
Fifth Session First Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 5 of 1981

[L.S.]

AN ACT to amend the Petroleum Taxes Act, 1974.

[Assented to 5th May, 1981]

ENACTED by the Parliament of Trinidad and Tobago as **Enactment**
follows:—

1. This Act may be cited as the Petroleum Taxes **short title**
(Amendment) Act, 1981.

Section 2(1) of
Act No. 22
of 1974 amended

2. Section 2(1) of the Petroleum Taxes Act, 1974 (hereinafter referred to as "the Act") is amended—

(a) by inserting in its appropriate alphabetical order the following definitions:—

“supplemental petroleum tax” means the tax on petroleum operations imposed by Part 2;

“supplemental refining tax” means the tax on refining operations imposed by Part 2A.”;

(b) by deleting the definition of “refinery through-put tax”.

(c) in the definition of “taxable profits” insert the words “refining business” immediately after the words “production business”.

The Act amended

3. The Act is amended by inserting immediately after section 3 the following new section:—

“Application
of the Act

3A. For the purpose of ascertaining the taxable profits of any person and the tax thereon for any financial year from 1st January, 1974 to 31st December, 1979, the provisions of the Act that are replaced or amended by this Act shall continue to apply as if those provisions had not been replaced or amended by this Act and no amendment contained in this Act 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 Act, except as is otherwise expressly provided by this Act.”.

Section 6 of
the Act amended

4. Section 6 of the Act is amended:—

(a) in subsection (2) by substituting for the words “Where production business and marketing business are carried on by the same person” occurring in lines one and two, the words “Where the same person carries on more than one of the businesses classified under subsection (1)”;

(b) by repealing subsection (3).

5. Section 7 of the Act is repealed and replaced as follows:— Section 7 of the Act repealed

"Taxes payable quarterly"

7. (1) Taxes imposed by this Act though computed and assessed annually shall be paid by quarterly instalments.

(2) In paying his quarterly instalments of tax, a person shall furnish the Board with such information as the Board may require including in particular—

(a) in respect of his producing business for that quarter—

(i) the quantity of oil produced and disposed of from land operations and the quantity from marine operations;

(ii) the prices at which the oil was disposed of;

(b) in respect of refining business for that quarter—

(i) the volume of crude oil and petroleum products received;

(ii) the processing fees charged.

6. The Act is amended by substituting for the heading occurring immediately after the words "Part I", the following:— Act amended

"Taxation of Petroleum Operations".

7. Section 9 of the Act is repealed and replaced as follows:— Section 9 of the Act repealed and replaced

"Charge of petroleum profits tax"

9. Subject to the provisions of this Part, tax (to be called "petroleum profits tax") shall be payable separately, at the rate specified in Schedule 1, for each financial year upon the profits or gains or amounts deemed to be profits or gains 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—

(a) production business;

(b) refining business;

(c) marketing business."

8. Section 14(1) is amended by substituting for the words "the next following section" appearing in lines one and seven, the words "section 15".

Act amended

9. The Act is amended by inserting after section 14 the following new section:—

"Signature bonuses and production bonuses" 14A. For the purpose of ascertaining the taxable profits of any person carrying on production business—

- (a) signature bonuses payable on the award of a Production Sharing Contract or on the issue of an Exploration and Production Licence may be capitalised and amortised on a straight line basis over a period of five years; and
- (b) production bonuses whenever payable are deductible."

Section 15 of the Act amended

10. Section 15 of the Act is amended—

- (a) by repealing subsections (1) and (2) and replacing them as follows:—

"Licences and contracts" 15. (1) Subject to subsection (4) in the case of production business carried on by any person under an Exploration and Production Licence issued, or a Production Sharing Contract entered into, after 1st January, 1974, all expenditure referred to in section 14(3) incurred in such business shall be capitalised separately in respect of each such licence or contract.

(1A) Allowances on the capitalised expenditure referred to in subsection (1) are deductible only after the commencement of commercial production.

