

No. 25—1941.

Income Tax.

AN ORDINANCE to amend the Income Tax
Ordinance, Ch. 33. No. 1.

[31st December, 1941.]

Commencement.

1. This Ordinance may be cited as the Income Tax Short title
(Amendment) Ordinance, 1941, and shall be read as one Construction.
with the Income Tax Ordinance, hereinafter referred Ch. 33. No. 1.
to as the Principal Ordinance.

2. (1) As regards the tax payable in respect of the Increase in
following years of assessment, namely the year 1942 and taxation
each succeeding year up to and including the year which
shall commence on the 1st of January immediately
following the termination of the present war, the Principal
Ordinance shall have effect as though the Schedule to this Schedule.
Ordinance were substituted for the Schedule to the
Principal Ordinance.

(2) As regards the tax payable in respect of the years
of assessment following the last of the years of assessment
described in subsection (1), the Principal Ordinance shall
have effect as though subsection (1) had not been passed.

(3) In this section the expression "the termination
of the present war" means the date which shall be notified
by the Governor by Proclamation as the date on which
the present war shall have terminated.

3. The levy payable under section 2 of the Emergency Levy under
Taxation Ordinance, 1939, shall not be payable in respect the Emergency
of the year of assessment 1942 or succeeding years of Taxation
assessment, and that section of that Ordinance and the Ordinance,
Emergency Taxation (Construction) Ordinance, 1941, shall 1939, to
be deemed to be repealed on the 1st of January, 1942. cease.
No. 32 of 1939.
No. 2 of 1941.

Section 8
of the
Principal
Ordinance
amended.

4. Section 8 of the Principal Ordinance is hereby amended—

(i) by deleting sub-paragraph (ii) in paragraph (b) thereof and substituting therefor the following sub-paragraph—

(ii) the income of the Mayor, Aldermen and Burgesses of San Fernando derived from the supply of electricity in accordance with the San Fernando Electric Works Ordinance or from markets, abattoirs, cemeteries and wharves ;

(ii) by inserting immediately before the proviso thereto the following paragraphs—

(l) the income arising from investments of any fund or scheme approved by the Governor under section 16 (1) (b) of this Ordinance ;

(m) the income of a trade union registered under the Trade Unions Ordinance, 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 income is 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 ;

5. Section 10 of the Principal Ordinance is hereby amended by re-lettering paragraph (i) of subsection (1) thereof as (j) and by inserting, immediately after paragraph (h) of the said subsection, a new paragraph (i) as follows:—

Section 10 of the Principal Ordinance amended.

- (i) any annual sums paid by such person (being an employer) by way of contribution on behalf of an employee in respect of a fund or scheme approved by the Governor under section 16 (1) (b) of this Ordinance ;

6. Section 16 of the Principal Ordinance is hereby repealed and replaced by the following section:—

Section 16 of the Principal Ordinance repealed and replaced.

16. (1) In ascertaining the chargeable income of any individual who—

Deduction in respect of life insurance, etc.

- (a) shall have made insurance on his life or the life of his wife, or shall have contracted for any deferred annuity on his own life or the life of his wife, with any insurance company ; or
- (b) shall have made a contribution under the Widows' and Orphans' Pensions Ordinance, or to such fund or scheme as the Governor may approve of,

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there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contract or of the annual amount of such contribution, as the case may be: Provided that no such deduction shall be allowed in respect of any such annual amount of premium or contribution beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections 14 and 15 of this Ordinance.

(2) For the purposes of this section a contribution by an employer on behalf of an employee to a fund or scheme approved by the Governor under paragraph (b) of subsection (1) of this section shall be deemed to be a contribution to such fund or scheme by the employee,

Section 31 of
the Principal
Ordinance
amended.

7. Section 31 of the Principal Ordinance is hereby amended by renumbering the present section as subsection (1) of the section and adding the following as subsection (2) of the section—

Person in
receipt or
control of
money for
non-resident.

