

TRINIDAD AND TOBAGO.

No. 9—1923.

I ASSENT,

[L.S.]

S. H. WILSON,
Governor.

19th April, 1923.

AN ORDINANCE to Impose a Tax upon Incomes and to
Regulate the Collection thereof.

[*1st January, 1923.*]

BE it enacted by the Governor of Trinidad and Tobago
with the advice and consent of the Legislative
Council thereof as follows:—

1. This Ordinance may be cited as the Income Tax Short title.
Ordinance, 1923.

2. In this Ordinance, unless the context otherwise Interpre-
requires:— tation.

“Commissioner” means the Commissioner or
Commissioners charged with the administration
of this Ordinance.

[*Price 1s. 3d.*]

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

“Person” includes a body of persons.

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

“Incapacitated person” means any infant, married woman, lunatic, idiot, or insane person.

“Tax” means the income tax imposed by this Ordinance.

“Year of assessment” means the period of twelve months commencing on the first day of January, 1923, and each subsequent period of twelve months.

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

“Prescribed” means prescribed by Regulations made under this Ordinance.

ADMINISTRATION.

Appoint-
ment of
administra-
tive
authority.

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

Official
secrecy.

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

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

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

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

IMPOSITION OF INCOME TAX

5. Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter Charge of
Income Tax. for the year of assessment commencing on the first day of January, 1923, and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in, the Colony in respect of :—

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised ;

(b) gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise ;

(c) the annual value of land and improvements thereon used by or on behalf of the owner or used rent-free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit, such annual value being that assessed to any house rate, or taxes under section 3 of the Lands and Buildings Taxes (14-1920.) Ordinance, 1920 ;

(d) dividends, interest or discounts ;

(e) any pension, charge or annuity ;

(f) rents, royalties, premiums and any other profits arising from property.

BASIS OF ASSESSMENT.

Basis of
assessment.

6. Tax shall be charged, levied and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment.

Special
periods of
assessment.

7. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up.

EXEMPTIONS.

Exemptions.

- 8.—(1) There shall be exempt from the tax :—
- (a) the official emoluments received by the Officer Administering the Government ;
 - (b) the income of any local authority in so far as such income is not derived from a trade or business carried on by the local authority ;
 - (c) the income of any statutory or registered building or friendly society ;
 - (d) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution ;
 - (e) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity ;
 - (f) the emoluments payable from Imperial Funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in the Colony in respect of their offices under the Imperial Government ;
 - (g) wound and disability pensions granted to members of His Majesty's Forces ;

(h) gratuities granted to members of His Majesty's Forces in respect of services rendered during the late War ;

(i) ~~the income of the Government Savings Bank ;~~

*Sec 19-1923
Sec 2.*

provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid or credited to any person wholly or in part out of the income so exempted.

9. The Governor may by proclamation published in the *Royal Gazette* provide that the interest payable on any loan charged on the Public Revenue of the Colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the Colony ; and such interest shall as from the date and to the extent specified in the Proclamation be exempt accordingly.

Government Loans.

ASCERTAINMENT OF CHARGEABLE INCOME.

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

Deductions allowed.

- deducted by
37
1923-*
- (a) sums ^{*paid*} ~~payable~~ by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income ;
 - (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income ;
 - (c) where any person engaged in any trade, business, profession or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total

depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof ;

- (d) any sum expended for repair of premises, plant and machinery employed in acquiring the income or for the renewal, repair or alteration of any implement, utensil or article so employed ;
- (e) ~~debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad and to have been actually written off during the year immediately preceding the year of assessment, notwithstanding that such bad debts were due and payable prior to the commencement of the said year ; provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession or vocation for that year ;~~
- (f) annuities or other annual payments whether payable within or out of the Colony, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract ; provided that no voluntary allowances or payments of any description shall be deducted ;
- (g) rates and taxes on real estate (but not including income tax) ;
- (h) premiums paid on any fire insurance policy on property used in acquiring the income upon which the tax is payable ;
- (i) such other deductions as may be prescribed by any Regulation made under this Ordinance.