(2) Allowances in respect of any expenditure incurred in respect of an Exploration and Production Licence referred to in subsection (1) may however be allowed in ascertaining the taxable profits of any person carrying on production business whether on land or in a submarine area in accordance with section 23(2) of the Income Tax (In Aid of Industry) Ordinance if at any time the member of the

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Cabinet responsible for petroleum certifies that there is no commercial production in the area to which that licence refers.”;

- (b) by adding immediately after subsection (3) the following new subsections:—

“ (4) All production business carried on by any person on 1st January, 1980 or thereafter whether under an Exploration and Production Licence or under a Production Sharing Contract or both may be consolidated.

(5) Expenditure referred to in section 14 incurred on or after 1st January, 1980 in respect of production business may be capitalised and amortised.”.

11. The Act is amended in section 17—

Section 17 of the
Act amended

- (a) by deleting in paragraph (b) all the words appearing after the word “Board” in the penultimate line;

- (b) by adding the following new subsection—

- “(c) in section 23A by substituting the following for subsection (8):—

“ (8) In subsections (6) and (7) “profits” means profits after the payment of income tax, corporation tax and petroleum profits tax and any unemployment levy paid in respect of such profits so however that any such profit shall be deemed to include any amount authorised to be deducted as submarine well allowance or submarine production allowance by the Income Tax (In Aid of Industry) Ordinance in ascertaining the taxable profits of any company for the purposes of the petroleum profits tax and all such amounts shall be included accordingly. The Petroleum Taxes Act,

1974 as amended shall have effect for the purpose of the definition of such of the expressions occurring in this subsection as are defined in that Act.”.

Section 18 of Act amended

12. Section 18 of the Act is amended by inserting after the words “production business” occurring in line five, the words “refining business”.

Act amended

13. The Act is amended by inserting immediately after section 19 the following new sections:—

“Payment of tax for 1980

19A. (1) Taxable profits of any person for the financial year 1980 shall be taken to be the taxable profits calculated on realised prices or fair market value as determined in accordance with Schedule 2.

(2) Where owing to the accounting period of a person not coinciding with a financial year, so much of the profits of that accounting period as are attributable to the period beginning 1st January, 1980, and ending with the end of the accounting period shall be charged to petroleum profits tax as imposed for the financial year 1980, and the profits for the remainder of that accounting period prior to 1st January, 1980 shall be charged to petroleum profits tax as imposed for the financial year 1979 and shall be included in that person’s return for 1980.

(3) Notwithstanding section 38A of the Ordinance but subject to this section every person shall pay to the Board any balance of tax owing for the financial year 1980 on or before the 30th June, 1981 and no interest shall accrue on such balance up to 30th June, 1981.

Gross income of production business for 1980

19B. In computing gross income for the financial year 1980 for the purposes of this Act, of any person engaged in production business, there shall be left out of account an amount equal to the actual prices

received from or the fair market value determined for the disposal of crude oil on hand in that business as at 31st December, 1979.

Refining
stocks as
at 31st
December,
1979

19c. (1) In computing the taxable profits or supplementary refining tax for the financial year 1980 of any person engaged in refining business, there shall be taken into account stocks of crude oil and petroleum products received and on hand in refinery storage as at 31st December, 1979.

(2) In computing the taxable profits for the financial year 1980 of any person engaged in refining business, there shall be left out of account an amount equal to the actual prices received from or the fair market value determined for the disposal of stocks of petroleum products and petrochemicals refined by such person and on hand in refinery storage as at 31st December, 1979.”.

14. The Act is amended by deleting both headings Act amended appearing under the words “Part 2” and substituting thereupon the heading “Supplemental Petroleum Tax”.