(2) With respect to every person resident in the Colony having the receipt, control or disposal of money belonging to a non-resident person who derives income from a source in the Colony, or to a non-resident person who is a shareholder, debenture holder, or depositor in a company deriving income from a source in the Colony, the following provisions shall apply—

- (a) he shall, when required by the Commissioner, pay the tax due and payable by the non-resident ;
- (b) he is hereby made personally liable for the tax payable by him on behalf of the non-resident to the extent of any amount that he has retained, or should have retained, under subsection (1) of this section, but he shall not be otherwise personally liable for the tax.

For the purposes of this section, every person who is liable under any contract to pay money to a non-resident shall be deemed to be a person having the control of money and to be acting in a representative capacity for the payment of income tax belonging to the non-resident, and all money due by him under the contract shall be deemed to be money which comes to him on behalf of the non-resident.

New sections
33A and 33B
of the
Principal
Ordinance.

8. The Principal Ordinance is hereby further amended by inserting, immediately after section 33 thereof, the following heading and sections—

Artificial
transactions,
transfers to
minors and
in trust.

Miscellaneous provisions as to assessment of tax.

33A. (1) Where the Commissioner is of opinion that any transaction which reduces or would reduce the amount of tax payable by any

person is artificial or fictitious, or that full effect has not, in fact, been given to any disposition, the Commissioner may disregard any such transaction or disposition, and the persons concerned shall be assessable accordingly.

(2) Where a person transfers property to a minor, either directly or indirectly, or through the intervention of a trust or by any other means whatsoever, such person shall, nevertheless, during the period of the minority of the transferee, be liable to be taxed on the income derived from such property, or from property substituted therefor, as if such transfer had not been made, and subsequent to such period of minority, the transferor shall continue to be taxed in respect of the income derived from such property, or from property substituted therefor, as if such transfer had not been made, unless the Commissioner is satisfied that such transfer was not made for the purpose of avoiding tax.

(3) Where a person transfers property in trust and provides that the corpus of the trust shall revert either to the donor or to such persons as he may determine at a future date, or where a trust provides that during the lifetime of the donor no disposition or other dealing with the trust property shall be made without the consent, written or otherwise, of the donor, such person shall nevertheless be liable to be taxed on the income derived from the property transferred in trust, or from property substituted therefor, as if such transfer had not been made.

(4) Subsection (1) of this section shall have effect (whether the transaction or disposition was effected or made before or after the commencement of this Ordinance) in regard to assessments made in respect of the year of assessment 1942 and each succeeding year of assessment.

(5) Subsections (2) and (3) of this section shall apply to all transfers made or trusts created after the 4th of December, 1941.

(6) In this section "disposition" includes any trust, grant, agreement or arrangement.

(7) A discretion conferred on the Commissioner by this section may be exercised, on appeal under section 41, by the Judge.

Undistributed
profits of
companies.

33B. (1) Where it appears to the Commissioner that with a view to the avoidance or reduction of tax, a company controlled by not more than five persons has not distributed to its shareholders, as dividend, profits made in any period ending after the 1st of January, 1941, which could be distributed without detriment to the company's existing business, the Commissioner, by notice in writing to the Company, may direct that, for the purpose of assessment to tax, such profits shall for the period specified in the notice be deemed to be the income of the members, and the amount thereof shall be apportioned among the members, and tax shall be assessed and charged in respect of the sum so apportioned: Provided that in determining whether any company has or has not distributed a reasonable part of its income as aforesaid, the Commissioner shall have regard not only to the current requirements of the Company's business, but also to such other requirements as may be necessary or advisable for the maintenance and development of that business.

(2) A discretion conferred on the Commissioner by this section may be exercised, on appeal under section 41, by the Judge.

Section 37 of
the Principal
Ordinance
amended.

