person shall be taken to have control of a company:—

- (a) if he exercises, or is able to exercise, or is entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire, the greater part of the share capital or voting power in the company; or
- (b) if he possesses or is entitled to acquire, either—
  - (i) the greater part of the issued share capital of the company; or
  - (ii) such part of that capital as would, if the whole of the profits of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed; or
  - (iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members; or
- (c) if in the event of a winding up he would be entitled to the greater part of the assets available for distribution among members.

Where two or more persons together satisfy any of the conditions in paragraphs (a) to (c), they shall be taken to have control of the company.

(2) In subparagraph (1) "member" includes any person having a share or interest in the capital or profits of the company, and for purposes of that subparagraph a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire; but for the purposes of subparagraphs (1)(b)(iii) and (c) any such loan creditor as is mentioned in paragraph 4 (1)(b) may be treated as a member (and the references to share capital as including loan capital).

(3) For purposes of subparagraph (1) there shall be attributed to any person any rights or powers of a nominee for him, that is to say, rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(4) For purposes of subparagraph (1) there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or of any associate of his or of any two or more associates of his, including those attributed to a company or associate under subparagraph (3) but not those attributed to an associate under this subparagraph; and such attributions shall be made under this subparagraph as will result in the company being treated as under the control of five or fewer participators, if it can be so treated.

*"Participator" and "Associate"*

4. (1) For purposes of this Part of this Act a "participator" is, in relation to any company, a person having a share or interest in the capital or profits of the company and, without prejudice to the generality of the preceding words, includes—

- (a) any person who possesses or is entitled to acquire share capital or voting rights in the company;
- (b) any person who is a loan creditor of the company otherwise than in respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of a business of banking carried on by him;
- (c) any person who possesses or is entitled to acquire a right to receive or to participate in the distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption;
- (d) any person who is entitled to secure that the profits or assets (whether present or future) of the company will be applied directly or indirectly for his benefit.

(2) In subparagraph (1) references to "being entitled to do anything" apply where a person is presently entitled to do it at a future date or will at a future date be entitled to do it; and "loan creditor" means a creditor in respect of any redeemable loan capital issued by the company or in respect of any debt incurred by the company, being a debt—

- (a) for money borrowed or capital assets acquired by the company; or
- (b) for any right to receive profits created in favour of the company; or
- (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).

5. For the purposes of the provisions of of this Act relating to close companies, "associate" means, in relation to a participator—

- (a) a person in any of the following relationships to the participator, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother or sister, and partner;
- (b) the trustee or trustees of any settlement in relation to which the participator is, or any such relative of his (living or dead) as is mentioned in subparagraph (a) is or was a settlor ("settlement" and "settlor" here having the same meaning as in section 34E of the Ordinance and "relative" including a husband or wife);
- (c) where the participator is interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein,

and has a corresponding meaning in relation to a person other than a participator.

*“ Director ” and “ Whole-time Service Director ”*

6. (1) For purposes of the provisions of this Act relating to close companies, “ director ” and “ whole-time service director ” have the meanings assigned to them by this paragraph.

(2) “ Director ” includes any person occupying the position of director by whatever name called, any person in accordance with whose directions or instructions the directors are accustomed to act and any person who—

- (a) is a manager of the company or otherwise concerned in the management of the company’s trade or business; and
- (b) is remunerated out of the funds of that trade or business; and
- (c) is, either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control twenty per cent., or over of the ordinary share capital of the company (“ ordinary share capital ” here meaning all the issued share capital, by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company).

(3) “ Whole-time Service Director ” means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity, and is not, either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control, more than five per cent. of the ordinary share capital of the company (“ ordinary share capital ” here having the same meaning as in subparagraph (2) (c)).

SCHEDULE VI

(Section 54)

INSURANCE, SHIPPING AND AIR NAVIGATION COMPANIES

I. Notwithstanding anything to the contrary contained in Part II of the Act, it is hereby provided that:—

- (1) In the case of an assurance company (other than the life assurance business of an assurance company), where the profits accrue in part outside Trinidad and Tobago, the profits on which the tax is payable shall be computed by taking the gross premiums and interest and other profits received or receivable in Trinidad and Tobago (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operation as a whole for such risks at the end of the year of income, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year of income, and from the net amount

so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Trinidad and Tobago, and a fair proportion of the expenses of the head office of the company.

