



TRINIDAD AND TOBAGO.

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[L.S.]

I ASSENT,

HUBERT YOUNG,
Governor.
27th December, 1940.

AN ORDINANCE to impose an excess profits tax in
respect of trades or businesses carried on in the Colony.

Commencement.

[27th December, 1940.]

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

Short title.

1. This Ordinance may be cited as the Excess Profits
Tax Ordinance, 1940.

2. In this Ordinance, unless there is something repugnant Interpretation in subject or context —

- (a) the expression “chargeable accounting period” means, in relation to excess profits tax—
 - (a) any accounting period beginning on or after the first day of January, 1940 ; and
 - (b) so much of any accounting period beginning before that date as falls on or after that date ;
- (b) the accounting periods of a trade or business shall be determined as follows :—
 - (a) in a case where the accounts of the trade or business are made up for successive periods of twelve months, each of those periods shall be an accounting period ;
 - (b) in a case where the accounts of the trade or business have been made up as aforesaid but have ceased to be so made up, the accounting periods from the end of the last period of twelve months for which they were so made up shall be such periods not exceeding twelve months as the Commissioner may determine ;
 - (c) in any other case the accounting periods of a trade or business shall be such periods not exceeding twelve months as the Commissioner may determine ;
- (c) the expression “the Commissioner” means the Commissioner or Commissioners charged with the administration of this Ordinance ;
- (d) the expression “the Income Tax Ordinance” means the Income Tax Ordinance, 1938, (No. 34 of 1938).

ADMINISTRATION.

Appointment
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.

Official secrecy

4. (1) Every person having any official duty or being employed, in the administration of this Ordinance shall make and subscribe a declaration in the prescribed form before a Magistrate.

(2) Every person having or having had any official duty, or being or having been employed, in the administration of this Ordinance shall regard and deal with all information relating to the affairs of any trade or business as secret and confidential and, if any such person at any time communicates or attempts to communicate, otherwise than for the purposes of this Ordinance, any such information to any other person, not being a person to whom he is authorised by the Governor to communicate it, he shall be guilty of an offence against this Ordinance.

(3) The provisions of this section shall not operate to prevent the disclosure to the authorised officers of the Government, or of the Government in any part of His Majesty's dominions or of any place under His Majesty's protection, of such facts as may be necessary to enable any relief from taxation to be given.

IMPOSITION OF EXCESS PROFITS TAX.

Charge of
excess profits
tax.

5. (1) Where the profits arising in any chargeable accounting period from any trade or business to which this section applies exceed the standard profits, there shall, subject to the provisions of this Ordinance, be charged levied and paid on the excess a tax (to be called "the excess profits tax") equal to one-third of the excess.

(2) Subject as hereafter provided, the trades and businesses to which this section applies are trades or

businesses of any description carried on in the Colony other than trades or businesses—

- (a) of an insurance company or a shipping company ;
- (b) carried on whether personally or through an agent by persons ordinarily resident in the United Kingdom ;
- (c) of a statutory registered building or friendly society ;
- (d) carried on by the Corporations of Port-of-Spain, San Fernando or Arima, or by the Central Water Board, the Trinidad Electricity Board, the Government Savings Bank, the Trinidad Co-operative Bank Ltd., any registered co-operative society, any Government department, or any corporation, authority, society or body, or class thereof, declared to be exempt by the Governor in Council.

(3) The profits of any trade or business in any chargeable accounting period shall be exempt from excess profits tax if they amount for that period to less than—

- (a) one thousand two hundred dollars, when the chargeable accounting period is a full year ;
- (b) such sum as bears the same proportion to the sum of one thousand two hundred dollars as the length of the chargeable accounting period bears to a full year, in any other case.

(4) The carrying on of a profession by any individual or by individuals in partnership shall not be deemed to be the carrying on of a trade or business to which this section applies if the profits of the profession are dependent wholly or mainly on his or their personal qualifications:

Provided that for the purpose of this subsection the expression "profession" does not include any trade or business consisting wholly or mainly in the making of contracts on behalf of other persons or the giving to other persons of advice of a commercial nature in connection with the making of contracts.

