

LAWS OF TRINIDAD AND TOBAGO

CORPORATION TAX ACT

CHAPTER 75:02

Act

29 of 1966*

Amended by

2/1968	50/1987	14 of 1994
14 of 1968	3 of 1988	22 of 1994
5 of 1969	11 of 1988	24 of 1994
13 of 1969	12/1988	4 of 1995
32 of 1969	33/1988	5 of 1995
46 of 1969	6 of 1989	8 of 1996
5 of 1970	18 of 1989	9 of 1997
35 of 1971	94/1989	35 of 1998
22 of 1974	9 of 1990	37 of 2000
30 of 1974	6 of 1991	39 of 2000
14 of 1976	65/1991	50 of 2000
1 of 1979	4 of 1992	91 of 2000
203/1979	137/1992	203/2001
22 of 1980	6 of 1993	2 of 2002
11 of 1984	22 of 1993	5 of 2004
*14 of 1987	3 of 1994	

*See Note on page 2

Current Authorised Pages

<i>Pages</i>	<i>Authorised</i>
<i>(inclusive)</i>	<i>by L.R.O.</i>
1-64	.. 1/2006

Note on Subsidiary Legislation

Note on Omissions

A. Delegation of Functions (Corporation Tax) Orders (LNs 151/1987 and 137/1996) have been omitted.

Note on sections 16 B(3) and 16C

B. The following Notices made under the above sections have been omitted:

(i) Regional Development Areas Notices [made under section 16B(3)]
— *See* LN 103/1990.

(ii) Approved Activities Notices (made under section 16)— *See* LN 104/1990.

Note on Act No. 29 of 1966

Part II of the Finance Act 1966 (Act No. 29 of 1966) dealt with corporation tax. Parts I and III dealt with amendments to the Income Tax Ordinance Ch. 33 No. 1 (1950 Ed.) and other miscellaneous matters. Part II has been detached and published separately in this Chapter under the title “the Corporation Tax Act”.

Note on Act No. 14 of 1987

See Part III of Act No. 14 of 1987 which amends this Act by implication.

CHAPTER 75:02

CORPORATION TAX ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

PART I

TAXATION OF COMPANIES

PRELIMINARY

2. Interpretation.

IMPOSITION OF CORPORATION TAX

3. Charge of corporation tax.
- 3A. Business levy.
- 3B. *(Repealed by Act No. 9 of 1997).*
4. General scheme of corporation tax.

BASIS OF ASSESSMENT AND EXEMPTIONS

5. Basis of assessment.
6. Exemptions.
- 6A. Market Development Grants.

COMPUTATION OF PROFITS

7. General rules for computation of income.
8.)
- to } *(Repealed by Act No. 2 of 2002).*
9.)
10. Deductions and additions in computations of profits for capital allowances and related charges.
- 10A. *(Repealed by Act No. 6 of 1989).*
- 10B. Promotional expenses.
- 10C. Deductions of loans by approved small companies.
- 10D. Deductions of contributions to catastrophe reserve fund.
- 10E. Deductions for training of employees.
- 10F. Bonds, notes, debentures, other debt securities.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 10G. Art and culture allowance.
- 10H. Scholarship allowance.
- 10I. Deduction of expenditure by promoters or sponsors of sporting activities and sportsmen.
- 10J. Deduction of expenditure by sponsors for audio, visual or video productions.
- 10K. Deduction of expenditure by a production company.
- 10L. Assessing chargeable profits.
- 10M. Double deductions prohibited.
- 10N. Certification by the Minister.

CLOSE COMPANIES

- 11. Power to direct distribution of certain profits.
- 12. Deductions for Director's remuneration.
- 13. Supplementary provisions about close companies.

SPECIAL CLASSES OF COMPANIES

- 14. Special provisions as to Insurance Companies and Shipping Companies, etc.
- 15. Approved mortgage companies, etc.
- 16. Deduction for capital expenditure by approved property development company.
- 16A. Reliefs for certain companies.
- 16B. Regional development company.
- 16C. Classifying of approved activity.
- 16D. Registration of companies.
- 16E. Cancellation of certificate.
- 16F. Claim for credit.
- 16G. Variation of rate of tax credit.
- 16H. Definitions.
- 16I. Tax credit on interest paid by mutual funds.
- 16J. Tax credit from Export Import Bank.
- 17. Application and adaptation of Income Tax Act as to capital allowance and other matters.
- 18. Double taxation relief.
- 18A. Interpretation.
- 18B. Relief for trading losses.

SECTION

- 18C. Group relief available.
- 18D. A company not a 100 per cent subsidiary.
- 18E. Company not to be treated as a 100 per cent subsidiary.
- 18F. Set off of trading loss.
- 18G. Claims for giving relief.
- 18H. Limit to group relief.
- 18I. Corresponding accounting period.
- 18J. Denial of group relief.
- 18K. Relief obtainable once for the same amount.
- 18L. Aggregate of claim.
- 18M. Non-application of relief.
- 19. Application of certain provisions of the Act.
- 19A. Penalty for late filing.

MISCELLANEOUS AND GENERAL

- 20. Special return.
- 21. Nominee share holdings.
- 22. Partnerships.
- 23. Information as to non-resident companies and trusts.
- 24. Valuation.
- 25. Priority of tax in bankruptcy.

PART II

MISCELLANEOUS

- 26. General as to exemption.

FIRST SCHEDULE—RATE OF CORPORATION TAX.

SECOND SCHEDULE—(REPEALED BY ACT NO. 2 OF 2002).

THIRD SCHEDULE—CLOSE COMPANIES.

**FOURTH SCHEDULE—INSURANCE, SHIPPING AND AIR NAVIGATION
COMPANIES.**

FIFTH SCHEDULE—EXEMPTIONS.

**SIXTH SCHEDULE—COUNTRIES IN RESPECT OF WHICH EXPENSES
AND GRANTS MAY NOT BE CLAIMED.**

CHAPTER 75:02

CORPORATION TAX ACT

29 of 1966. **An Act 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.**

Commencement. [1ST JANUARY 1966]

Short title. **1.** This Act may be cited as the Corporation Tax Act.

PART I

TAXATION OF COMPANIES

PRELIMINARY

Interpretation.
[11 of 1988
6 of 1989
9 of 1997].

2. (1) In this Part—

“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 3 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 3;

Ch. 75:01.

“distribution” has the meaning assigned to it by section 49 of the Income Tax Act;

“investment company” has the meaning assigned to that expression in section 6(3);

Ch. 62:01.

“marketing licensee” means a person carrying on marketing business to whom a marketing licence, within the meaning of regulation 3(1)(h) of the Petroleum Regulations is issued or to be issued under or in accordance with the Petroleum Act;

“new consideration” has in other provisions the same meaning as in section 49(11) of the Income Tax Act; Ch. 75:01.

“non-resident company” means a company not controlled in Trinidad and Tobago, whether or not the company is—

- (a) incorporated in Trinidad and Tobago; or
- (b) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;

“petroleum marketing business” means the business of dealing in petroleum and petroleum products by way of an acquisition and a disposal to a marketing licensee or to a consumer in Trinidad and Tobago or to a person in any other prescribed country, and includes bunkering of ships and aircraft by a marketing licensee, but does not include—

- (a) disposal of petroleum by a person carrying on a production business where the petroleum disposed of is produced by such person; or
- (b) disposal by a person carrying on refining business of—
 - (i) petroleum products refined by such person;
 - (ii) petroleum products acquired and blended with petroleum products refined by such person,

where any such disposal is made to a marketing licensee, or to the refining business of another; or

- (c) bunkering of ships ex-refinery wharf in international trade by a person carrying on refining business;

“petroleum operations” has the meaning assigned to it by section 2(1) of the Petroleum Taxes Act; Ch. 75:04.

“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 the company is—

- (a) incorporated in Trinidad and Tobago; or
- (b) 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 49(1)(d)(iv) of the Income Tax Act by section 49(4) of that Act;

Ch. 75:01.

“withholding tax” has the same meaning as in section 2 of the Income Tax Act;

“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) In this Act and the Income Tax Act and in any Act passed after this Act “Corporation Tax Acts”, except so far as the context otherwise requires, means Part I of this Act (including provisions relating to income tax), together with the provisions of the Income Tax Act as far as it applies for the purposes of corporation tax and any written law relating to corporation tax.

(3) Except as otherwise expressly provided in this Act, the Income Tax Act or any other written law, the provisions of the Income Tax Act 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 Income Tax Act as it relates to individuals but the provisions of the Income Tax (In Aid of Industry) Act, the Fiscal Incentives Act and any other written law 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. 85:04.

Ch. 85:01.

(4) 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.

