

LAWS OF TRINIDAD AND TOBAGO

CORPORATION TAX ACT

CHAPTER 75:02

Act
29 of 1966
Amended by
2/1968
14 of 1968
5 of 1969
13 of 1969
32 of 1969
46 of 1969
5 of 1970
35 of 1971
22 of 1974
30 of 1974
14 of 1976
1 of 1979
203/1979
22 of 1980
11 of 1984

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-41	1/1990

Note

on

Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note

Part II of the Finance Act 1966 (Act 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".

CHAPTER 75:02
CORPORATION TAX ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

PART I

2. Interpretation.
3. Charge of Corporation Tax.
4. General scheme of Corporation Tax.
5. Basis of assessment.
6. Exemptions.
- 6A. Market Development Grants.
7. General rules for computation of income.
8. Export allowance.
9. Saving of right of company entitled to an export allowance.
10. Deductions and additions in computations of profits for capital allowances and related charges.
- 10A. Investment Allowance.
- 10B. Promotional Expenses.
11. Power to direct distribution of certain profits.
12. Deductions for Director's remuneration.
13. Supplementary provisions about close 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.
17. Application and adaptation of Act as to Capital allowance and other matters.
18. Double Taxation relief.
19. Application of certain provisions of the Act.
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

26. General as to exemption.

FIRST SCHEDULE—RATE OF CORPORATION TAX.

SECOND SCHEDULE—CALCULATION OF EXPORT ALLOWANCE.

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

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. 29 of 1966.

[1ST JANUARY 1966]

Commence-
ment.

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

PART I

TAXATION OF COMPANIES

Preliminary

2. (1) In this Part—

Interpre-
tation.

“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;

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

Ch. 75:01.

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

“new consideration” has in other provisions the same meaning as in section 49(9) of the Income Tax Act;

“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;

“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(2) of that Act;

“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 Aid to Pioneer Industries Ordinance* 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. 33 No. 3.
(1950 Ed.).

(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

*Repealed and replaced by Act 22 of 1979.

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

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;
- (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 Building Taxes Act or under the Port-of-Spain Corporation Ordinance or under the San Fernando Corporation Ordinance or under the Arima Corporation Ordinance;
- (h) rentals and royalties paid for the use or the right to use—
 - (i) 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.

Ch. 76:04.
Ch. 39 No. 1.
(1950 Ed.).
Ch. 39 No. 7.
(1950 Ed.).
Ch. 39 No. 11.
(1950 Ed.).

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.

Ch. 1:52.

(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.

(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

Basis of
assessment.

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.

(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;
 - (b) profits of an investment company;
 - (c) profits of a local authority arising from its activities as such as well as from any trade or business carried on by the local authority;
 - (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;

Exemptions.
[35 of 1971
11 of 1984].

Ch. 88:02.

- (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;
- (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;
- Ch. 75:01. (i) profits arising from investment of any fund or scheme approved by the President under section 27(1)(c) of the Income Tax Act;
- (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;
- Ch. 32:01. (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. 85:86. (n) market development grants within the meaning of the Trinidad and Tobago Export Development Corporation Act.

(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, basket ball, 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, established under the Port-of-Spain Corporation Ordinance, the San Fernando Corporation, established under the San Fernando Corporation Ordinance and the Arima Corporation, established under the Arima Corporation Ordinance as the case may be;

Ch. 39 No. 1.
(1950 Ed.).

Ch. 39 No. 7.
(1950 Ed.).
Ch. 39 No. 11.
(1950 Ed.).

“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.

Market
Development
Grants.
[11 of 1984].

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.

Computation of Profits

General rules
for computa-
tion of income.

Ch. 75:01.

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.

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

- (a) it includes also such provisions of the Income Tax Act applying for the year of income 1966 as make special provision for companies in relation to matters referred to in subsection (1); and

(b) it does not include such of the provisions of the Income Tax Act so applying as make special provision for individuals in relation to those matters.

(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. In this subsection “covenanted donation to charity” means a payment under a settlement as defined by section 74 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.

8. (1) Subject to this section, where during a year of income a company incorporated under the laws of Trinidad and Tobago has made export sales of the products of a manufacturing or processing industry carried on by it, to any country, in ascertaining the chargeable profits of the company for that year of income, a deduction (referred

Export
allowance.
[14 of 1976].