(5) Where the functions of a company or society incorporated by or under any enactment consist wholly or mainly in the holding of investments or other property, the holding of the investments or property shall be deemed for the purpose of this section to be a business carried on by the company or society.

(6) All trades or businesses to which this section applies carried on by the same person shall be treated as one trade or business for the purposes of this Ordinance.

COMPUTATION OF TAX.

Computation
of standard
profits.

6. (1) For the purposes of this Ordinance, the standard profits of a trade or business shall, in relation to any chargeable accounting period, be taken to be the amount of the standard profits for a full year computed in accordance with the provisions of this section: Provided that in relation to a chargeable accounting period which is less than twelve months, the standard profits shall be taken to be the amount in question proportionately reduced so as to correspond with the length of the period.

(2) In this section the expression "accounting period" in relation to a trade or business means any period of twelve months commencing after the first day of January, 1936, and ending on or before the thirty-first day of December, 1939, which was an actual accounting period of that trade or business or which the Commissioner in his discretion may accept as having been an accounting period of that trade or business.

(3) The standard profits of a trade or business for a full year shall, save as hereafter provided, be the profits thereof for the accounting period or, if there be more than one such period, the accounting period selected by the person carrying on the trade or business, and such accounting period or selected accounting period is in this Ordinance referred to as the "standard period": Provided that if the average amount of the capital employed in the trade or business in any chargeable accounting period is greater or less than the average amount of the capital

employed therein in the standard period, the standard profits for a full year shall, in relation to that chargeable accounting period, be increased, or, as the case may be, decreased, by ten per centum of the increase or six per centum of the decrease in the average amount of capital employed in the trade or business.

(4) If the profits of any trade or business during the standard period amount to less than ten per centum of the average amount of capital employed in the trade or business during that period, or if there be no profit in the standard period, or if there shall have been no full accounting period of such trade or business, then, in any such case, the standard profits of such trade or business for a full year shall, in relation to any chargeable accounting period, be taken to be ten per centum of the average amount of the capital employed in the trade or business in that chargeable accounting period.

7. (1) For the purposes of this Ordinance, the profits arising from a trade or business in the standard period or in any chargeable accounting period shall be separately computed, and shall be so computed on income tax principles, adapted in such manner as may be prescribed.

Provisions as
to computa-
tion of profits.

Provided that where a standard period or chargeable accounting period is not an actual accounting period, the profits or losses of the trade or business for any actual accounting periods wholly or partly included within the standard period or chargeable accounting period shall be so computed as aforesaid, and such division and apportionment of those profits or losses and such aggregation of those profits or losses, or any apportioned part thereof, shall be made as appears necessary to arrive at the profits arising in the standard period or chargeable accounting period; and any such apportionment shall be made in proportion to the number of months or fractions of months in the respective periods, unless the Commissioner, having regard to any special circumstances, otherwise directs.

(2) For the purposes of this section, the expression "income tax principles" in relation to trades or businesses means the principles on which the profits arising from trades or businesses are computed for the purpose of income tax under the Income Tax Ordinance.

Provisions as to computation of capital.

8. The average amount of capital employed in a trade or business in the standard period or in any chargeable accounting period shall be computed in such manner as may be prescribed.

Provisions as to computation of losses.

9. All provisions of this Ordinance, or of any regulations thereunder, relating to the computation of profits for the purpose of the excess profits tax shall apply *mutatis mutandis* to the computation of losses for that purpose.

Relief in respect of deficiency of profits.

10. (1) For the purposes of this Ordinance a deficiency of profits shall be deemed to have occurred in a trade or business in any chargeable accounting period if the profits arising from the trade or business in that period are less than the standard profits, or if a loss is sustained in the trade or business in that period; and the amount of the deficiency occurring in any such period shall be taken to be —

- (a) where profits have been made in the period, the amount by which those profits fall short of the standard profits;
- (b) where a loss has been sustained in the period, the amount of the loss added to the amount of the standard profits.