15. The Act is amended by repealing sections 20 to 26 and replacing them as follows:— Sections 20 to 26 of the Act repealed and replaced

“Interpre-
tation

20. In this Part “gross income” means gross income derived from disposals of crude oil.

Charge to
supple-
mental
petroleum
tax

21. (1) There shall be a tax known as supplemental petroleum tax charged on gross income.

(2) Supplemental petroleum tax is deductible in arriving at the taxable profits for the purpose of petroleum profits tax of persons engaged in production business.

Computation
of supple-
mental
petroleum
tax

22. (1) Supplemental petroleum tax shall be computed separately in respect of land operations and marine operations and shall be paid at the following rates:—

(a) 35 per cent for land operations;

(b) 60 per cent for marine operations.

(2) The Minister may by Order and in consultation with the member of the Cabinet responsible for petroleum vary the rates of supplemental petroleum tax.

(3) An Order made by the Minister under this section may have effect retroactively from any date in the financial year in which the Order was made.

Production allowance on marine operations

23. In computing supplemental petroleum tax chargeable in respect of marine operations, a production allowance is deductible from gross income, as follows:—

- (a) for fields producing less than 2,200,000 barrels per annum 30 per cent of gross income
- (b) for fields producing 2,200,001 to 3,200,000 barrels per annum 25 per cent of gross income
- (c) for fields producing 3,200,001 to 6,200,000 barrels per annum 15 per cent of gross income
- (d) for fields producing 6,200,001 to 7,200,000 barrels per annum 10 per cent of gross income.

Fields to be determined

24. For the purposes of section 23, the member of the Cabinet responsible for petroleum shall in writing under his hand determine a field.

Exploration allowance

25. (1) In computing supplemental petroleum tax chargeable in respect of petroleum operations carried out under Exploration and Production Licences, an exploration allowance equal in amount to 150 per cent of the direct cost of drilling exploration wells is deductible from gross income.

(2) An exploration well is a well so classified by the member of the Cabinet responsible for petroleum.

Incremental investment allowance

26. In computing supplemental petroleum tax an allowance equal in amount to the tangible costs incurred in development activity carried out in marine areas under Exploration and Production Licences is deductible from gross income.

Enhanced recovery allowance

26A. In computing supplemental petroleum tax an allowance of 140 per cent of all capital expenditure incurred in the acquisition of such machinery and plant as is specified in Schedule 3 for use in enhanced recovery on land, is deductible from gross income.

Recapture of allowances

26B. (1) Where any machinery and plant in respect of which an allowance is granted under section 26 or 26A is disposed of within three years of the financial year in which the allowance was granted, the gross income of the financial year in which the disposal took place shall be increased by the amount of the allowance previously granted.

(2) For the purposes of subsection (1) machinery and plant is deemed to be disposed of where it is sold, or exchanged or transferred from production business to any other business or from land operations to marine operations or vice versa or where it is not put into use within three years of the financial year in which the allowance was granted.

Allowances to be claimed in financial year

26c. Allowances under this Part may be claimed only in the accounting period in which the expenditure giving rise to the allowances was incurred.

Deductibility of allowances

26D. (1) Subject to this section, in computing supplemental petroleum tax allowances in respect of land operations may only be set off against gross income

from land operations and allowances in respect of marine operations against gross income from marine operations.

(2) Where the allowances deductible exceed the gross income in any financial year the amount of such excess shall be carried forward and be set off against the gross income for succeeding years.

(3) In no case shall such set-off be allowed to an extent that would reduce the supplemental petroleum tax payable for any financial year to less than fifty per cent of the amount which would otherwise have been payable had the set-off not been allowed.

PART 2A

SUPPLEMENTAL REFINING TAX

Supple-
mental
refining tax

26E. (1) There shall be a tax known as supplemental refining tax imposed on the refining business of a person and such tax is deductible in computing the taxable profits of that business for the purposes of petroleum profits tax.

(2) Subject to subsections (3) and (4) supplemental refining tax shall be levied and paid on each barrel of crude oil or petroleum products received by the refining business of any person at the rate of \$0.05 U.S. per barrel for full refining and \$0.02 U.S. per barrel for light refining.