Second
Schedule.

to in section 9 and the Second Schedule as an export allowance) shall be allowed to the extent specified in Part I of the Second Schedule.

(2) Subsection (1) applies to all export sales of the products, except—

- (a) export sales made to a country specified in Part 2 of the Second Schedule; or
- (b) export sales of products specified in Part 3 of the Second Schedule.

(3) The President may by Order amend the Second Schedule—

- (a) by reducing the percentage of export profits specified in Part 1 thereof; or
- (b) by adding to or deleting from the list of products specified in Part 3 thereof.

(4) In this section, “export sales” includes the sale of goods by the company to a purchaser in Trinidad and Tobago, where such goods are exported during the year of income.

Saving of
right of com-
pany entitled
to an export
allowance.
[14 of 1976].

9. (1) Notwithstanding section 8(2), where a company was entitled to an export allowance under the former provisions of this Act in respect of the year of income 1973 but, by reason of paragraph (a) or (b) or both such paragraphs of section 8(2), is not entitled to an export allowance in subsequent years of income, the former provisions of this Act shall continue to have effect—

Second
Schedule.

- (a) in relation to export sales of products to a country specified in Part 2 of the Second Schedule, for the years of income 1974 and 1975 whether or not the products are specified in Part 3 of that Schedule; and
- (b) in relation to export sales of products specified in Part 3 of the Second Schedule to a country other than a country specified in Part 2 of that Schedule, for the years of income 1974 to 1983, inclusive.

(2) Where by reason of an insufficiency of tax against which former export allowance could be offset in any year of income prior to the year of income 1974, a company would have been entitled to carry over such allowance to

one or more subsequent years of income if the former provisions of this Act had not been repealed, then notwithstanding the repeal, the company may continue to carry over such allowance until—

- (a) the allowance has been fully offset; or
 - (b) the end of the fifth year of income following the year in which the allowance arose,
- whichever is the earlier.

(3) In this section—

“the former provisions of this Act” means sections 8 and 9 of this Act as repealed by section 13 of the Finance Act, 1976; No. 14 of 1976.

“the former export allowance” means the tax credit allowed by section 8 of this Act as repealed by section 13 of the Finance Act, 1976.

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 computation 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. (1) In computing for purposes of corporation tax the profits of a company, other than a company referred to in subsection (1A), for any year of income commencing from the year of income 1979, there shall be allowed a deduction in this section referred to as “investment allowance” of— Investment Allowance.
[11 of 1984].

- (a) ten per cent of the cost of new plant and machinery acquired and installed after 31st December, 1978 but not later than 31st December, 1979;

- (b) twenty per cent of the cost of new plant and machinery acquired and installed after 31st December, 1979 but not later than 31st December, 1982;
- (c) thirty per cent of the cost of new plant and machinery acquired and installed after 31st December, 1982.

(1A) In computing the profits of a company engaged in the production of iron, steel and sugar the rate of investment allowance shall be limited to twenty per cent of the cost of new plant and machinery acquired and installed after 31st December, 1979.

(2) Investment allowance shall be granted in the year of income in which the new plant and machinery is first brought into use for the purpose of the company's trade or business.

(3) Where plant and machinery in respect of which investment allowance was granted to a company is sold, transferred or exchanged by that company within four years from the end of the accounting period relevant to the year of income in which the allowance was granted, the allowance shall be deemed to have been wrongly granted and the assessment for the year of income in which the allowance was granted shall be revised accordingly by an additional assessment. Notwithstanding the time-limit prescribed in section 89(1) of the Income Tax Act, the additional assessment may be made within six years from the end of the year of income in which the plant and machinery was so sold, transferred or exchanged.

Ch. 75:01.

(4) Investment allowance granted under sub-section (2) shall not be taken into account in arriving at the written-down value of the plant and machinery nor shall it be considered in calculating the balancing charge or allowance under section 11(2) of the Income Tax Act.

(5) Investment allowance shall not be granted in respect of plant and machinery used in industries enjoying tax concessions under the Fiscal Incentives Act or by companies engaged in petroleum operations or in the manufacture of petro-chemicals.