- (2) (a) in the case of a shipowner, the profits of his business as shipowner shall, if he produces or causes to be produced to the Board the certificate mentioned in sub-paragraph (b) of this paragraph, be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods, or mails shipped in Trinidad and Tobago as the aggregate profits for the year of income shown by that certificate bears to the gross earnings for that period;
- (b) the certificate shall be a certificate by the taxing authority of the place in which the principal place of business of the shipowner is situated and shall state—
- (i) that the shipowner has furnished to the satisfaction of that authority account of the whole of his business; and
- (ii) the ratio of the profits for the year of income as computed according to the tax law of that place (after deducting interest on any money borrowed and employed in acquiring the profits) to the aggregate of the amount of receipts of the shipowner's fleet or vessel for that period;
- (c) if the profits of a shipowner have, for the purpose of assessment in Trinidad and Tobago under Part II of this Act, been computed on any basis other than the ratio of the profits shown by a certificate as aforesaid, and an assessment has been made accordingly, the shipowner shall, upon production of such certificate at any time within two years from the end of the year of income, be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded;
- (d) in this paragraph, the expression "shipowner" means an owner or charterer of ships whose principal place of business is situated outside Trinidad and Tobago.

2. (1) Where an assurance company carries on life assurance business in conjunction with assurance business of any other class, the life assurance business of the company shall for purposes of Part II of this Act be treated as a separate business from any other class of business carried on by the company.

(2) Where an assurance company carries on ordinary life assurance business, general annuity business, industrial life insurance business and approved pension annuity business, the ordinary life assurance business, and general annuity business shall be treated as one business separate from the industrial life assurance business and approved pension annuity business which shall each be treated as though it were a separate business.

(3) No loss incurred in connection with any business deemed to be a separate business under subparagraphs (1) and (2) shall be set off against the profits from any other business in any year of income but may be carried forward to be set off, to the extent provided by section 13 of the Ordinance as applied for the purposes of this Act against the profits of that business in succeeding years.

3. (1) The profits on which tax is to be charged under Part II of this Act shall be the profits of the assurance company from the investments of its life assurance funds less any expenses that are allowed under Part II of this Act for the purpose of computing the profits in respect of the life assurance business of an assurance company.

(2) Notwithstanding subparagraph (1), profits on which tax is to be charged under this Part of this Act may be taken to be such amount of the profits that is transferred to the shareholders' account, where the profits so transferred are in excess of the investment income.

(3) For the purpose of computing the profits of the life assurance business of an assurance company, there shall be allowed such proportion of the outgoings and expenses as the Board may, in any case, determine, being outgoings and expenses specified in the Table below as are wholly and exclusively incurred during the year of income by such assurance company in the production of the profits.

(4) Deductions shall not be allowed for expenses directly related to annual premium income including the medical examination of policyholders, stamp duties payable on policies and other such expenses directly related to the inclusion of a policy on the books of the company; but shall be allowed in respect of agents' commissions at the rate of twenty per cent. of the annual premium in the first year of the life of the policy and thereafter at the rate of two per cent. per annum.

(5) The profits from approved pension annuity business shall not be chargeable to tax except to the extent that such profits are transferred to the shareholders' account.

4. (1) Where a non-resident assurance company carries on life assurance business in Trinidad and Tobago, any profits of that company from the investment of its life assurance funds (if any), wherever received, shall to the extent provided in this paragraph be deemed to be the investment income of the company.

(2) Such portion only of the profits from the investment of the life assurance funds shall be charged to tax as bears the same proportion to the aggregate profits from those investments as the amounts of premiums received from policyholders resident in Trinidad and Tobago and from policyholders resident abroad whose proposals were made to the company at or through its office or agency in Trinidad and Tobago after the 1st January, 1963 bears to the total amount of the premiums received by the company.

(3) The Governor-General may make regulations substituting some basis other than that prescribed in this paragraph for the purpose of computing the portion of the profits from investments to be charged as being profits derived from the business carried on in Trinidad and Tobago.

(4) Regulations made under subparagraph (3) shall be subject to affirmative resolution of the Senate and the House of Representatives.

5. In paragraphs 2, 3 and 4:—

“annuity fund” means, where an annuity fund is not separate from the life assurance fund of an assurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts as stated in the return made under the Assurance Companies Ordinance ;

“approved pension annuity business” includes any annuity business undertaken for the purpose of establishing and conducting a deferred annuity or approved fund or scheme under section 16 of the Ordinance and an approved deferred annuity plan under sections 16A to 16E of the Ordinance ;

“life assurance business” means ordinary life assurance business, general annuity business, industrial life assurance business and approved pension annuity business ;

“life assurance funds” means the aggregate of—

- (a) the actuarial reserves computed or estimated on the basis of mortality, interest and other decremental rates;
- (b) all additional reserves which it might be thought necessary to establish; and
- (c) the authorised and paid-up share capital of the assurance company.

