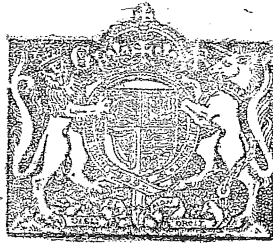


Terminated by Order 21/1946



TRINIDAD AND TOBAGO.

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No. 47—1943.

[L.S.]

I ASSENT,

B. E. H. CLIFFORD,

Governor.

29th December, 1943.

AN ORDINANCE to amend the law as to Excess
Profits Tax.

[30th December, 1943.]

Commencement.

ENACTED by the Governor of Trinidad and Tobago
with the advice and consent of the Legislative Council
thereof.

1. This Ordinance may be cited as the Excess Profits Tax (Amendment) Ordinance, 1943, and shall be read and construed as one with the Excess Profits Tax Ordinance and the Excess Profits Tax (Amendment) Ordinance, 1941, which Ordinances are hereinafter collectively referred to as the Principal Ordinance.

Short title and
construction.

Ch. 33. No. 10.
No. 33 of 1941.

Amendment
of subsection
(2) of section
5 of the
Excess Profits
Tax
(Amendment)
Ordinance,
1941.

New section
6A of the
Principal
Ordinance.

2. Subsection (2) of section 5 of the Excess Profits Tax (Amendment) Ordinance, 1941, shall have effect and shall be deemed always to have had effect as though "section 6" were substituted therein for "section 5".

3. (1) The Principal Ordinance is hereby amended by inserting therein immediately after section 6 a new section 6A as follows:—

"Special
provisions as
to oil and
mining
industry.

6A. (1) As regards trades or businesses in respect of which the Governor in Council is satisfied that they consist of the winning of oil or minerals from natural sources of a wasting nature whereby the benefit of capital expenditure incurred by the persons carrying them on may be exhausted at a greater rate than in the case of other classes of trades or businesses, or that they consist of the winning of oil or minerals of exceptional importance to the prosecution of the war and that the profits in any chargeable accounting period include profits attributable to abnormal output of oil or minerals essential to the national interest whereby the sources of the oil or minerals may be expected to be exhausted earlier than if the output had remained normal, the Governor in Council may, in his absolute discretion, give directions, as regards those trades or businesses generally or as regards such of those trades or businesses or classes thereof as are specified in the directions, and for the purposes of chargeable accounting periods generally or for the purposes of specified chargeable accounting periods, that the standard profits of those trades or businesses shall be adjusted in such manner as may appear to him to be just.

(2) Where, as regards a trade or business, the Governor in Council is satisfied that it consists of the winning of oil or minerals of exceptional importance to the prosecution of the war, and that an increase in the output of the oil or

minerals over output at the normal rate was essential in the national interest, and that to secure the additional output the oil or minerals were won otherwise than in accordance with the usual practice whereby the cost of winning the oil or minerals during a chargeable accounting period was less than what would have been the cost of winning the like quantity of oil or minerals in accordance with the usual practice, the Governor in Council may give such directions as, in his absolute discretion, he may deem appropriate to secure that the last mentioned cost shall, for the purpose of computing the profits of the trade or business for the chargeable accounting period in question, be substituted for the first mentioned cost."

(2) Directions given under section 6A of the Principal Ordinance, as enacted by this section, may be given as regards chargeable accounting periods commencing either before or after the coming into force of this Ordinance.

4. Section 10 of the Principal Ordinance is hereby amended by the addition thereto of a new subsection (3) as follows:—

Section 10 of the Principal Ordinance amended.

"(3) Subsection (2) shall not apply to a deficiency of profits in so far as it occurs while the trade or business was being carried on neither in the Colony nor by a person ordinarily resident in the Colony."

5. The Principal Ordinance is hereby amended by the insertion therein immediately after section 10 of a new section 10A as follows:—

New section 10A of the Principal Ordinance.

"Special provision as to deficiency of profits in the case of persons operating for oil.
Ch. 26. No. 1.

10A. (1) In this section—

"person operating for oil" has the meaning assigned to it in the Petroleum Office and Conservation Board Ordinance;

"prescribed period" means the period from the 1st January, 1940, to the 31st of December, 1942, inclusive of both dates;

“ trade or business to which this section relates ” means a trade or business as to which both the following conditions were fulfilled, that is to say that—

- (a) it was carried on in the Colony during the prescribed period personally or through an agent by a person ordinarily resident in the United Kingdom ; and
- (b) it consisted during the prescribed period wholly or partly of operating for oil in the Colony.