(5) Except as otherwise provided by this Part and except in so far as the context otherwise requires, expressions used in the Income Tax Act have the same meaning in this Part as in the Income Tax Act 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 Income Tax Act shall be taken to affect its meaning in the Income Tax Act as it applies for the purposes of corporation tax.

(6) 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.

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

(8) 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

Charge of
corporation tax.
[32 of 1969
9 of 1997].
First Schedule.

3. Subject to the provisions of this Part, corporation tax shall be payable at the rate specified in the First Schedule 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—

- (a) farming, agriculture, forestry, fishing, or other primary activity;
- (b) the operation of mines or the exploitation of natural or mineral resources;
- (ba) a petroleum marketing business;
- (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;
- (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, the annual value being that assessed in house rates or taxes under the Lands and Buildings Taxes Act or under the Municipal Corporations Act with respect to the City of Port-of-Spain, the City of San Fernando and the Borough of Arima;

Ch. 76:04.
Ch. 25:04.

- (h) rentals and royalties paid for the use or the right to use—
- (i) copyright, 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.

3A. (1) There shall be levied and paid to the Board a tax to be known as business levy on the gross sales or receipts of a company for each year of income at the rate of 0.2 per cent.

Business levy.
[6 of 1993
22 of 1993
3 of 1994
5 of 1995
8 of 1996
9 of 1997
35 of 1998
91 of 2000].

- (2) Subsection (1) does not apply to—
- (a) companies during the first twelve months following their registration;
 - (b) companies or statutory corporations exempt from corporation tax under any Act;
 - (c) the gross sales or receipts of a company which give rise to profits exempt from corporation tax under any Act;

Ch. 75:04.

- (d) the Deposit Insurance Corporation, the Agricultural Development Bank, the Public Transport Service Corporation and public utilities under the jurisdiction of the Public Utilities Commission or exempted by Order of the President;
- (e) companies that are subject to tax under the Petroleum Taxes Act; and
- (f) the gross sales or receipts of a company whose gross sales or receipts in the preceding year of income do not exceed the sum of two hundred thousand dollars, unless there are reasonable grounds to believe that the gross sales or receipts of the company in the particular year will exceed that sum.

(2A) The President may, by Order subject to negative resolution of Parliament, amend subsection (2)(d) by exempting other public utilities from the business levy.

(3) A company is entitled to a tax credit against its business levy liability for a year of income of any payment made in respect of its corporation tax liability for that year of income up to a maximum of its business levy liability.

(4) ***(Repealed by Act No. 5 of 1995).***

Ch. 75:01.

(5) The business levy shall be payable on the gross sales or receipts of each quarter ending on 31st March, 30th June, 30th September and 31st December, in each year of income and the provisions of section 79 of the Income Tax Act shall apply *mutatis mutandis* to this subsection.

(6) Where the Board is satisfied that a company is unable to determine, by the due date for payment in any quarter, the gross sales or receipts for any day in that quarter, the company may, with the approval of the Board, estimate its gross sales or receipts for that day.

(7) Where a company which estimates its gross sales or receipts for any day in a quarter, determines that its actual sales or receipts for that day are more than the estimated sales or receipts,

that company shall pay the business levy due on the difference between the actual sales or receipts and the estimated sales or receipts, no later than the last day of the quarter following the quarter in which the sales or receipts were estimated.

(8) Where a company to which subsection (6) applies, pays business levy in any quarter amounting to less than ninety per cent of the business levy liability for that quarter, the difference between ninety per cent of the business levy liability and the amount paid by the end of the quarter in which the levy liability arose, shall be subject to interest from the day following the end of that quarter to the date of payment at the rate of fifteen per cent per annum.

(9) For the removal of doubt, it is hereby declared that in ascertaining the chargeable profits of a company, no deduction or allowance shall be made of, or on account of, the levy imposed by this section.

(10) The business levy shall be under the care and management of the Board of Inland Revenue and the provisions of the Income Tax Act in the Table below shall apply in relation to the business levy as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modification and adaptations.

(11) Notwithstanding anything in subsection (1), from 1st January 1999 the business levy shall not be levied earlier than the date of expiry of three years from the date of registration of a Corporation which is registered after the aforesaid date.

TABLE

INCOME TAX PROVISIONS APPLIED TO THE BUSINESS LEVY

- Section 2 (Interpretation)
- Sections 3 and 4 (Administration)
- Sections 59 to 65 (Trustees, agents, etc.)
- Section 66 (Deceased persons)
- Sections 76, 77 (Returns)
- Sections 79 to 82 (Payment of tax by instalments)

Sections 83 and 84 (Assessments)
 Section 85 (Assessment lists, etc.)
 Section 86 (Notices of Assessment)
 Section 87 (Appeals)
 Sections 88 and 89 (Errors in assessments and additional assessments)
 Section 90(1) and (3) (Repayment of Tax)
 Section 92 (Refunds)
 Section 93 (Relief from double taxation)
 Section 94 (Certain income deemed to be income for the purposes of the
 Income Tax Act)
 Section 103 (Interest for non-payment of tax)
 Sections 104 to 108 (Collection)
 Sections 109 to 112 (Recovery)
 Sections 113 and 114 (Notices)
 Section 115 (Imprisonment of defaulters)
 Sections 116, 117, 118 to 124 (General Provisions)
 Section 125 (Regulations)
 Sections 130, 131, 132 (Miscellaneous powers of Board)
 The Sixth Schedule.

3B. (Repealed by Act No. 9 of 1997).

General scheme
 of corporation
 tax.
 [46 of 1969].

4. (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.

(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) Notwithstanding anything in this Act or any other rule of law to the contrary, where profits arise to a company from any activities on the continental shelf (this expression here having the same meaning as in the Continental Shelf Act) such profits shall for all the purposes of this Act be deemed to have accrued in or to have been derived from Trinidad and Tobago.

Ch. 1:52.

(4) 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

5. (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.

- 6.** (1) There shall be exempt from corporation tax —
- (a) distributions, other than preference dividends, received by a company from a resident company;
 - (aa) distributions received by a resident company from the Export Import Bank over a period of ten years commencing from the date of the initial injection of private sector funds into the Export Import Bank.
 - (b) profits of an investment company;
 - (bb) gains and profits of an approved tourism project in accordance with the Order made under section 16(1) of the Tourism Development Act;
 - (c) profits of a local authority arising from its activities as such as well as from any trade or business carried on by the local authority;

Exemptions.
[35 of 1971
11 of 1984
3 of 1988
6 of 1989
94/1989
65/1991
137/1992
6 of 1993
3 of 1994
22 of 1994
24 of 1994
5 of 1995
8 of 1996
35 of 1998
37 of 2000
50 of 2000
203/2001].
Ch. 87:22.

Ch. 88:02.

- (d) profits arising from a trade or business carried on by a co-operative society so registered under any written law in force in Trinidad and Tobago;
- (e) the profits of any sporting body of persons, that are approved by the President 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 Act, 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 President by writing under his hand, in so far as such profits are not derived from a trade or business carried on by the institution;

*See LN 151/1987.

- (h) profits of the Post Office Savings Bank and any other institution established for the encouragement of thrift which the President may declare to be exempt;
- (i) profits arising from investment of any fund or scheme approved by the President under section 27(1)(c) of the Income Tax Act; Ch. 75:01
- (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 President by Order to be so exempt;
- (ka) with effect from 1st January 1999 interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company Limited;
- (l) profits arising from investment of the Employment Injury Benefit Fund, the Short Term Benefits Fund and the Long Term Benefits Fund established under the National Insurance Act; Ch. 32:01.
- (m) market development grants within the meaning of the Trinidad and Tobago Export Development Corporation Act; Ch. 85:86.
- (n) profits of the Trinidad and Tobago Development Finance Company Limited;
- (na) profits of the Caribbean Microfinance Limited;
- (o) profits of the National Insurance Property Development Company Limited;
- (p) profits of the Trinidad and Tobago Bureau of Standards;
- (q) interest payable on bonds known as TTDFC Industrial Bonds that are issued by the Trinidad and Tobago Development Finance Company Limited;
- (qa) with effect from, 1st October 1998, interest payable on bonds issued by the Trinidad and Tobago Mortgage Finance Company Limited for the purpose of providing loans to first-time home owners;