9. Section 37 of the Principal Ordinance is hereby amended by the addition thereto of the following subsections:—

(4) If, at any time within the year of assessment or within two years after the expiration thereof, the Commissioner shall make an assessment which results in a person being charged to tax for the year of assessment in respect of a

total chargeable income in excess of the chargeable income disclosed in the return of income rendered by such person, the Commissioner may (unless the person assessed proves to the Commissioner's satisfaction that the omission or incorrectness of the return did not amount to fraud, covin, art or contrivance, or gross or wilful neglect) charge such person, in addition to the total tax otherwise charged in the assessment, further tax not exceeding the amount of tax charged in respect of the excess.

(5) If any person neglects or refuses to render a return of income as required by this Ordinance, the Commissioner may (unless such person proves to the Commissioner's satisfaction that the neglect or refusal was for reasonable cause and ought fairly to be excused) charge such person additional tax not exceeding the amount of tax which would have been payable if this subsection had not been enacted.

(6) Nothing in the preceding subsections shall be construed as derogating from any other provisions of this Ordinance.

(7) The provisions of this Ordinance shall apply to any additional tax charged by virtue of this section as they do to tax ordinarily chargeable under this Ordinance.

(8) Without prejudice to the powers conferred by section 68, the Commissioner may for reasons which may appear to him sufficient, at any time remit in whole or in part any additional tax charged under this section.

(9) A discretion to charge additional tax vested in the Commissioner by this section may be exercised, on appeal under section 41, by the Judge : Provided that, if the Judge shall confirm the decision of the Commissioner to charge additional tax and shall find that the additional tax imposed by the Commissioner did not exceed the maximum additional tax which could properly be charged, the appeal as regards the additional tax shall be dismissed.

Section 40 of
the Principal
Ordinance
amended.

10. Subsection (1) of section 40 of the Principal Ordinance is hereby amended by deleting therein the words "personally on or sent by registered post to" and substituting therefor the word "on".

Sections 41
and 58 of the
Principal
Ordinance
amended.

11. The words "by suit in the name of the Commissioner as well as in the manner prescribed by section 51" are hereby deleted where they occur in subsection (12) of section 41 of the Principal Ordinance and in subsections (1) and (4) of section 58 of the Principal Ordinance.

Section 51 of
the Principal
Ordinance
amended.

12. Section 51 of the Principal Ordinance is hereby amended by deleting therein the words "the prescribed date" and substituting therefor the words "the date on which it becomes payable".

Section 60 of
the Principal
Ordinance
repealed and
replaced.

13. Section 60 of the Principal Ordinance is hereby repealed and replaced by the following section:—

Service of
notices.

60. (1) Notice may be served on a person either personally or by being sent by post to his last known business or private address: Provided that service by post in the case of a notice requiring the attendance of any person or witness before the Commissioner shall be by registered post.

(2) A notice sent by post shall 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.

Construction.

14. For the avoidance of doubt it is hereby declared to be, and always to have been, the law that any income tax not paid on the day on which it becomes payable is a debt due to the Crown and, without prejudice to any other manner in which the same may be lawfully recovered, is recoverable in the manner provided in the Crown Suits Ordinance.

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SCHEDULE.

(Section 2.)

Scale of rates of income tax payable on the net chargeable income.

(1) In the case of a person other than a Company—

For every dollar of the first 1,000 dollars	...	8c.
„ „ „next 1,000 „	...	10c.
„ „ „ 1,000 „	...	15c.
„ „ „ 1,000 „	...	18c.
„ „ „ 1,000 „	...	25c.
„ „ „ 1,000 „	...	28c.
„ „ „ 1,000 „	...	30c.
„ „ „ 3,000 „	...	32c.
„ „ „ 4,000 „	...	35c.
„ „ „ 4,000 „	...	40c.
„ „ „ 4,000 „	...	50c.
„ „ „ 6,000 „	...	60c.
„ „ „ 32,000 „	...	70c.
„ „ „ 6,000 „	...	80c.
„ remainder of the chargeable income		85c.

(2) In the case of a Company other than a Life

Insurance Company 37½ per centum.

(3) In the case of a Life Insurance Company ... 2½ per centum.