Ch. 85:01.

(6) Investment allowance shall be granted only for plant and machinery which is new and has not been used by any person in Trinidad and Tobago or elsewhere.

(7) In this section—

“plant and machinery” does not include motor cars, office machines, office equipment or furniture;

“petroleum operations” and “petro-chemicals” have the meanings assigned to them in the Petroleum Taxes Act.”.

Ch. 75:04.

10B. (1) In computing for purposes of corporation tax, a company's profits for any year of income commencing from the year of income 1983, there shall be allowed promotional expenses, wholly and exclusively incurred in order to promote the expansion of existing foreign markets for the export of goods produced in Trinidad and Tobago, and shipped in commercial quantities, equivalent to one hundred and fifty per cent of the amount actually expended.

Promotional expenses.
[11 of 1984].

(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).

Ch. 75:01.

(3) A company may only qualify for an allowance under this section in respect of promotional expenses incurred in order to promote the expansion of existing foreign markets for the export of goods, produced in Trinidad and Tobago, where goods have been exported as 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 goods 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.

(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 goods to countries specified in the 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.

Close Companies

Power to direct distribution of certain profits.

11. (1) A close company shall distribute as dividend profits which can be distributed without detriment to the company's business.

(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.

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.

Deductions for director's remuneration.

Ch. 85:04.

(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

- (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.

(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 goods to countries specified in the 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.

Close Companies

Power to direct distribution of certain profits.

11. (1) A close company shall distribute as dividend profits which can be distributed without detriment to the company's business.

(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.

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.

Deductions for director's remuneration.

Ch. 85:04.

(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

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

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.

Approved Mortgage Companies, etc. Fifth 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 44 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.

Ch. 75:01.

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

*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.

(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.

*This section has effect from 1st January, 1973.

(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;
- (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.

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. 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.

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.

Double taxation relief. Ch. 75:01.

(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.

Application of certain provisions of the Act. [32 of 1969 30 of 1974]. Ch. 75:01.

19. 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:

TABLE

INCOME TAX PROVISIONS APPLIED TO CORPORATION TAX

Section 2 (Interpretation).
 Sections 3 and 4 (Administration).
 Section 7 (Chargeable income of certain persons).
 Sections 10, 11 and 12 (Deductions and Allowances).
 Section 14 (Exemption for approved agricultural holdings).
 Section 16 (Allowance for trade losses).
 Section 27 (Approved fund) a scheme with respect to deductions allowed at section 11(1)(f)(g) and (h).
 Sections 28–33 (Approved Pension Fund Plans).
 Sections 42–44 (Income tax exemptions in respect of newly constructed dwelling houses).

Sections 59–65 (Trustees, agents, etc.)
 Sections 67–75 (Settlements).
 Sections 76–77 (Returns).
 Sections 79–82 (Payment of tax by instalments).
 Sections 83–84 (Assessments).
 Sections 84–85 (Assessments lists, etc.).
 Section 86 (Notices of Assessments).
 Sections 43 to 43H (Appeals) Transferred to Ch. 4 :50.
 Section 88 (Errors in Assessments and additional Assessments).
 Section 90 (Repayment of tax).
 Section 94 (Certain income deemed to be income for the purposes of the Income Tax Act).
 Section 102 (Interest for non-payment of tax).
 Sections 104–107, 108 (Collection).
 Sections 109–112 (Recovery).
 Sections 113–114 (Notices).
 Section 115 (Imprisonment of defaulters).
 Sections 116–124 (General provisions).
 Section 125 (Regulations).
 Sections 130–131 (Miscellaneous powers of the Board).
 Sections 135–141 (Expenses allowance to Directors and others).
 The First, Fourth, Fifth and Sixth Schedules.

*MISCELLANEOUS AND GENERAL

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. Special return.

(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.

*Section 3(2) of the Finance Act 1966 (29 of 1966) provides as follows:

“Section 59 to 63 shall apply in relation to persons charged with tax under the Ordinance as they apply in relation to a person charged to tax under the Corporation Tax Acts with any necessary modifications and adaptations.”

Nominee
share
holdings.

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".

Partnerships.

Ch. 75:01.