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- (r) profits of the Small Business Development Company Limited;
- (s) fifty per cent of the interest earned by a financial institution in a year of income in respect of a loan to an approved small company within the meaning of section 16A, where the financial institution keeps separate accounts for such interest to the satisfaction of the Board and makes an annual statement of such interest to the Board;
- Ch. 39:08. (sa) interest accruing on loans granted in furtherance of the University Students (Guarantee Fund) Act, by financial institutions;
- (t) fifty per cent of the interest earned by a financial institution in a year of income in respect of a loan made to a person who carries on commercial farming on an approved agricultural holding for—
- (i) the purchase of self-propelled agricultural equipment, agricultural tractors, agricultural implements propelled by draught, animals or agricultural devices designed to be carried by the operator as certified by the Minister;
 - (ii) the construction of animal pens as certified by the Minister,
- where the financial institution keeps separate accounts for such interest to the satisfaction of the Board and makes an annual statement of such interest to the Board;
- (u) profits accruing to a venture capital company;
- (v) short-term capital gains accruing to venture capital company.
- Ch. 79:09. (w) with effect from the 1st January 1994 profits accruing to a trust in respect of its unit trust business, being a business of a financial nature as defined in the Financial Institutions Act, where the trustee is a financial institution licensed under

the Financial Institutions Act which sells shares representing interests in the assets of the trust to beneficiaries under the trust;

- (x) the profits of BWIA International Airways Limited for the period 1st January 1995, to 31st December 2001;
- (y) the amount or value of the dividends or other distributions paid to a resident company—
 - (i) by a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, where the profits of the trust are exempt from corporation tax; Ch. 79:09.
 - (ii) under the First and Second Unit Schemes of the Trinidad and Tobago Unit Trust Corporation established by the Unit Trust Corporation of Trinidad and Tobago Act; Ch. 83:03.
- (z) profits of the Export Import Bank for a period of ten years or until its capital reserves and retained earnings equal its initial capital investment of thirty-one and one-half million dollars whichever is the lesser, commencing from the date of the initial injection of private sector funds into the Export Import Bank.

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

“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 except 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, basketball, billiards, amateur boxing, amateur wrestling, cricket, cycling, flying, model aeroplane flying, football, golf, hockey, netball, polo, swimming, tennis, weightlifting, yachting, and such other activities as may be prescribed.

(3) For the purposes of this section—

“local authority” means the Port-of-Spain Corporation, the San Fernando Corporation and the Arima Corporation, continued under section 3 of the Municipal Corporations Act;

Ch. 25:04.

“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 situated 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.

(3A) For the purposes of subsection (1)(s) and (t)—
 “approved agricultural holding” has the same meaning assigned to it as under section 14(6) of the Income Tax Act; Ch. 75:01.
 “financial institution” means a company which carries on all or any aspects of banking business or business of a financial nature;
 “Minister” means the Minister to whom responsibility for agriculture is assigned.

(4) The President may, by Order, subject to negative resolution of Parliament, amend subsection (1) by extending, reducing or otherwise altering the list of exemptions.

(5) Sections 10, 11 and 12 of the Income Tax Act have effect in relation to interest referred to in paragraphs (s) and (t) as if paragraphs (s) and (t) had not been enacted.

6A. The exemption referred to in section 6(1)(n) shall not apply to market development grants, unless they have been made in respect of expenses incurred by an exporter, prior to the export of the first commercial shipment of goods produced in Trinidad and Tobago, to the foreign market, and that market shall not be a market in a country specified in the Sixth Schedule. Market Development Grants. [11 of 1984 6 of 1989].
Sixth Schedule.

COMPUTATION OF PROFITS

7. (1) Except as otherwise provided by this Part, the chargeable profits of a company shall be computed in accordance with the income tax principles relating to the provisions of the Income Tax Act applied by section 19 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 19 and practice. General rules for computation of income. [11 of 1988 6 of 1989 5 of 1995 9 of 1997 35 of 1998]. Ch. 75:01.

(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.

(3) Subject to any written law 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—

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

(5) Subsection (3)(b) shall not apply when the company makes a covenanted donation to charity, save, however, that the covenanted donation shall not exceed fifteen per cent of the total income of the company. In this subsection “covenanted donation to charity” means a payment under a settlement as defined by section 72 of the Income Tax Act 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 6(2).

Ch. 75:01.

(6) Without prejudice to the generality of subsection (1), any provision of the Income Tax Act 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.

(7) Where a change in the shareholding of a company has taken place in a year of income, no loss incurred in any year preceding the year of income shall be carried forward and set off, as provided by section 16 of the Income Tax Act, against the profits of the year of income unless—

- (a) on the last day of the year of income the shares of the company carrying not less than 51 per cent of

the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51 per cent of the voting power on the last day of the year or years in which the loss was incurred; or

(b) the Board is satisfied that the change in the shareholding was not effected with a view to avoiding or reducing any liability to tax.

(8) Subject to section (9), where in a year of income a company claims a deduction for wear and tear under section 11(1)(b) of the Income Tax Act, the deduction shall not be allowed unless the company satisfies the Board that the taxes payable in that year of income under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid for the year of income to which the claim relates.

Ch. 75:01.

Ch. 76:04.

Ch. 25:04.

(9) *(Deleted by Act No. 35 of 1998).*

8. }
to } *(Repealed by Act No. 2 of 2002).*
9. }

10. (1) In computing for purposes of corporation tax “a company’s profits” for any year of income, there shall be made in accordance with this section all such reductions and additions as are required to give effect to the provisions of the Income Tax (In Aid of Industry) Act which relate to deductions and allowances and charges in respect of capital expenditure, as those provisions are applied by this Part.

Deductions and additions in computations of profits for capital allowances and related charges. Ch. 85:04.

(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.

10A. *(Repealed by Act No. 6 of 1989).*

Promotional
expenses.
[11 of 1984
6 of 1989
3 of 1994].

10B. (1) In computing for the purposes of corporation tax the profits of a company for a year of income, there shall be allowed promotional expenses wholly and exclusively incurred in order to create or promote the expansion of foreign markets for the export of—

- (a) architectural engineering, design, quantity surveying or contracting services in connection with the building industry, where such services are performed by a person resident in Trinidad and Tobago for a recipient who is outside Trinidad and Tobago; or
- (b) the export of goods and agricultural produce manufactured or produced in Trinidad and Tobago and shipped in commercial quantities,

equivalent to one hundred and fifty per cent of the amount actually expended.

Ch. 75:01.

(2) A company granted an allowance under this section is not entitled to an allowance under section 10 of the Income Tax Act in respect of expenses referred to in subsection (1).

(3) A company may only qualify for an allowance under this section in respect of promotional expenses incurred in order to create or promote the expansion of foreign markets for the export of services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago, where goods have been exported as a result of such expenditure.

(4) A company may not be allowed an allowance under this section in respect of emolument income within the meaning of section 100 of the Income Tax Act, except in respect of expenses incurred under paragraph (g) of subsection (5).

(5) For the purposes of this section:

“company” means a company incorporated and resident in Trinidad and Tobago;

“promotional expenses” means expenses incurred in respect of services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago in—

- (a) advertising in foreign markets;

- (b) providing promotional literature for overseas distribution;
- (c) the participation in trade fairs, trade missions and similar promotional activities;
- (d) overseas travel for the purposes of conducting promotional activities;
- (e) providing free samples and technical information on products;
- (f) inviting buyers to Trinidad and Tobago;
- (g) the recruitment of specialist sales personnel, operating in foreign markets, for a maximum of two years;
- (h) conducting foreign market surveys.

(6) The provisions of subsection (1) shall not apply to expenses incurred in petroleum operations, nor in respect of expenses incurred in the export or the expanding of the export of services referred to in subsection (1)(a) or goods and agricultural produce manufactured in Trinidad and Tobago to countries specified in the Sixth Schedule.

Sixth Schedule.

(7) In subsection (6) “petroleum operations” means operations related to the various phases of the petroleum industry and includes exploring for, producing, refining, transporting and marketing petroleum or petroleum products or both and manufacturing and marketing of petroleum-based products and petro-chemicals.

10C. (1) In computing for the purposes of corporation tax the profits of a financial institution for a year of income, there shall be allowed a deduction of ten per cent of the net increase of loans made by a financial institution in a year of income to approved small companies within the meaning of section 16A.

Deductions of loans by approved small companies. [3 of 1994].

(2) In this section, “financial institution” means a company which carries on all or any of the aspects of banking business or business of a financial nature.

Deductions
of contributions
to catastrophe
reserve fund.
[3 of 1994].

10D. (1) Subject to this section, where in a year of income commencing from the year 1994, a company under this section makes a contribution to its catastrophe reserve fund, there shall be allowed as a deduction in ascertaining the chargeable profits of the company for that year of income, such contribution up to a maximum of twenty per cent of the net written premium income of the company.

(2) Subsection (1) shall not apply—

- (a) where the catastrophe reserve fund is equal to or exceeds the net written premium income of the company in a year of income; or
- (b) to that portion of a contribution which will cause the fund to exceed the net written premium income of the company in a year of income.