(3) In computing the amount of supplemental refining tax for any financial year there shall be left out of account stocks of crude oil or petroleum products received but on hand in refinery storage at the end of that financial year, so however that any stocks left out of account shall be brought into account in computing the supplemental refining tax for the next financial year.

(4) The Minister may by Order in consultation with the member of the Cabinet responsible for petroleum vary the rates of supplemental refining tax.

(5) An Order made by the Minister under this section may have effect retroactively to any date within the financial year in which the Order was made.

Full and light refining

26F. The member of the Cabinet responsible for petroleum shall in writing under his hand indicate to persons engaged in refining business which processes are regarded as full refining and which as light refining and shall furnish the Board with a quarterly statement of the number of barrels of crude oil or petroleum products subjected to each type of refining by every person engaged in refining business.”.

16. The Act is amended by inserting immediately Act amended after the heading “MISCELLANEOUS AND GENERAL” the following new section—

“Application of certain provisions of the Ordinance

26G. Subject to sections 3 and 4, the provisions of the Ordinance in the table below shall apply in relation to the taxes imposed under sections 21 and 26E as they apply in relation to income tax chargeable under the Ordinance:—

TABLE

Sections 43-43H	(Appeals)
Section 47	(Relief from Double Taxation)
Section 53	(Power of Board to require Schedule of particulars)
Section 55A	(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)
Sections 68, 68A, 68B, 69, 72 to 74	(General Pro- visions)
Sections 78 and 78A	(Miscellaneous Powers of the Board.)”

Section 27 of the Act amended **17.** Section 27 of the Act is amended by repealing subsection (3).

Act amended in section 28 **18.** The Act is amended in section 28 by repealing subsection (2) and renumbering section 28(1) as section 28.

Section 30 of the Act amended **19.** Section 30 of the Act is amended by renumbering the section as section 30(1) and adding immediately thereafter the following new section—

“ (2) For the purpose of assessing the tax liability of any person under this Act, the Minister, the member of the Cabinet responsible for petroleum and the Board may exchange information in respect of the petroleum operations of that person and the Board may require any government department or agency to disclose information which may assist in that assessment.”.

Schedule 1 of the Act amended **20.** Schedule 1 of the Act is amended by substituting for paragraphs (a) and (b) the words “petroleum operations—45%”.

Schedule 2 of the Act amended **21.** Schedule 2 of the Act is amended—
(a) by substituting for the heading the following—

“Supplementary Provisions about
Production Business, Refinery
Business and Marketing
Business”;

(b) by substituting for paragraph 3(2)(a) the following—

“(a) any loss incurred in a financial year in any such business that cannot be wholly set off against his profits or gains from other sources for the same year in ascertaining his chargeable income or profits for income tax or corporation tax shall be available for set-off against the profits or gains in the business of any petroleum operations carried on by such person either directly or through a subsidiary company;”;

(c) by substituting for the heading appearing immediately after paragraph 4 the following—

“Prices of Crude Oil, Natural Gas, Petroleum Products and Petrochemicals”

(d) by substituting for paragraphs 5 and 6 the following—

“ 5. (1) Subject to subparagraph (3) for the purposes of this Act the prices of crude oil, natural gas, petroleum products and petrochemicals is the actual realised price in a sale transaction at arms-length.

(2) Where a sale takes place between affiliated or related parties, it will be presumed not to be an arms-length sale.

(3) Where the actual realised price is, in the opinion of the Board, not a realistic price, the sale will be presumed not to be an arms-length sale, unless it is proved to be otherwise by the person liable to tax.

(4) Where a sale transaction is not at arms-length the Board shall substitute for the price reported the fair market value as determined by the Minister.