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

- (a) with respect to any disposal of partnership property during a period to which any part of the return relates the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal; and
- (b) with respect to any acquisition of partnership property the particulars required under section 76.

Information as
to non-resident
companies and
trusts.

Ch. 75:01.

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.

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.

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

PART II

MISCELLANEOUS

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. General as to exemption.

(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.

Section 3.
[2/1968*
5 of 1969].

FIRST SCHEDULE

RATE OF CORPORATION TAX

For every dollar of the chargeable profits of a company—45 per cent:

Provided that in the case of the long-term insurance business of an assurance company the rate of tax shall be 15 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 higher rate of tax, 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.

Section 8(1),
9(1).
[14 of 1976
11 of 1984].

SECOND SCHEDULE

PART I

CALCULATION OF EXPORT ALLOWANCE

1. For the purposes of subsection (1) of section 8 export allowance is calculated in accordance with the following formula—

$$\frac{\text{Export Sales}}{\text{Total Sales}} \times \frac{\text{Total Profits}}{\text{Sales}}$$

2. For the purposes of this Part—

- (a) "total sales" means the proceeds of sale (ex-factory) of the total output of a company during a year of income;
- (b) "export sales" means the proceeds of sale (ex-factory) of the output of a company, exported to a country other than a country specified in Part 2, by the company or by a purchaser in Trinidad and Tobago of the output, during a year of income;
- (c) in relation to the definitions of total sales and export sales—
 - (i) "proceeds of sale" shall not take into account any amount of excise duty paid in respect of the products sold during that year;
 - (ii) "output" means the products of an industry to which section 8 applies;
- (d) "total sales profits" means the amount which would be charged to tax as chargeable profits of the company if—
 - (i) the manufacture, or production and sale of the product to which section 8 applies were the only source of profits of the company; and
 - (ii) no loss available as a deduction under section 16 of the Income Tax Act (as applied by section 19 of this Act) were taken into account.

PART 2

COUNTRIES TO WHICH EXPORTS DO NOT QUALIFY FOR
EXPORT ALLOWANCE

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

PART 3

PRODUCTS WHICH DO NOT QUALIFY FOR EXPORT ALLOWANCE

Approved products (within the meaning of section 2 of the Fiscal Incentives Act 1973, Act 36 of 1973).

Crude petroleum, petro-chemicals.
Petroleum products and petroleum based products.
Pioneer products.
Re-exports.

THIRD SCHEDULE

Section 13.

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;

Ch. 75:01.

- (c) where the participator is interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein,

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

“Director” and “Whole-time Service Director”

6. (1) For purposes of 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)).

Section 14.
[5 of 1969].

FOURTH SCHEDULE

INSURANCE, SHIPPING AND AIR NAVIGATION COMPANIES

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>First year</i>	<i>Percentage of annual premium 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.

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.

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;

Ch. 84:01.

“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.
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.

FIFTH SCHEDULE

TAX EXEMPTIONS FOR APPROVED MORTGAGE AND
OTHER COMPANIESSection 15.
[13 of 1969]

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

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

Ch. 33:01.

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

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

(a) within the period specified in paragraph 4(2)(c), where the receipts, fees and commissions are in respect of income exempt from tax under section 42(2)(d) of the Income Tax Act; or

Ch. 75:01.

(b) within a period of twelve years commencing on the date of the mortgage, where the receipts, fees and commissions are derived from any other source,

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

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

Ch. 31 No. 1.
(1950 Ed.).

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

Ch. 75:01.

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

(b) within two years after the date of sale of the newly constructed house, if the profits would be exempt from corporation tax under the said section 42(2)(b); or

(c) within a period commencing on the date of the mortgage and ending two years after the date on which the repayment of the principal sum borrowed is completed, if the profits would be exempt from corporation tax under the said Section 42(2)(d) or (e),

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

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

Ch. 75:01.

- (a) the profits of the company from the sources specified in section 18B(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 profits from each such source;
- (c) the debenture holders account mentioned in paragraph 4(3); and
- (d) such other information as the Board may require.

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

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

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

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

5. In this Schedule "Minister" means the Minister responsible for Housing.

SIXTH SCHEDULE

[Section 6A
and 10B(6)]

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	