(3) All amounts received in a year of income by a company, as income derived from the investment of its catastrophe reserve fund, shall not be included in computing the chargeable profits of the company for that year of income, where the fund does not exceed the net written premium income in that year.

(4) Where deductions in respect of amounts contributed by a company to its catastrophe reserve fund have been allowed under this section, and the company ceases to carry on its property insurance business, the amounts comprising the fund in the year in which the company ceases to carry on the property insurance business, shall be taken into account in determining the chargeable profits of the company for that year.

(5) The trustee of the fund established by a company which ceases its property insurance business under subsection (4) shall—

- (a) deduct an amount equal to twenty-five per cent of the amount comprising the fund at the date when the company ceases the business; and
- (b) remit the amount deducted in paragraph (a) to the Board on account of the corporation tax of the company for the year in which it ceases the business.

(6) The trustee of a catastrophe reserve fund shall submit to the Board accounts in respect of that fund within three months from the end of the accounting period of the company which established the fund.

(7) For the purposes of this section—

“catastrophe reserve fund” or “fund” means a fund established by a company under section 49A of the Insurance Act;

Ch. 84:01.

“company” means a company registered under the Insurance Act to carry on property insurance business insuring against catastrophe risks;

“net written premium income” means the income of a company from premiums derived from its property insurance business, after deducting reinsurance premiums for catastrophe risk reinsurance;

“property insurance business” means the business of effecting and carrying out contracts of insurance against risks of loss of or damage to property, not being risks of such kinds that the business of effecting and carrying out contracts of insurance against them constitutes marine, aviation and transport insurance business or motor insurance business.

10E. In computing for the purposes of corporation tax the profits of a company for a year of income, there shall be allowed expenses reasonably incurred in the training and retraining of the employees of the company up to one hundred and fifty per cent of such expenditure.

Deductions for training of employees. [35 of 1998].

10F. (1) Where in a year of income commencing from the year 1998, a company acquires from the holder of a bond, note, debenture or other similar debt security the right to receive the income derived from any of those debt securities, there shall be allowed as a deduction from the income from any source, in ascertaining the chargeable profits of the company for that year of income, all outgoings and expenses wholly and exclusively incurred by that company in respect of the acquisition of the income in relation to those debt securities, whether or not such income is exempt from tax under this Act or any other written law.

Bonds, notes, debentures, other debt securities. [39 of 2000].

(2) For the purposes of this section, the outgoing and expenses incurred by a company in acquiring the right to receive the income derived from a debt security referred to in subsection (1) shall include interest expenses, investment fees or the consideration paid for the purchase of interest coupons relating to such debt security.

Art and culture allowance. [91 of 2000, 2 of 2002, 5 of 2004].

10G. (1) Subject to section 10L, where in a year of income commencing from the year 2001, a company incurs expenditure in respect of an artistic work, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to one hundred and fifty per cent of the actual expenditure up to a maximum of one million dollars.

(2) In respect of a visual work of art—

- (a) the deduction may only be claimed in respect of the initial acquisition of the work; and
- (b) the deduction may be allowed where the work—
 - (i) is done by a national of Trinidad and Tobago; and
 - (ii) is certified by an art gallery, which shall submit a valuation of the work done.

(3) In the case of a performing art, the deduction shall only apply where—

- (a) the work is done by a national of Trinidad; and
- (b) the national rendering such work is registered with the Ministry with responsibility for culture or with the Tobago House of Assembly, in the case of a national residing in Tobago.

(4) In this section “artistic work” means any work of art, whether visual or performing.

Scholarship allowance. [91 of 2000].

10H. (1) In ascertaining the chargeable profits of a company for a year of income commencing from the year 2000, there shall be allowed the actual expenses incurred in granting scholarships to nationals who are not employees, directors or associates of

directors of that company, for tertiary education at institutions and in areas of study accredited and approved respectively by the Ministry with responsibility for education.

(2) For the purpose of subsection (1), an “associate” includes the spouse, parent, child, brother, sister or partner of a person.

10I. (1) Subject to section 10L, where in a year of income commencing from the year 2003, a company promotes or sponsors sporting activities or events or sportsmen, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income an allowance equal to one hundred and fifty per cent of the actual expenditure incurred in respect of such promotion or sponsorship, up to a maximum of one million dollars.

Deduction of expenditure by promoters or sponsors of sporting activities and sportsmen. [2 of 2002 5 of 2004].

(2) In the case of a sportsman sponsored by a company, the deduction shall only apply where the sportsman is a national of Trinidad and Tobago.

(3) In this section, “sporting activities or events” means athletics, badminton, basketball, amateur boxing, martial arts, wrestling, cricket, cycling, model aeroplane flying, football, rugby, golf, hockey, netball, baseball, polo, swimming, tennis, weightlifting, yachting and such other activities or events as may be prescribed, under subsection (4) by the Minister with responsibility for Sports.

(4) The Minister to whom responsibility for sports is assigned may, by Order, amend the list of sporting activities or events detailed in subsection (3).

(5) For the purposes of this section “sportsman” means an individual engaged in sporting activities or events.

10J. Subject to section 10L, where in a year of income commencing from the year 2003, a company sponsors audio, visual or video productions for the purposes of local education or local entertainment or reflecting local culture for radio or television,

Deduction of expenditure by sponsors for audio, visual or video productions. [2 of 2002 5 of 2004].

there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to one hundred and fifty per cent of the actual expenditure incurred in respect of such productions up to a maximum of one million dollars.

Deduction of expenditure by a production company. [2 of 2002 5 of 2004].

10K. Where in a year of income commencing from the year 2003, a production company incurs expenditure in respect of its own audio, visual or video productions for educational purposes or promoting or reflecting local entertainment or local culture for radio or television, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to one hundred and fifty per cent of the actual expenditure incurred in making such productions up to a maximum of one million dollars.

Assessing chargeable profits. [2 of 2002 5 of 2004].

10L. (1) For the purpose of ascertaining the chargeable profits of a company for a year of income, the aggregate allowance that may be claimed under sections 10G, 10I and 10J shall not exceed the sum of one million dollars.

(2) In the case of a production company this company will, in addition to the deduction allowed under section 10K, also be entitled to claim an aggregate allowance of up to a maximum of one million dollars with respect to sums paid to sporting activities and artistic works not related to its own business.

Double deductions prohibited. [2 of 2002]. Ch. 75:01. Ch. 75:02.

10M. For the removal of doubt a company which is granted an allowance under sections 10E, 10G, 10H, 10I, 10J and 10K shall not also be entitled to a deduction under section 10 of the Income Tax Act as applies to the Corporation Tax Act.

Certification by the Minister. [5 of 2004].

10N. For the purposes of sections 10J and 10K—

- (a) the Minister with responsibility for education shall issue a certificate, in respect of a production for educational purposes referred to therein, to the effect that the production is for educational purposes;

- (b) the Minister with responsibility for culture shall issue a certificate in respect of a production to promote or reflect local entertainment or culture referred to therein, in the manner prescribed to the effect that the production is to promote or reflect local entertainment or culture,

and a deduction shall not be allowed by the Board in the absence of such certificate.

CLOSE COMPANIES

11. (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 the 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 make any direction with which the company is dissatisfied, the company aggrieved thereby may appeal to the

Appeal Board within twenty-eight days of receipt of notice of the refusal or direction with which the company is dissatisfied, notwithstanding no assessment has been made.

Deductions for
Director's
remuneration.

Ch. 85:04.

12. (1) In computing the profits of a close company for any year of income for the purpose of ascertaining the chargeable profits of the 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) Act, but so that the deduction does not exceed three thousand dollars 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) fifteen thousand dollars, in the case of the highest paid director;
- (b) ten thousand dollars, 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 six thousand dollars 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.
Third Schedule.

13. The provisions of the Third Schedule 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

14. The provisions of the Fourth Schedule 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.

Special provisions as to Insurance Companies and Shipping Companies, etc. Fourth Schedule.

15. The provisions of the Fifth Schedule 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 written law, the provisions of sections 42 to 46 of the Income Tax Act 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, etc. [11 of 1988]. Fifth Schedule.

Ch. 75:01.

***16.** (1) Subject to this section, for the purpose of ascertaining the chargeable profits of an approved property development company, there shall be deducted an amount equal to fifteen per cent of any capital expenditure incurred by that company on or after 1st January 1973 in the construction of any building that is to be used for commercial or industrial purposes by the company or a purchaser or lessee thereof.

Deduction for capital expenditure by approved property development company. [30 of 1974].

(2) Where the period of construction of a building to which subsection (1) applies extends over more than one year of income, the deduction shall be allowed only in the year of income in which the building is completed.