See Sec 3 (2)
8
19-1925

(2) The Governor in Executive Council may by Regulations provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

~~11. In ascertaining the chargeable income of any person engaged in a trade, business, profession or vocation, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of the property owned by him, including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation during the year immediately preceding the year of assessment.~~

Allowance
for wear and
tear.

R. 19-1925

Sec. 4

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

Deductions
not to be
allowed.

- (a) domestic or private expenses ;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income ;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital ;
- (d) any capital employed in improvements ;
- (e) any sum recoverable under an insurance or contract of indemnity ;
- (f) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of acquiring the income ;
- (g) any amounts paid or payable in respect of the United Kingdom income tax or super-tax or Empire income tax as defined by this Ordinance ;
- ~~(h) any loss not connected with or arising out of the business, trade, profession, employment or vocation, the income of which is assessable under this Ordinance.~~

R. 19-1925

Allowance of
trade losses.

13. Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession or vocation carried on by any person either solely or in partnership is such that it cannot be wholly set-off against his income from other sources for the same year, the amount of such loss shall to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall, subject as is hereinafter provided, be set-off against what would otherwise have been his chargeable income for the next five years in succession; provided that the amount of any such loss allowed to be set-off in computing the chargeable income of any year shall not be set-off in computing the chargeable income of any other year, and provided also that in no case shall such set-off be allowed to an extent which would reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set-off not been allowed.

Wife's
income.

14. The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee; provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

INSURANCE COMPANIES.

Special provisions as to
certain companies and
businesses.

(1) Insurance
Companies
other than
Life Insurance
Companies.

15. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that :—

- (1) in the case of an Insurance Company (other than a Life Insurance Company) where the gains or profits accrue in part outside the Colony, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in the Colony (less any premiums returned to the insured and premiums paid on re-insurances),

and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the Company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in the Colony and a fair proportion of the expenses of the head office of the Company.

- (2) In the case of a Life Insurance Company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission), and the rate of tax shall be a rate equivalent to the average of the rate applicable to an individual whose chargeable income is one thousand pounds; provided that where such a Company received premiums outside the Colony, the gains or profits shall be the same proportion of the total investment income of the Company as the premiums received or annuities paid in the Colony bore to the total premiums received or annuities paid after deducting from the amount so arrived at the agency expenses in the Colony and a fair proportion of the expenses of the head office of the Company.
- (2) Life Insurance Companies.

(3). See Section 5. 19-1925

RATE OF TAX.

16.—(1) The tax upon the chargeable income of every person other than a company shall be charged at the following rates:

Rates of tax upon persons other than companies.

- (a) Sixpence on every £1 of income up to £1,000;
- (b) One shilling on every additional £1 beyond £1,000 from £1,001 up to £2,000;

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- (c) Two shillings on every additional £1 beyond £2,000 from £2,001 up to £3,000 ;
- (d) Four shillings on every additional £1 beyond £5,000 from £5,001 up to £8,000 ;
- (e) Five shillings on every additional £1 beyond £8,000 from £8,001 up to £12,000 ;
- (f) Six shillings and eight pence on every additional £1 beyond £12,000.

(2) Provided always that every individual resident in the Colony, and every non-resident British subject, shall be entitled to relief from the tax equal to the amount of such tax upon £500 of income falling within rate (a) above.

Flat rate of
tax on
company.

17. The tax upon the chargeable income of a company shall be charged at the rate of two shillings and sixpence on every £1 of the chargeable income thereof.

Deduction of
tax from
dividends of
companies.

18.—(1) Every company which is registered in the Colony shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections 42 and 43 of this Ordinance) on the income out of which such dividend is paid ; provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

(2) Every such company shall upon payment of a dividend, whether tax is deducted therefrom or not, furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

Setting off
tax so
deducted.

19. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to

which any person is entitled in the income of a body of persons assessed under this Ordinance, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

TEMPORARY RESIDENTS.

20. Tax shall not be payable in respect of any income arising out of the Colony and received therein by any person who is in the Colony for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in the Colony at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

TRUSTEES, AGENTS, &c.

21. A receiver appointed by the Court, trustee, guardian, curator, or committee, having the direction, control, or management of any property or concern on behalf of any incapacitated person, shall be chargeable to tax in like manner and to the like amount as such person would be chargeable if he were not an incapacitated person.

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

A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch, or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch, or manager.

(2) Where a non-resident person, not being a British subject or a firm or company whose principal place of business is situated in His Majesty's Dominions or in territory under His Majesty's protection, or a branch thereof, carries on business with a resident person, and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person, and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged and is so arranged, that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner by whom the assessment is made, or to the Judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or Judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provisions of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged; provided that the amount of the percentage shall in each case be determined having regard to the nature of the business, and shall, when determined by the Commissioner, be subject to an appeal to a Judge as provided by section 38 of this Ordinance.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of sub-sections (2) and (3) of this section, in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of sub-sections (2) and (3) of this section in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of the Colony by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Commissioner or, in the case of an appeal, to the Judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or Judge of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

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

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

Lists to be prepared by representative or agent.

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

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

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

Manager of corporate bodies of persons.

25. The manager or other principal officer of every corporate body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of such body and for payment of the tax.

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

26. Any resident agent, trustee, mortgagor or other person, who transmits rent, interest, or income derived from any other source within the Colony, to a non-resident person shall be deemed to be the agent of such non-resident person and shall be assessed and shall pay the tax accordingly.

Indemnification of representative.

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

Deceased persons.

28. When any person dies during the year preceding the year of assessment and such person would but for his death have been chargeable to tax for the year of assessment, or

when any person dies during the year of assessment or within two years after the expiration thereof, and no assessment has been made upon him for that year, the personal representative of such person shall be liable for and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person, if he were alive, would be liable to do under this Ordinance; provided that in the case of a person dying during the year preceding the year of assessment, if his personal representative distributes his estate before the commencement of the year of assessment, such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate, if the rate of tax for the year of assessment has not been fixed at that date.

~~29. When any person during the year of assessment or~~ Successions.
 during the immediately preceding year ceases to carry on any trade, business, profession or vocation, the person (if any) who has succeeded to or acquired such trade, business, profession or vocation shall be liable for and charged with the payment of the full tax chargeable in respect of such trade, business, profession or vocation, and shall be answerable for doing all such acts, matters and things as such person, if he had not ceased to carry on such trade, business, profession or vocation, would have been liable to do under this Ordinance.

R. 19-19

RETURNS ; BY WHOM TO BE MADE.

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

R 19-24

18. Subs.

(2) (a) Every employer shall on or before the prescribed date in every year prepare and deliver to the Commissioner a return containing—

(i) the names and places of residence of all persons employed by him; and

R. by Ord. 2 of 1924.

(ii) The payments and allowances made to those persons in respect of such employment, except persons who are not employed in any other employment and whose remuneration in the employment for the year does not exceed £250 ;

(b) Where the employer is a body of persons, the manager or other principal officer shall be deemed to be the employer for the purposes of this section , and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

(3) Returns required under the provisions of this section shall be in the prescribed form.

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

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

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

Returns to be verified by statutory declaration. (23-1908.)

2. 19-1925

sec. 6

Failure to make statutory declaration.

~~32.—(1) Every return under this Ordinance shall be verified by a statutory declaration under the Statutory Declarations Ordinance, 1908, made by the person making such return. No fee shall be payable on any such declaration.~~

(2) Any person who refuses, fails or neglects to make a statutory declaration as required by this section ~~shall be guilty of an offence against this Ordinance~~

PARTNERSHIPS.