(2) Where, in the case of any trade or business to which this section relates, there was on the 31st of December, 1942, a net deficiency of profits, ascertained as hereinafter provided, in respect of the prescribed period, such deficiency shall, to the extent hereinafter provided, be applied in reducing any profits chargeable with excess profits tax arising from the trade or business in the chargeable accounting period beginning on the 1st of January, 1943, and, if and so far as such deficiency to the extent aforesaid exceeds the amount of those profits, any profits so chargeable for the next subsequent chargeable accounting period, and so on.

(3) The amount of any net deficiency referred to in subsection (2) shall be ascertained, on the principles set forth in subsection (1) of section 10 of the Principal Ordinance, as though excess profits tax had always been leviable in respect of the trade or business during the prescribed period : Provided that so much of any accounting period beginning before the 1st of January, 1943, as fell before that date shall, for the purposes aforesaid, be treated as a separate chargeable accounting period.

(4) For the purposes of subsection (2), so much of a deficiency may be applied in reducing profits as does not exceed the amount of the oil impost paid or payable under the Emergency Taxation Ordinance, 1939, in respect of oil won in the course of the trade or business during the prescribed period, exclusive of any amount of such impost which may be recoverable from another person by virtue of subsection (3) of section 3 of that Ordinance and of any amount of such impost which may be refundable under subsection (4) of that section."

6. Section 12A of the Principal Ordinance is hereby repealed and replaced by the following section :—

Section 12A
of the
Principal
Ordinance
repealed and
replaced.

"Relief in
respect of
double excess
profits tax.

12A. (1) If any profits in respect of which excess profits tax is payable under the law in force in the Colony are profits in respect of which excess profits tax is payable also under the law in force in the United Kingdom, or would be so payable, if there were no national defence contribution in the United Kingdom, or are profits in respect of which excess profits tax is payable also under the law in force in any part of His Majesty's dominions outside the United Kingdom other than the Colony, the Governor may make arrangements with the Government of the United Kingdom or of that other part of His Majesty's dominions, as the case may be, providing for the giving of relief from double taxation in respect of such profits in accordance with the following principles :—

- (a) that there shall be computed the amount of excess profits tax which would be payable in each territory if excess profits tax in the other territory and, where the arrangement is made with the Government of the United Kingdom, national defence contribution in the United Kingdom, were disregarded except in computing capital ;

- (b) that such amount of relief from tax shall be given in each territory as bears to the lower of the two amounts so computed the same proportion as the amount so computed for that territory bears to the sum of the two amounts so computed; and
- (c) that where the amount so computed for either territory is found to have been incorrect (whether by reason of a subsequent deficiency of profits or for any other reason) the amount so computed shall be recalculated and the relief in both territories varied accordingly.

(2) Where any such arrangements are made and the Commissioner is satisfied that any case is one which falls within the arrangements, he shall make such adjustment of the excess profits tax payable in the Colony as may be necessary to give effect to the arrangements, and allow any necessary relief accordingly by repayment or otherwise.

(3) Where it appears to the Commissioner that any relief provided for by any such arrangements falls to be recalculated (whether by reason of a subsequent deficiency of profits or otherwise); any adjustment made under subsection (2) of this section shall be varied accordingly and any necessary further relief given by repayment or otherwise and, where the effect of the recalculation is to show that too much relief has been given, any necessary additional assessments shall be made.

(4) The obligation as to secrecy imposed by section 4 of this Ordinance shall not prevent any authorised officer employed in the administration of this Ordinance from disclosing to any authorised officer of a Government with which arrangements have been made under this section such facts as may be necessary to enable effect to be given to the arrangements.

- (5) This section shall apply in relation to—
- (a) any British Protectorate or protected state ;
 - (b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or by the Government of any Dominion,

as it applies to a part of His Majesty's dominions outside the United Kingdom.

(6) Arrangements under this section may be made with retrospective effect."

7. (1) Subject to the provisions of this Ordinance, the Principal Ordinance shall, notwithstanding anything to the contrary therein, apply to—

Extension of application of Principal Ordinance.

- (a) trades or businesses carried on whether personally or through an agent by persons ordinarily resident in the Colony, and
- (b) trades or businesses carried on in the Colony whether personally or through an agent by persons ordinarily resident in the United Kingdom,

and to that intent the Principal Ordinance shall apply in relation to any such trades or businesses subject to the modifications set out in subsection (2) of this section.

(2) As regards all such trades or businesses as are mentioned in subsection (1), the expression "chargeable accounting period" shall mean, in relation to excess profits tax—

- (a) any accounting period beginning on or after the 1st of January, 1943 ; and
- (b) so much of any accounting period beginning before that date as falls on or after that date.

Passed in Council this seventeenth day of December, in the year of Our Lord one thousand nine hundred and forty-three.

W. J. BOOS.

Clerk of the Council.

1943.

TRINIDAD AND TOBAGO.

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