6. (1) Profits arising from the business of shipping carried on by a non-resident company shall be exempt from corporation tax provided that the Governor-General is satisfied that an equivalent exemption from tax is granted by the country of the non-resident company to the resident company.

(2) In this paragraph the expression “business of shipping” means the business carried on by an owner of ships or aircraft and for the purposes of this definition the expression “owner” includes any charterer.

#### TABLE

##### GENERAL AND INVESTMENT EXPENSES

###### *Rent*

1. Head office rents.
2. Branch office rents.

###### *Salaries, Wages and Allowances*

3. Head office employees salaries and wages.
4. Branch office employees salaries and wages.
5. Manager and agents salaries.
6. Directors' fees.

###### *Employees and Agents Welfare*

7. Contributions to pension and insurance plans for employees.
8. Contributions to pension and insurance plans for Agents.
9. Other employees welfare.

*Professional and Service Fees and Expenses*

10. Legal fees and expenses.
11. Auditors' fees.

*Miscellaneous Expenses*

12. Advertising.
13. Books and periodicals.
14. Bureau and Association dues.
15. Collection of Bank Charges.
16. Commission on mortgages.
17. Insurance, except on real estate.
18. Postage, telegraph, telephone, express.
19. Office Furniture.
20. Rental of equipment and general office maintenance.
21. Travelling expenses, head office.
22. Travelling expenses, branch office.

*Real Estate Expenses, excluding Taxes*

23. Real estate expenses.

## SCHEDULE VII

(Section 55)

## TAX EXEMPTIONS FOR APPROVED MORTGAGE AND OTHER COMPANIES

1. (1) Notwithstanding the provisions of Part II of this Act but subject to paragraph 2, there shall be exempt from corporation tax or any taxes that are based in whole or in part on profits or on income, all receipts, fees and commissions received by a company in the course of its business as an approved company.

(2) For the purposes of subparagraph (1), the Minister may, by instrument in writing declare a company to be an approved company, where that company has entered into an agreement with the Government whereby the company agrees to finance by way of mortgage, the purchase of newly constructed houses in accordance with the provisions of this Schedule and the Housing Act, 1962 and under the terms of the agreement.

(3) Notwithstanding the provisions of subparagraph (1) of paragraph 2 and subparagraph (2) of paragraph 4 that relate to the taxes with respect to which the profits of an approved company or the shareholders or the debenture holders of an approved company are exempt, the terms of the agreement mentioned in subparagraph (2) may limit the taxes from which an approved company or the shareholders or the debenture holders in the approved company are exempt.

2. An approved company that is exempt from corporation tax or any taxes that are based in whole or in part on profits or on income under subparagraph (1) of paragraph 1 may—

- (a) within the period specified in paragraph 4, (2) (c), where the receipts, fees and commissions are in respect of income exempt from tax under paragraph (d) of subsection (2) of section 18B of the Ordinance; or
- (b) within a period of twelve years commencing on the date of the mortgage, where the receipts, fees and commissions are derived from any other source,

distribute sums not exceeding in the aggregate the exempt receipts, fees and commissions to the members of the company; and these sums when so distributed are exempt from corporation tax or any taxes that are based in whole or in part on profits or on income in the hands of the members of the company.

3. (1) In this paragraph "company" means a company limited by shares within the meaning of the Companies Ordinance.

(2) A company that is in receipt of profits that are exempt from corporation tax under paragraph (b), (c) or (d) of subsection (2) of section 18B of the Ordinance may—

- (a) within twelve years after the date of completion of construction of the newly constructed house, if the profits would be exempt from corporation tax under paragraph (b) of subsection (2) of the said section 18B;
- (b) within two years after the date of sale of the newly constructed house, if the profits would be exempt from corporation tax under paragraph (b) of subsection (2) of the said section 18B; or
- (c) within a period commencing on the date of the mortgage and ending two years after the date on which the repayment of the principal sum borrowed is completed, if the profits would be exempt from corporation tax under paragraph (d) of subsection (2) of the said section 18B,

distribute sums not exceeding in the aggregate the exempt profits to the members of the company; and those sums when so distributed are exempt from income tax in the hands of the members of the company.

(3) This paragraph and paragraph 2 apply only where the company or approved company keeps and submits annually separate accounts to the satisfaction of the Board showing—

- (a) the profits of the company from the sources specified in paragraphs (b), (c) and (d) of subsection (2) of section 18B of the Ordinance;
- (b) all expenses and outgoings wholly and exclusively incurred in the production of the profits from each such source;
- (c) the debenture holders account mentioned in subparagraph (3) of paragraph 4; and
- (d) such other information as the Board may require.