33. Where a trade, business, profession or vocation is Partnerships. carried on by two or more persons jointly—

(1) The income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership (such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.

(2)—(a) The precedent partner, that is to say, the partner who of the partners resident in the Colony—

- (i) is first named in the agreement of partnership; or
- (ii) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm; or

(iii) is the precedent acting partner, if the partner named with precedence is not an acting partner; shall make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, and shall declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year.

(b) Where no partner is resident in the Colony, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in the Colony.

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

ASSESSMENTS.

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

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

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

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

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

Appoint-
ment of
Agent in the
United
Kingdom.

35. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance, and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment list; provided that if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration; and provided also that nothing in this section shall prevent the appeal to a Judge in the Colony conferred by section 38 of this Ordinance.

ASSESSMENT LISTS.

Lists of
persons
assessed and
notices of
assessment.

36.—(1) After completing his assessment the Commissioner shall prepare lists of persons liable to tax.

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

NOTICES OF ASSESSMENTS.

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

Notices to be served on persons assessed.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment; provided that the Commissioner, upon being satisfied that, owing to absence from the Colony, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

Objections to assessment.

(3) On receipt of the notice of objection referred to in sub-section (2) of this section, the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

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

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

APPEALS.

Appeals
against
assessments.

38.—(1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of the last preceding section, may appeal against the assessment to a Judge in Chambers upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired :

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against such assessment if he shows to the satisfaction of a Judge in Chambers that, owing to absence from the Colony, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

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

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

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

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

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

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

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

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

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

(10) The decision of the Judge hearing the appeal shall be final; provided that the Judge hearing such appeal may, if he so desires, and shall, on the application of the appellant or the Commissioner, state a case on a question of law for the opinion of the Full Court.

(11) The Chief Justice may make rules governing such appeals and providing for the method of tendering evidence and appointing places for the hearing of such appeals and prescribing the procedure to be followed on a case being stated.

ERRORS IN ASSESSMENTS AND NOTICES.

39.—(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

Assessments, &c., not void by reason of errors therein in names and descriptions.

(2) An assessment shall not be impeached or affected

(a) by reason of a mistake therein as to :

(i) the name or surname of a person liable ;
or,

(ii) the description of any income ; or

(iii) the amount of tax charged ;

(b) by reason of any variance between the assessment and the notice thereof.

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

ADDITIONAL ASSESSMENTS.

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

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

REPAYMENT OF TAX.

Circumstances under which repayment may be made.

41.—(1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Receiver-General shall cause repayment to be made in conformity therewith.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that person has failed or neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that he has received notice of the assessment made upon him for that year; unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

RELIEF IN CASES OF DOUBLE TAXATION.

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

Relief in
respect of
United
Kingdom
income tax.

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

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

claim to relief under this section is computed by reference to the provisions of section 22 of this Ordinance on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in
respect of
Empire
income tax.

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

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

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

- (a) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax ;

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

(3) For the purposes of this section, Empire income tax means any income tax charged under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's Protection (other than the United Kingdom or this Colony), provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and this Colony in a manner similar to that provided in this section.

(4) For the purposes of this section the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section of this Ordinance and the Empire rate of tax shall be computed in a similar manner.

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

44. Where, under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in this Colony, the obligation as to secrecy imposed by section 4 of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that part of His Majesty's Dominions or in that place under His Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in this Colony or from income tax in that part or place aforesaid.

Official
secrecy.

GENERAL POWERS OF COMMISSIONER.

Commissioner may require schedule of particulars.

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

Penalty on failure to render.

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

Commissioner may require persons to attend before him.

L. 19-1925-

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

Penalty on refusal.

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

Power of person authorized by Commissioner to enter business premises.