(3) Where part of a building is to be used for commercial or industrial purposes and the capital expenditure incurred in the construction of that part of the building which is not to be used for commercial or industrial purposes —

(a) does not exceed one-tenth of the total capital expenditure incurred in the construction of the entire building, the deduction provided by subsection (1) shall apply to the total capital expenditure incurred in the construction of the building;

*This section has effect from 1st January 1973.

(b) exceeds one-tenth but does not exceed one-half of the total capital expenditure incurred in the construction of the entire building, the deduction provided by subsection (1) shall apply only to the capital expenditure incurred in the construction of that part of the building which is to be used for commercial or industrial purposes; or

(c) exceeds one-half of the total capital expenditure incurred in the construction of the entire building no deduction shall be made under subsection (1).

(4) For the purposes of this section the Board may approve any company as an approved property development company, if it is satisfied that the company —

(a) has a paid-up share capital of not less than one million dollars;

(b) is locally owned and controlled; and

(c) intends to undertake property development projects in both urban and rural areas within such time as the Board may specify.

(5) The Board may in approving a company for the purposes of this section, impose such conditions as it may consider necessary or expedient.

(6) Where the Board refuses to approve a company as an approved property development company, it shall within thirty days of the refusal, inform the company by notice in writing of its refusal to grant the approval.

(7) Where the Board is of the opinion that an approved property development company —

(a) has ceased to comply with the requirements of subsection (4)(a) or (b);

(b) has failed to carry out its undertaking under subsection (4)(c) within the time specified by the Board; or

(c) has failed to comply with any conditions imposed by the Board,

the Board may, by notice in writing, withdraw its approval from the date specified in the notice and the provisions of subsection (1) shall cease to apply from that date.

(8) The deduction provided for by subsection (1) does not preclude the grant of any initial allowance or annual allowance both to which the company may be entitled under the provisions of the Income Tax (In Aid of Industry) Act.

Ch. 85:04.

(9) In this section—

“building” includes any structure of a permanent nature which forms part of or is attached to a building;

“commercial or industrial purposes”, in relation to the use of a building, does not include use for the purposes of a school, college, university, club, hotel, hospital, private hospital or public entertainment or amusement;

“locally owned and controlled”, in relation to a company, means a company in which nationals beneficially own shares carrying between them, directly or indirectly—

- (a) the right to exercise more than one-half of the voting power in that company;
- (b) the right to receive more than one-half of any dividends that might be paid by that company; and
- (c) the right to receive more than one-half of any capital distribution in the event of the winding up or of a reduction in the share capital of that company;

“nationals” means citizens of Trinidad and Tobago and persons who under any law relating to immigration are regarded as belonging thereto or having the status of a resident, and includes companies controlled by such persons or by companies so controlled as specified in the definition of “locally owned and controlled” and partnerships the majority share in which and the management of which are owned and performed by such persons.

Reliefs for
certain
companies.
[11 of 1988
3 of 1994
4 of 1995
91 of 2000].

16A. (1) Subject to this section and section 16B to 16G inclusive—

- (a) an approved small company;
- (b) an approved company carrying on business in a regional development area; and
- (c) an approved activity company,

are entitled to a tax credit equal to twenty-five per cent of the chargeable profits of such company and the amount of tax payable shall be reduced by the amount of the credit.

(2) In the case of an approved company carrying on business in a regional development area and an approved activity company, the tax credit shall be granted for a period of seven years, from 1st January in the year in which the certificate of approval is issued.

(3) A company that is desirous of being granted a benefit under this section may apply in writing to the Minister where it satisfies the criteria set out in this section and section 16B and 16C.

(4) A company referred to in subsection (1) shall not qualify for the tax credit unless a certificate of approval to the effect that the company so qualifies is issued by the Minister.

(5) The Minister may, after consultation with the Small Business Development Company Limited, issue a certificate of approval to a small company referred to in subsection (1)(a) where that company—

- (a) is locally owned and controlled as defined in section 16(9);
- (b) has machinery, equipment and working capital the value of which does not exceed one million five hundred thousand dollars;
- (c) if incorporated on or after 8th January 1988, is not the result of the splitting or the reconstruction of an existing company;
- (d) does not have as a shareholder any other company holding shares either directly or indirectly through its nominees;

- (e) maintains accounts which are audited by an accountant who is a member of the Institute of Chartered Accountants of Trinidad and Tobago;
- (f) has potential for creating permanent jobs;
- (g) has at least five permanent employees; and
- (h) makes optimum use of locally produced raw materials.

***16B.** (1) In the case of a company carrying on a business in a regional development area, the Minister may, after consultation with the Industrial Development Corporation, issue a certificate of approval to that company where the company —

Regional
development
company.
[11 of 1988].

- (a) is incorporated in Trinidad and Tobago on or after 8th January 1988 and is resident in Trinidad and Tobago;
- (b) is locally owned and controlled as defined in section 16(9) and no other company holds more than twenty-five per cent of the issued share capital either directly or indirectly through its nominees;
- (c) is not formed by the splitting or the reconstruction of a company already in existence;
- (d) carries out its operations in an area designated by the Minister to be a regional development area in accordance with subsection (3) and produces manufactured goods or industrial services of which at least seventy-five per cent are produced in the regional development area;
- (e) holds at least seventy-five per cent of its fixed assets in the regional development area;
- (f) employs twenty or more workers of whom at least seventy-five per cent work in the regional area and receive more than sixty per cent of the company's total payment in respect of salaries and wages, such percentage to include the salary or wage of any worker who markets a product manufactured in a regional development area, outside of that area; and

* See Note on page 2.

(g) operates a system of accounts approved by the Industrial Development Corporation.

(2) The Minister may designate an area to be a regional development area where the area is outside the boundaries of the municipalities of Port-of-Spain and San Fernando, and

(a) is non-industrial; or

(b) has a high level of unemployment.

(3) The Minister may by Notice publish a list of regional development areas.

Classifying of approved activity. [11 of 1988].

***16C.** (1) The Minister may, after consultation with the Industrial Development Corporation, classify as an approved activity an activity capable of—

(a) earning hard currencies, or effecting significant savings of foreign exchange;

(b) creating a significant number of permanent jobs or offering prospects for future expansion;

(c) stimulating technological development or developing new and modern industries; or

(d) making efficient use of local raw materials,

and may by Notice publish a list of approved activities which in his opinion satisfy the criteria outlined in this subsection.

(2) The Minister may, after consultation with the Industrial Development Corporation, issue a certificate of approval to an approved activity company where that company—

(a) is incorporated in Trinidad and Tobago on or after 8th January 1988 and is resident only in Trinidad and Tobago;

(b) is locally owned and controlled as defined in section 16(9) and no other company holds more than twenty-five per cent of the issued share capital either directly or indirectly through its nominees;

(c) is not formed by the splitting or the reconstruction of a company already in existence;

(d) employs more than ten persons;

* See Note on page 2.

- (e) is engaged in an activity classified as an approved activity under subsection (1) and the receipts from that activity exceed seventy-five per cent of the gross receipts in a year of income; and
- (f) operates a system of accounts approved by the Industrial Development Corporation.

(3) Where the requirements of this section are not complied with, the Minister may nevertheless issue a certificate of approval under subsection (2) subject to such conditions as he considers necessary or expedient.

16D. Where a certificate of approval is issued to a company under section 16A, 16B or 16C, the Industrial Development Corporation shall register the company and issue to it a certificate of registration.

Registration of companies.
[11 of 1988].

16E. (1) Where the Minister is of the opinion that any company to which section 16A(1) refers no longer meets the requirements for approval, the Minister shall by notice in writing cancel that company's certificate of approval and notify the Industrial Development Corporation.

Cancellation of certificate.
[11 of 1988].

(2) Upon being notified by the Minister in accordance with subsection (1) the Industrial Development Corporation shall cancel that company's certificate of registration and notify the Board to that effect.

16F. A company entitled to a tax credit under section 16A(1) shall not be granted a credit unless the relevant certificate of registration is attached to the return of income in which the claim for the tax credit is made.

Claim for credit.
[11 of 1988].

16G. (1) The Minister with responsibility for Finance may by Order vary the rate of the tax credit.

Variation of rate of tax credit.
[11 of 1988].

(2) An Order made under this section shall have effect retroactively from the commencement of the year of income in which the Order was made.

16H. For the purposes of sections 16A to 16E inclusive "Minister" means the member of the Cabinet to whom responsibility for Industry is assigned.

Definitions.
[11 of 1988].

Tax credit on interest paid by mutual funds. [8 of 1996, 9 of 1997]. Ch. 75:01.