4. (1) Where the profits of an approved company are exempt from corporation tax or any taxes that are based in whole or in part on profits or on income under the provisions of subparagraph (1) of paragraph 1, any interest payable by the approved company on debenture borrowings by the approved company for the purpose of financing the purchase of newly constructed houses, is, subject to subparagraphs (2) and (3), exempt from corporation tax or any taxes that are based in whole or in part on profits or on income in the hands of the debenture holders of the approved company, if the interest so paid is derived from profits of the approved company exempt under the provisions of subparagraph (1) of paragraph 1.

(2) The period during which the interest paid to debenture holders is exempt from tax under subparagraph (1) is a period commencing on the date when the principal sums are paid for the debentures and ending two years after the date on which the principal sums secured by the debentures are deemed repaid under subparagraph (3).

(3) For the purposes of subparagraphs (1) and (2) any sum repaid to an approved company by the mortgagors who entered into mortgages after the issue of those debentures shall, after deduction of any interest paid on those debentures, be debited against the debenture holders account until the sums so repaid to the approved company equals the principal sum secured by the debentures and thereafter the debentures shall be deemed to have been repaid.

(4) Notwithstanding the provisions of this paragraph that relate to the period during which the interest paid to debenture holders is exempt from tax, the Minister may, if he thinks fit, in the instrument mentioned in subparagraph (2) of paragraph 1, make other provisions with respect to that period, and those provisions when so made apply to the approved company.

5. In this Schedule "Minister" means the member of Cabinet to whom responsibility for Housing is assigned.

#### SCHEDULE VIII

(Section 68)

#### ENACTMENTS AMENDED

FIRST COLUMN	SECOND COLUMN
<i>Short title and number</i>	<i>Amendments</i>
<p>The Stamp Duty Ordinance, Ch. 33. No. 4.</p>	<p>(a) Section 2 is amended by inserting in its appropriate alphabetical order the following definition :</p> <p style="padding-left: 40px;">“ ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance ;”</p> <p>(b) section 27 is amended—</p> <p style="padding-left: 40px;">(i) in subsection (7) thereof by substituting for the words “a Judge of the Supreme Court sitting in Chambers” the words “the Appeal Board” ;</p> <p style="padding-left: 40px;">(ii) in subsection (9) thereof by substituting for the word “Judge” and the words “such Judge” occurring respectively in lines one and three the words “Appeal Board” and “the Appeal Board” ;</p>

(iii) in subsections (10) and (11) by substituting for the word "Judge" the words "Appeal Board".

The Lands and  
Buildings Taxes  
Ordinance,  
Ch. 33. No. 7.

(a) Section 2 is amended by inserting in its appropriate alphabetical order the following definition :

“ ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance;”

(b) Section 17 is amended—

(i) by substituting the words "Appeal Board" for the word "Magistrate" wherever the latter word occurs ;

(ii) in subsection (1) by substituting the word "its" for the word "his" occurring in line eleven and by deleting all the words after the word "party" in line twelve thereof ;

(iii) in subsection (5) by substituting the words "Appeal Board" for the word "Peace" occurring in line one thereof.

The Customs  
Ordinance,  
Ch. 32. No. 2.

(a) Section 2 is amended by inserting in its appropriate alphabetical order the following definition :

“ ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance ;”

(b) subsection (3) of section 16 is repealed and replaced by the following :

“ (3) Proceedings referred to in this section shall be commenced before the Appeal Board.”

The Excise (General  
Provisions) Ordinance,  
Ch. 32.  
No. 8.

(a) Section 3 is amended by inserting in its appropriate alphabetical order the following definition :

“ ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance ;”

(b) Section 16 is amended by substituting the words "Appeal Board" for the words "Governor in Council".

“ ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance ;”

The Estate and  
Succession Duties  
Ordinance, Ch. 33.  
No. 5.

Section 2 is amended by substituting for the definition of “Court”, the following:

- (a) ‘Appeal Board’ means the Appeal Board constituted under section 43 of the Income Tax Ordinance.”
- (b) References in the Ordinance to the “Commissioner” or “Deputy Commissioner” shall be read and construed as references to the Board of Inland Revenue established under section 3 of the Income Tax Ordinance.
- (c) References in the Ordinance to “Court” shall be read and construed as references to the “Appeal Board”.

Passed in the House of Representatives this 8th day of August, 1966.

J. E. CARTER

*Acting Clerk of the House of Representatives*

Passed in the Senate this 17th day of August, 1966.

A. A. DARLINGTON

*Acting Clerk of the Senate*