R. 19-1925-

~~46.—(1) In case of the refusal, failure or neglect of any person to make Returns under sections 30, 31 and 33 of this Ordinance, or for the purpose of testing the accuracy of any Return made, or on failure of any person to comply with the requirements of section 45 of this Ordinance, any person authorised in writing by the Commissioner may enter the premises or any part thereof used for the purpose of carrying on any trade, business, profession, or vocation, by any such person, and may examine all books, documents and papers referring to or in any way connected with the property of, or trade, business, profession, or vocation, carried on by such person, the income of which is chargeable under this Ordinance.~~

Penalty on obstruction, refusal, &c.

(2) Any person who—

(a) Obstructs or impedes any person authorized as in this section mentioned in the exercise ~~of any powers under this section; or~~

- ~~(b) Refuses, fails or neglects to produce any books, documents or papers as aforesaid to such authorized person; or~~
- ~~(c) Refuses or fails to answer, or wilfully gives a false answer to any question put by any authorized person for the purpose of testing the accuracy of any Return or of obtaining information for the purposes of this Ordinance,~~
- ~~shall be guilty of an offence against this Ordinance.~~

R. 19-19

COLLECTION AND RECOVERY OF TAX.

47.—(1) The Commissioner shall from time to time forward to the Receiver-General for collection of the tax certified extracts from the assessment lists containing the names and addresses of the persons assessed together with the amount of tax payable by each person.

Extracts from lists to be sent to Receiver-General.

(2) The tax appearing in the lists referred to in sub-section (1) of this section shall be payable on or before the prescribed date.

Date for payment.

(3) Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance until such objection or appeal is determined; provided that the Receiver-General may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Procedure in cases where objection or appeal is pending.

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

Collection of tax after determination of objection or appeal.

48. If any tax is not paid on or before the prescribed date a sum equal to five per centum of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

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

Recovery of tax. 49. In the event of any tax or any portion thereof not being paid on or before the prescribed date, the same shall be recoverable by distress and sale of the goods, chattels and lands belonging to the person making default in payment.

Issue of warrants to enforce payment. 50. It shall be lawful for the Receiver-General to issue warrants under his hand addressed to the Marshal requiring him to enforce payment of the tax.

Duty of Marshal 51. It shall be the duty of the Marshal forthwith to execute all warrants addressed to him according to the tenor thereof, and to levy upon the goods, chattels and lands of the person liable to pay the tax and to sell so much of the same as may be required to satisfy such liability.

Marshal's fees. 52.—(1) There shall be paid to the Marshal such commission, fees, charges and expenses as may be prescribed in respect of the duties performed by him under this Ordinance; and all such commission, fees, charges and expenses may be levied for over and above any sum due in respect of tax.

(2) All such commission, fees, charges and expenses received or recovered by the Marshal shall be paid into the Colonial Treasury.

Sale by public auction. 53. Every sale of land by the Marshal shall be by public auction before the doors of the Supreme Court; and notice of such sale shall be given in the *Royal Gazette* in each of the three consecutive weeks before the day of the sale.

Conveyance on sale. 54.—(1) The Marshal shall have power by deed to convey all lands sold by him, and every such conveyance so executed by the Marshal shall have the same force and effect as if executed by the person whose estate or interest in such lands is purported to be conveyed thereby.

(2)—(a) In the case of land under the Real Property Ordinance (No. 60), the Marshal may execute such instruments and do such acts and things as under the provisions of the said Ordinance may be necessary or proper to transfer any such land.

(b) On production of the proper instruments and payment of the requisite fees the Registrar-General shall duly register such transfer.

55.—(1) Any surplus moneys arising on any sale under this Ordinance shall be paid to the person entitled thereto. Surplus on sale.

(2) The Commissioner may, if he thinks fit, pay any such surplus moneys into Court; and the Supreme Court or a Judge thereof may on the petition of any person entitled or claiming to be entitled to such moneys or any part thereof make order for the payment of the same or any part thereof to the person entitled thereto.

IMPRISONMENT OF DEFAULTERS.