6. The Minister shall in consultation with the member of the Cabinet responsible for petroleum determine fair market value as follows:—

(1) In the case of crude oil—

- (a) widely traded reference crudes similar in quality to the crude to be valued shall be selected and the international market prices of the crudes selected shall be used as the base value for the crude to be valued;
- (b) an appropriate price-setting market where substantial quantities of the reference crudes are traded at arms-length and on an ongoing basis shall be chosen;
- (c) transportation differential shall be taken into account that is to say, the difference between the cost of transporting to the price-setting market the reference crudes and the crude to be valued;
- (d) interest charges on the value of the inventory intransit may be considered in determining transportation costs;

(e) other relevant considerations.

(2) In the case of natural gas exchanges or transfers between a person carrying on production business and a person carrying on refining business or in the case of transfers between affiliated or related parties, there shall be taken into consideration—

(a) contemporary prices for sales of natural gas to similar or related industries in Trinidad and Tobago; and

(b) prices actually realised in arms-length sales in Trinidad and Tobago of natural gas by the person carrying on production business at the time of the transaction under scrutiny;

(3) In the case of petroleum products, and petro-chemicals there shall be taken into account existing market information.

(4) Where processing arrangements for refined products are not at arms-length, the Minister shall in consultation with the member of the Cabinet responsible for petroleum fix processing fees for tax purposes.

6A. (1) For the purpose of advising the Minister in determining fair market value or processing fees there shall be appointed by the Minister, a Permanent Petroleum Pricing Committee consisting of public officers drawn from the Ministry of Finance, the Board of Inland Revenue and the Ministry of Energy and Energy-based Industries.

(2) In formulating advice to the Minister for the purposes of subparagraph (1), the Petroleum Pricing Committee shall have regard to any representations made to it by a person liable to pay tax on the basis of the fair market value or processing fees as the case may be.

6B. (1) A person liable to tax and aggrieved by the Minister's determination of fair market value or processing fees may apply to the Minister for a review and in support of his application shall furnish all relevant information.

(2) The decision of the Minister upon a review shall be binding.

6C. (1) There shall be allowed for the purpose of ascertaining the taxable profits the deduction of all outgoings and expenses as are wholly and exclusively incurred during the year in the production of the profits or gains.

(2) There shall also be allowed as a deduction in ascertaining the taxable profits—

(a) any levy paid in accordance with the Petroleum Production Levy and Subsidy Act, 1974; and

(b) supplemental petroleum tax and supplemental refining tax paid under this Act.”

Act No. 14
of 1974

Schedule 2
amended

22. Schedule 2 is amended by inserting immediately after the heading “Miscellaneous” the following new paragraph:—

“6D. For the purpose of determining the volume of sales of crude oil, natural gas,

petroleum products or petrochemicals the point of disposal is deemed to be—

- (a) in the case of crude oil and natural gas the place at which in the opinion of the Minister the seller or transferor can reasonably be expected to have delivered the crude oil or natural gas;
- (b) in the case of petroleum products or petrochemicals ex-refinery even where petroleum products or petrochemicals are disposed of by the refining business of one person to the marketing business of that same person.”.

23. The Act is amended by adding immediately after Act amended Schedule 2 the following:—

“SCHEDULE 3

(Section 26A)

MACHINERY AND PLANT FOR ENHANCED
RECOVERY ALLOWANCE

Water injection pumps
Water treating equipment
Filtration equipment
Oxygen Scavenging Equipment
Gas Desorption towers
Chemical Scavenging units
Biocide treating units
Accumulator vessels
Steam Generators
Compressors
Boilers
Equipment for use in injector wells
Other machinery and plant as may be specified by the member of the Cabinet responsible for petroleum.”.

24. This Act is deemed to have come into operation ^{Commencement} on the 1st day of January, 1980.

Passed in the House of Representatives this 22nd day of April, 1981.

J. E. CARTER
Clerk of the House

Passed in the Senate this 29th day of April, 1981.

M. CARRINGTON
Acting Clerk of the Senate