- 16I.** (1) Where, in a year of income, the profits of—
- (a) an approved fund or scheme under section 27(1)(c) of the Income Tax Act;
 - (b) a sporting body or institution approved by the President under section 6(1)(e) or (g);
 - (c) an approved annuity business not subject to tax under this Act,

include—

- (i) a dividend paid by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act;
- (ii) the amount or value of a distribution paid by the Unit Trust Corporation of Trinidad and Tobago,

Ch. 79:09.

payable out of interest in respect of which tax has been deducted under section 3B, such approved fund or scheme, approved sporting body or institution or approved annuity business is entitled in that year of income to a tax credit equivalent to the tax deducted on the portion of the interest that relates to the dividend or distribution received.

(2) The tax credit referred to in subsection (1) shall not be granted unless a certificate from the trust or the Unit Trust Corporation of Trinidad and Tobago is produced in support of the claim for relief.

(3) The certificate shall state the amount of tax deducted on that portion of the interest that relates to the dividend or distribution received.

(4) Notwithstanding the repeal of section 3B by the Provisional Collection of Taxes (No. 2) Order 1996, this section shall continue to have effect for the purposes of subsection (5), as though section 3B had not been repealed.

(5) Where an approved fund or scheme, approved sporting body or institution or approved annuity business is, in relation to the year of income ending 31st December 1996, entitled to a tax credit under subsection (1), which exceeds the amount of tax for

which it is assessed, such approved fund or scheme, approved sporting body or institution or approved annuity business, as the case may be, shall be entitled in relation to that year of income to a refund equivalent to the difference between the amount of the tax credit and the amount of the tax assessed.

16J. Where in any year of income, an investor makes an investment in the initial ordinary share capital of the Export Import Bank, that investor shall be entitled to a tax credit of ten per cent of the amount of the investment for each of the three years following the year of income in which the investment was made.

Tax credit from
Export Import
Bank.
[37 of 2000]

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

Application and
adaptation of
Income Tax Act
as to capital
allowance and
other matters.
[6 of 1989].
Ch. 85:04.
Ch. 75:01.

(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 Income Tax Act 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 Income Tax Act references to a deduction or allowance for the purpose of ascertaining chargeable income or to a specified provision of that Income Tax Act 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.

Double taxation relief.
[6 of 1989].
Ch. 75:01.

18. (1) Subject to any express amendments made by this Part, sections 93 and 95 of the Income Tax Act together with any other written law relating or referring to double taxation relief shall have effect in relation to corporation 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 Fifth Schedule to the Income Tax Act 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 control also controls directly or indirectly not less than one-half of the voting power in the first-mentioned company.

Interpretation.
[9 of 1997].

18A. In sections 18B to 18L—
 “accounting period” means the period in respect of which corporation tax is chargeable;
 “claimant company” means a company which utilises the trading loss of a surrendering company;
 “group relief” means relief that allows the current trading losses of a surrendering company to be set off, by way of relief from corporation tax, against the chargeable profits of

claimant company, whether in whole or in part, where throughout their respective accounting periods, both companies satisfy the provisions of the group test set out in section 18C;

“surrendering company” means a company which incurs a trading loss and surrenders that loss to another company for the purpose of group relief;

“trading loss” means a loss referred to in section 16 of the Income Tax Act but does not include capital allowances and expenses payable to a group member and claimed as a deduction if corresponding amounts have not been included in the profit of the other group member for a year of income. Ch. 75:01.

18B. Group relief for trading losses may be claimed by a company in accordance with the provisions of sections 18C to 18L. Relief for trading losses. [9 of 1997].

18C. Group relief shall be available where—

- (a) the surrendering company and the claimant company are resident in Trinidad and Tobago and are both members of the same group throughout the respective accounting periods of both companies; and
- (b) the surrendering company and the claimant company are members of the same group in which one company is a 100 per cent subsidiary of the other company or both companies are 100 per cent subsidiaries of a third company by way of direct or indirect ownership.

Group relief available. [9 of 1997].

18D. A company shall not be treated as the owner of a 100 per cent subsidiary for the purposes of sections 18B to 18M if share ownership includes—

- (a) any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade;
- (b) any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt;

A company not a 100 per cent subsidiary. [9 of 1997].

- (c) any share capital which it owns directly or indirectly in a body corporate not resident in Trinidad and Tobago.

Company not to be treated as a 100 per cent subsidiary. [9 of 1997].

18E. Notwithstanding paragraph (b) of section 18C, a company shall not be treated as a 100 per cent subsidiary of another company for the purposes of group relief, unless at the time of the claim—

- (a) the parent company is beneficially entitled to not less than 100 per cent of any profits available for distribution to ordinary shareholders of the subsidiary company; and
- (b) the parent company would be beneficially entitled to not less than 100 per cent of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up.

Set off of trading loss. [9 of 1997].

18F. If in any year of income, the surrendering company incurs a loss in carrying on its trade, the amount of the loss may be set off against the total chargeable profits of the claimant company for the corresponding accounting periods of the claimant company.

Claims for giving relief. [9 of 1997].

18G. (1) A company claiming for group relief shall not be entitled to such relief unless the company—

- (a) has claimed all of its available capital allowances; and
- (b) has utilised any of its own tax losses brought forward.

(2) A claim for group relief shall be made or withdrawn within two years of—

- (a) the end of the claimant company's accounting period; and
- (b) the end of the date of the surrendering company's accounting period to which the claim relates.

(3) A claim for group relief shall specify—

- (a) the name of the claimant company;
- (b) the accounting period for which the relief is claimed by the claimant company;

- (c) the name of the surrendering company;
- (d) the accounting period for which relief is claimed by the surrendering company;
- (e) the amount claimed in respect of the surrendering company; and
- (f) the total amount of profits of the claimant company to be covered by group relief.

18H. The reduction, by means of group relief, of tax payable by a claimant company in a year of income shall not exceed 25 per cent of the amount of tax which would have been payable had the relief not been granted. Limit to group relief. [9 of 1997].

18I. (1) For the purposes of group relief, an accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company corresponds to the accounting period of the surrendering company. Corresponding accounting period. [9 of 1997].

(2) Where an accounting period of the surrendering company and a corresponding accounting period of the claimant company do not coincide—

- (a) the amount which may be set off against the total chargeable profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{B}$$

where that fraction is less than unity; and

- (b) the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{C}$$

where that fraction is less than unity.

(3) For the purposes of subsection (2)—

- (a) “A” is the length of the period common to the two accounting periods;

- (b) “B” is the length of the accounting period of the surrendering company; and
- (c) “C” is the length of the corresponding accounting period of the claimant company.

Denial of group relief. [9 of 1997].

18J. Group relief shall be denied—

- (a) where the Board of Inland Revenue is of the opinion that a transaction which reduces or would reduce the amount of tax payable by the claimant company exists between the claimant company and the surrendering company and is artificial or fictitious; or
- (b) to companies which are only temporary group members.

Relief obtainable once for the same amount. [9 of 1997].

18K. (1) Relief shall not be given more than once in respect of the same amount, in any accounting period, to the surrendering company.

- (2) Two or more claimant companies shall not—
 - (a) in respect of any one loss or other amount for which group relief may be given;
 - (b) whatever their accounting periods corresponding to that of the surrendering company,

obtain, in all, more relief than could be obtained by a single claimant company whose corresponding accounting period coincides with the accounting period of the surrendering company.

Aggregate of claim. [9 of 1997].

18L. (1) Subject to subsection (2), two or more claimant companies may make claims relating to the same surrendering company and to the same accounting period of that surrendering company.

(2) Notwithstanding subsection (1), where the claimant companies referred to in subsection (1) make claims, the aggregate of the claims shall not exceed the amount of the loss surrendered by the surrendering company.

Non-application of relief. [9 of 1997]. Ch. 75:04.

18M. Group relief shall not apply to companies that are subject to taxation under the Petroleum Taxes Act.

19. (1) The corporation tax shall be under the care and management of the Board of Inland Revenue and, subject to sections 7 and 10, the provisions of the Income Tax Act in the Table below shall apply in relation to corporation tax as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modifications and adaptations.

(2) Notwithstanding the repeal of sections 70(1)(b), 70(1)(c), 70(2), 71(2), 74(1) and 74(4) of the Income Tax Act, the said sections shall form part of the Table below.

Application of certain provisions of the Act.
[32 of 1969
30 of 1974
14 of 1987
11 of 1988
6 of 1989
6 of 1991
5 of 1995
14 of 1994
22 of 1994
8 of 1996
35 of 1998
91 of 2000].
Ch. 75:01.