56.—(1) If a person neglects or refuses to pay the tax charged upon him by virtue of this Ordinance, and no sufficient distress can be found whereby the same may be levied, the Governor may, by warrant under his hand and seal, commit such person to prison, there to be kept without bail until payment be made of that sum or security given to his satisfaction for payment thereof, together with such further sum as he may adjudge to be reasonable for the costs and expenses of apprehending and conveying such person to prison, where he shall be detained and kept according to the tenor and effect of the warrant. In case of refusal to pay where there are no distrainable effects, defaulter may be imprisoned.

(2) The Governor may issue his warrant to the Superintendent of Prisons directing the liberation of any defaulter, and on receipt thereof the Superintendent of Prisons shall forthwith release and discharge such defaulter out of custody, unless he is under detention for some other cause than that set forth in the warrant of commitment.

NOTICES.

57.—(1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon; provided that any notice in writing under this Ordinance to any person requiring him to furnish particulars to the Commissioner, or Signature of notices.

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

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

Service of notices.

58. Notice may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter case be deemed to have been served, in the case of persons resident in the Colony, not later than the fifteenth day succeeding the day when posted, and in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

GENERAL.

Governor in Executive Council may remit tax.

59. The Governor in Executive Council may remit the whole or any part of the tax payable by any person if he is satisfied that it would be just and equitable to do so.

Failure to perform required duty.

60. Any person who fails or neglects to perform any duty required to be performed under this Ordinance shall be guilty of an offence under this Ordinance.

Penalties for offences.

61. Any person guilty of an offence against this Ordinance shall be liable on conviction to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

False statements and returns.

62.—(1) Any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations, and

(2) Any person who aids, abets, assists, counsels, incites or induces another person :—

- (a) to make or deliver any false return or statement under this Ordinance ; or
- (b) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance ;

shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months.

63. All offences against this Ordinance may be prosecuted, heard and determined before a Magistrate, and may be commenced within three years next after the cause of complaint arose ; and the procedure in respect of such offences and of all matters incidental to or arising out of the prosecution of such offences shall be such as is laid down in the Summary Conviction Offences (Procedure) Ordinance, 1918. Procedure.
(9-1918.)

64. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or Law. Saving for
Criminal
Proceedings.

65.—(1) The Governor in Executive Council may from time to time make Regulations generally for carrying out the provisions of this Ordinance and may, in particular, by those Regulations provide :— Regulations.

- (a) for the form of returns, claims, statements and notices under this Ordinance ;
- (b) ~~for the deduction and payment of the tax at the source ;~~ See Sec. 8
19-1925-
- (c) for the payment of the tax by monthly or other instalments ;
- (d) for any such matters as are authorised by this Ordinance to be prescribed ;
- (e) for any other matter or thing, whether similar or not to those above-mentioned, in respect of which it may be expedient to make Regulations for the purpose of carrying this Ordinance into execution.

(2) All Regulations purporting to be made in pursuance of this section shall be published in the *Royal Gazette* and shall come into operation on such publication or at such other time as may be named in such Regulations.

(3) If any person fails to comply with or contravenes the provisions of any Regulation made under this Ordinance he shall be guilty of an offence against this Ordinance.

(4) All Regulations made under this Ordinance shall be judicially noticed.

Repeal.

66. The Income Tax Ordinance, 1922 is hereby repealed.

Date of commencement of this Ordinance.

67. This Ordinance shall be deemed to have come into operation on the 1st day of January, 1923.

Saving clause as regards previous years.

Provided that the provisions of this Ordinance shall not apply to any income tax imposed prior to the commencement of this Ordinance, or to any enactment, matter or thing, touching such tax, and in respect of any such tax the Ordinances applicable thereto shall have the same effect as if this Ordinance had not been passed.

Passed in Council this sixth day of April in the year of Our Lord one thousand nine hundred and twenty-three.

E. F. AANENSEN,

Acting Clerk of the Council.