TABLE
INCOME TAX PROVISIONS APPLIED TO
COPORATION TAX

Section 2 (Interpretation).
Sections 3 and 4 (Administration).
Section 7 (Chargeable income of certain persons).
Sections 10, 11, 11A, 11B and 12 (Deductions and Allowances).
Section 13A (Deduction for investment in approved hotel or tourism development project).
Section 14 (Exemption for approved agricultural holdings).
Section 16 (Allowance for trade losses).
Section 21 (Donations to charity, etc.).
Section 27 (1)(c) [Approved fund or scheme with respect to deductions allowed at section 11 (f), (g) and (h)].
Sections 28 to 33 (Approved Pension Fund Plans).
Sections 42 to 46 (Income tax exemptions in respect of newly constructed dwelling houses).
Section 48K (Tax credit for shares in Venture Capital Company).
Section 57A (Tax Credit—Consolidated special levy).
Sections 59 to 65 (Trustees, agents, etc.).
Sections 67, 68 to 75 (Settlements).
Section 76 other than subsections (6) and (7), and section 77.
Sections 79 to 82 (Payment of tax by instalments).
Sections 83 and 84 (Assessments).
Section 85 (Assessments lists, etc.).
Section 86 (Notices of Assessments).
Section 87 (Appeals).
Sections 88 and 89 (Errors in Assessments and additional Assessments).
Section 90(1) and (3) (Repayment of tax).

Section 94 (Certain income deemed to be income for the purposes of the Income Tax Act).

Section 97 (General Powers of the Board).

Section 103 (Interest for non-payment of tax).

Section 103A (Waiver of interest, additional tax, penalty, etc.).

Sections 104, 105, 106, 107, 108 (Collection).

Sections 109, 110, 111, 112 (Recovery).

Sections 113 and 114 (Notices).

Section 115 (Imprisonment of defaulters).

Sections 116, 117, 118 to 124 (General provisions).

Section 125 (Regulations).

Sections 130, 131, 132 (Miscellaneous powers of the Board).

Sections 133 to 141 (Expenses allowance to Directors and others).

The First, Fifth and Sixth Schedules.

Penalty for late filing.
[5 of 1995
2 of 2002].

19A. (1) A company which fails, neglects or refuses to furnish a return of income for the year of income 1994 and subsequent years after six months from the time required to file the return, shall, thereafter, in addition to any other penalty provided in this Act, be liable to a penalty of one thousand dollars for every six months or part thereof during which such failure, neglect or refusal continues.

(2) A company which has not furnished a return of income for any year of income preceding the year of income 1994 and fails, neglects or refuses to furnish such return on or before 31st October 1995 shall, in addition to any other penalty provided in the Act, be liable to a penalty of one thousand dollars in respect of any such return for every six months or part thereof during which such failure, neglect or refusal continues.

(3) The Board may waive or reduce the penalty for late filing in circumstances where it is just and equitable to do so.

MISCELLANEOUS AND GENERAL

Special return.

20. (1) An auctioneer, and any person carrying on a trade of dealing in any description of tangible movable property, or of acting as an agent or intermediary in dealings in any description of tangible movable 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 movable 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.

21. 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 within the time limited by the notice, he is 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 section references to “shares” includes references to “securities” and “loan capital”.

Nominee share holdings.

22. A return of a partnership under sections 76 and 78 of the Income Tax Act as applied by this Part shall include—

Partnerships.
[6 of 1989].
Ch. 75:01.

- (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 76.

23. 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 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 60 of the Income Tax Act 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 60 of the Income Tax Act.

Information as to non-resident companies and trusts.
[6 of 1989].

Ch. 75:01.

Valuation.

24. (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 section he is liable on summary conviction to a fine of fifteen hundred dollars.

Priority of tax in bankruptcy.

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

PART II

MISCELLANEOUS

Generality as to exemption.

26. (1) Notwithstanding any written law to the contrary, where under any written law conferring exemption from income tax or corporation tax with respect to distribution or payments of interest made to members of a company that is exempt from income tax or corporation tax, the period during which the company may distribute profits that are exempt from tax is limited, the 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 written law 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.

FIRST SCHEDULE

RATE OF CORPORATION TAX

Section 3.
[2/1968*
5 of 1969
11 of 1988
6 of 1989
9 of 1990
4 of 1992
5 of 1995
8 of 1996
2 of 2002].

1. For every dollar of the chargeable profits of a company, thirty per cent, except as otherwise provided in paragraphs 2 and 3 in the case of the long-term insurance business of an assurance company.

2. In the case of the long-term insurance business of an assurance company the rate of tax shall be fifteen per cent, except that where profits of that business are transferred to the shareholder's account, a corresponding amount of the profits of the accounting period ending in the year of income in which the transfer was made shall be treated as chargeable at the rate of thirty per cent, and where there is an insufficiency of such profits of that accounting period the amount by which the profits so transferred exceeds the profits of such period shall be deemed to be profits of that period after making allowance for any tax previously paid.

3. (1) Companies engaged in the—

- (a) liquefaction of natural gas;
- (b) manufacture of petro-chemicals;
- (c) physical separation of liquids from a natural gas stream and natural gas processing from a natural gas stream;
- (d) transmission and distribution of natural gas;
- (e) wholesale marketing and distribution of petroleum products; and
- (f) any other activity prescribed by Order of the Minister with responsibility for finance,

shall be subject to corporation tax at the rate of thirty-five per cent per annum.

(2) For the avoidance of doubt, companies engaged in the wholesale marketing and distribution of petroleum products shall not include companies—

- (a) operating a liquid petroleum gas filling plant or conducting a refilling operation;
- (b) involved in the sale and distribution of leaded and unleaded gasoline, diesel and kerosene lubricants and other car care products; or
- (c) operating service stations.

*Confirmed by GN 14/1968.

SECOND SCHEDULE

(Repealed by Act No. 2 of 2002).

THIRD SCHEDULE

**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;
- (b) to a statutory or registered building or friendly society;
- (c) to a company controlled by or on behalf of the State; or
- (d) to a company falling within subparagraph (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 subparagraph 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, 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;
 - (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, 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;
- (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 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 72 of the Income Tax Act 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,

Ch. 75:01.

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 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 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)].

FOURTH SCHEDULE**INSURANCE, SHIPPING AND
AIR NAVIGATION COMPANIES**

Section 14.
[5 of 1969
6 of 1989].

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

(1) In the case of a non-resident assurance company (other than the long-term insurance business of such company), the profits on which corporation tax is payable shall be the full amount of the profits of the company’s business directly or indirectly accruing in or derived from Trinidad and Tobago as ascertained from the revenue account of the company’s business in accordance with the provisions of Part I of this Act;

(2) In the case of a resident assurance company (other than the long-term insurance business of such company), the profits on which corporation tax is payable shall be the full amount of the profits of the company's business whenever carried on as ascertained from the revenue account of the company's business in accordance with the provisions of Part I of this Act;

(3) (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 subparagraph (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 I 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 the 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 long-term insurance business in conjunction with assurance business of any other class, the long-term insurance business of the company shall for purposes of Part I 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 insurance business, general annuity business, industrial life insurance business, approved annuity business, bond investment business, non-cancellable sickness and accident insurance business or any of them—

- (a) the ordinary life insurance business or general annuity business or both, as the case may be, shall be treated as a separate class of business; and
- (b) the industrial life insurance business, approved annuity business, bond investment business, non-cancellable sickness and accident business, as the case may be, shall each be treated as a separate class of business,

and paragraph 3 relating to expenses shall apply separately to each such class of 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 16 of the Income Tax Act as applied for the purposes of this Act against the profits of that business in succeeding years. Ch. 75:01.

3. (1) The profits of the long-term insurance business of an assurance company on which corporation tax is payable shall be profits derived from the investment of its Statutory Fund, including, in the case of a resident company, profits from the investment of any foreign long-term insurance fund. Such profits shall be computed in accordance with the provisions of Part I of this Act, but subject, as regards expenses, to this paragraph.

(2) Subject to paragraph 2(2), for the purpose of computing the profits of the long-term insurance 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 such 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.

(3) Deductions shall not be allowed for expenses directly related to annual premium income including the medical examination of policy holders, stamp duties payable on policies and other such expenses directly related to the inclusion of a policy on the books of the company; so, however, that for the

year of income 1969 and subsequent years there shall be allowed the following percentages of annual premiums as agents' commissions:

<i>Year of Income</i>			<i>Percentage of annual premium</i>	
			<i>First year</i>	<i>Second or subsequent years</i>
1969	...	...	15%	2%
1970	...	...	10%	2%
1971	...	...	5%	2%
1972	...	...	Nil	2%
1973 and subsequent years			Nil	Nil

(4) The profits of approved annuity business shall not be chargeable to tax except to the extent that such profits are distributed to the shareholders.

First Schedule.

4. (1) Where, in the case of a non-resident company, any part of the profits of its long-term insurance business is transferred to the shareholders account, the amount of the profits that is to be treated under the First Schedule of this Act as chargeable at the higher rate of tax shall be taken to be the amount produced by multiplying the total amount transferred by the ratio of the Trinidad and Tobago actuarial reserves over the company's world actuarial reserves.

Ch. 84:01.

5. (1) In this Schedule—

“foreign long-term insurance fund” means any fund representing the amount of the liability of an assurance company in respect of its long-term insurance business with policy holders and annuitants residing out of Trinidad and Tobago whose proposals were made to, or whose annuity contracts were granted by, the company at or through a branch or agency outside Trinidad and Tobago and, where such a fund is not kept separately from the Statutory Fund, means such part of the Statutory Fund as represents the liability of the company under such policies and annuity contracts, such liability being estimated in the same manner as it is estimated for the purpose of the periodical returns of the company to the supervisor under the Insurance Act;

“long-term insurance business” means ordinary life assurance business, general annuity business, industrial life insurance business, approved annuity business, non-cancellable sickness and accident insurance and bond investment business;

“revenue account” means the revenue account required to be kept under section 56 of the Insurance Act;

“Statutory Fund” has the same meaning as in section 3 of the Insurance Act, except that in the case of a resident company the expression shall be deemed to include the authorised and paid up share capital of the company.

(2) Subject to this paragraph, the First Schedule of the Insurance Act shall apply for the purpose of the definition of so much of the business referred to in this Schedule as are defined therein.

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 President 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.

TABLE—*Continued*

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.

[11 of 1988
18 of 1989].

FIFTH SCHEDULE

TAX EXEMPTIONS FOR APPROVED MORTGAGE COMPANIES AND OTHER COMPANIES

Ch. 75:01. 1. (1) Notwithstanding the provisions of Part I of this Act but subject to subparagraph (2) and paragraph 1A(1) there shall be exempt from corporation tax any income or profits of a company derived from the business to which section 42(2)(b) to (e) of the Income Tax Act relates.

Ch. 33:01. (2) For the purposes of subparagraph (1), the Minister may by instrument in writing declare a company to be an approved mortgage company where that company has entered into an agreement with the Government whereby the company agrees, in accordance with this Schedule and the Housing Act and under the terms of the agreement—

- (a) to finance by way of mortgage the purchase of newly constructed houses;
- (b) to finance by way of mortgage the repayment of loans granted for the construction of houses; and
- (c) to finance the construction of houses by providing loans under loan agreements and by taking mortgages of the houses so constructed upon completion of construction.

(2A) Notwithstanding the termination of the agreement between a company and the Government referred to in subparagraph (2), the exemptions granted under this Schedule shall apply in respect of any mortgages or loans which the Minister certifies were granted prior to the date of termination.

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

1A. (1) Where the Home Mortgage Bank has entered into an agreement with the Government to buy mortgage loans from approved mortgage companies, the Home Mortgage Bank is, subject to the terms of the agreement, deemed for the purposes of section 42(2)(d) of the Income Tax Act and paragraphs 1(1), 3(3) and 5 to be an approved mortgage company in relation to any mortgage loan that it buys from an approved mortgage company.

Ch. 75:01.

(2) Notwithstanding subparagraph (1) or paragraph 4A(1) that relate to the taxes with respect to which the profits of the Home Mortgage Bank or the debenture holders of the Home Mortgage Bank are exempt, the terms of the agreement mentioned in subparagraph (1) may limit the taxes from which the Home Mortgage Bank or the debenture holders of the Home Mortgage Bank are exempt.

(3) Notwithstanding the termination of the agreement between the Home Mortgage Bank and the Government referred to in subparagraph (1), the exemptions granted to the Home Mortgage Bank by reason of that subparagraph shall apply in respect of any mortgage loan granted by an approved mortgage company which the Minister certifies was sold to the Home Mortgage Bank prior to the date of termination.

2. An approved mortgage company that is exempt from corporation tax under paragraph 1(1) may, within a period commencing on the date of the mortgage or loan agreement and ending two years after the date on which the repayment of the principal sum borrowed is completed, where the income is in respect of interest and service charge exempt from tax under section 42(2)(d) of the Income Tax Act, distribute sums not exceeding the exempt interest and service charge to the members of the company and these sums when so distributed are exempt from income or corporation tax 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 Act.

Ch. 81:01.

(2) A company that is in receipt of income or profits that are exempt from corporation tax under section 42(2)(b), (c) or (e) of the Income Tax Act may—

(a) within twelve years after the date of completion of construction of the newly constructed house, if the premiums and rents would be exempt from corporation tax under the said section 42(2)(b);

- (b) within two years after the date of sale of the newly constructed house, if the gains or profits would be exempt from corporation tax under the said section 42(2)(c); 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 interest and service charge would be exempt from corporation tax under the said section 42(2)(e),

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

(3) This paragraph and paragraphs 2, 4 and 4A apply only where the company or approved mortgage company keeps and submits annually separate accounts to the satisfaction of the Board showing—

- (a) the income or profits of the company from the sources specified in section 42(2)(b), (c), (d) or (e) of the Income Tax Act;
- (b) all expenses and outgoings wholly and exclusively incurred in the production of the income or profits from each such source;
- (c) the debenture holders account mentioned in paragraph 4(3) or 4A(3) as the case may require; and
- (d) such other information as the Board may require.

4. (1) Where the income of an approved mortgage company is exempt from corporation tax under paragraph 1(1), any interest payable by the approved mortgage company on debenture borrowings by the approved mortgage company for the purpose of financing the construction of houses, the purchase of newly constructed houses, or the repayment of loans granted for the construction of houses, is, subject to subparagraphs (2) and (3), exempt from income or corporation tax in the hands of the debenture holders of the approved mortgage company, if the interest so paid is derived from income of the approved mortgage company exempt under paragraph 1(1).

(1A) Notwithstanding that an approved mortgage company sells to the Home Mortgage Bank a mortgage loan the interest or service charge payable under which is exempt from corporation tax under paragraph 1(1), if the approved mortgage company uses the proceeds of the sale to finance by way of mortgage the activities mentioned in paragraph 1(2)(a), (b) and (c) in accordance with the agreement referred to in that paragraph any interest payable on debenture borrowings which would have been exempt from income or corporation tax in the hands of the debenture holders of the approved mortgage company under subparagraph (1) but for the sale, shall continue to be so exempt.

(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 mortgage company by the mortgagors who entered into mortgages or the borrowers who entered into loan agreements 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 mortgage company equal 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 paragraph 1(2), make other provisions with respect to that period, and those provisions when so made apply to the approved mortgage company.

4A. (1) Where the income of the Home Mortgage Bank is exempt from corporation tax under paragraph 1(1) by reason of paragraph 1A(1), any interest payable by the Home Mortgage Bank on debenture borrowings by the Home Mortgage Bank for the purpose of financing the purchase of mortgage loans from approved mortgage companies is, subject to subparagraphs (2) and (3), exempt from income or corporation tax in the hands of the debenture holders of the Home Mortgage Bank, if the interest so paid is derived from income of the Home Mortgage Bank exempt under paragraph 1(1) by reason of paragraph 1A(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 are deemed repaid under subparagraph (3).

(3) For the purposes of subparagraphs (1) and (2), any sum repaid to the Home Mortgage Bank by the mortgagors under mortgage loans sold to the Home Mortgage Bank by approved mortgage companies after the issue of the debentures referred to in subparagraph (2), shall, after deduction of any interest paid on those debentures, be debited against the debenture holders account until the sums so repaid to the Home Mortgage Bank equal 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 Government may, in the agreement mentioned in paragraph 1A(1), make other provisions with respect to that period, and those provisions when so made apply to the Home Mortgage Bank.

LAWS OF TRINIDAD AND TOBAGO

64

Chap. 75:02

Corporation Tax

Ch. 75:01. 5. For the purpose of claiming the exemption granted in accordance with section 42 of the Income Tax Act, an approved mortgage company and a company within the meaning of paragraph 3, may apply to the Minister for a certificate in the form prescribed under section 46 of the Income Tax Act.

Ch. 79:08. 6. In this Schedule—
“Home Mortgage Bank” means the Home Mortgage Bank established by the Home Mortgage Bank Act;
“Minister” means the Minister responsible for Housing.

Sections 6A and
10B(6).
[6 of 1989].

SIXTH SCHEDULE

**COUNTRIES IN RESPECT OF WHICH TAX DEDUCTIBLE
PROMOTIONAL EXPENSES AND MARKET
DEVELOPMENT GRANTS MAY NOT BE CLAIMED**

Antigua	Jamaica
Barbados	Montserrat
Belize	St. Kitts-Nevis
Dominica	St. Lucia
Grenada	St. Vincent
Guyana	