(2) Where a deficiency of profits occurs in any chargeable accounting period in any trade or business, the profits chargeable with excess profits tax arising from the trade or business shall be deemed to be reduced, and relief shall be granted in accordance with the following provisions :—

- (a) the aggregate amount of the profits so chargeable for the previous chargeable accounting periods shall be deemed to be reduced by the amount

of the deficiency, and the amount of excess profits tax payable in respect thereof shall be deemed to be reduced accordingly, and the relief necessary to give effect to the reduction shall be given by repayment or otherwise ;

- (b) where the amount of the deficiency exceeds the aggregate amount of the profits so chargeable for the previous chargeable accounting periods, the balance of the deficiency shall be applied in reducing any profits so chargeable for the next subsequent chargeable accounting period, and, if and so far as it exceeds the amount of those profits, any profits so chargeable for the next subsequent chargeable accounting period, and so on.

11. (1) As from the date of any change in the persons carrying on a trade or business, the trade or business shall, subject to the provisions of this section, be deemed for the purposes of this Ordinance to have been discontinued, and a new trade or business to have been commenced.

Successions
and amalga-
mations.

(2) Where the change took place before the first day of January, 1940, and consisted in the death or retirement of a partner, or the taking in of a partner, the persons carrying on the trade or business after the change may, by notice in writing to the Commissioner, elect that, for the purposes of the provisions of this Ordinance relating to the computation of standard profits, the trade or business shall not be deemed to have been discontinued.

(3) A trade or business shall not, for the purposes of the provisions of this Ordinance relating to the computation of standard profits, be deemed to be discontinued by reason of any change occurring on or after the first day of January, 1940, in the persons carrying it on, and the standard profits of the trade or business in relation to any chargeable accounting period shall be computed accordingly, and, in particular, in computing the capital employed in the trade or business after the change, no regard shall be had to any consideration given in respect of the transfer of the trade or business or any of the assets thereof on the occasion of the change.

(4) Where, on or after the first day of January, 1940, two or more trades or businesses are amalgamated, the resulting trade or business shall be treated for the purposes of the provisions of this Ordinance relating to the computation of standard profits as if—

- (a) it had been in existence throughout the period during which there were in existence any of the former trades or businesses ;
- (b) any profits made or losses incurred or capital employed in any of those former trades or businesses had been made, incurred or employed in the resulting trade or business ; and
- (c) any assets of any of those former trades or businesses had become assets of the resulting trade or business when they became assets of the former trade or business

and, in particular, in computing the capital employed in the resulting trade or business, no regard shall be had to any consideration given in respect of the transfer of any of those former trades or businesses or any of the assets thereof on the occasion of the amalgamation.

(5) Any consideration which, under subsections (3) and (4) of this section, has to be disregarded in computing capital shall also be disregarded in considering, for the purpose of computing the profits of, and the capital employed in, any chargeable accounting period, whether any and if so what deductions are to be made in respect of wear and tear and replacement of plant and machinery, and whether any and if so what allowance is to be made in respect of depreciation.

(6) Where, on or after the first day of January, 1940, part of a trade or business is transferred as a going concern by the person theretofore carrying it on to another person, the part transferred and the part not transferred shall each be deemed for the purposes of the provisions of this Ordinance relating to the computation of standard profits to be a continuation of the original trade or business, and the said provisions, including the provisions of this section relating to amalgamations, shall apply accordingly :

Provided that, for the purposes aforesaid, such apportionments shall be made of the profits made, and losses incurred, and the capital employed, in the original trade or business, and of any assets of the original trade or business, as may appear to the Commissioner, or, on appeal, to the Judge to be just.

(7) Notwithstanding anything in the foregoing provisions of this section, where a trade or business or the main part of that trade or business, was transferred before the first day of January, 1940, by the person carrying it on to another person, the Commissioner, or, on appeal, the Judge, if satisfied that the trade or business carried on after the transference was not substantially different from the trade or business or part transferred, may, on the application of the person carrying on the trade or business after the transference, treat that person for the purposes of the provisions of this Ordinance relating to the computation of standard profits, as if he had carried on the transferred trade or business or part of a trade or business as from the date of the commencement of that trade or business.

(8) Where—

- (a) a trade or business is, by virtue of subsections (2) or (3) of this section, deemed not to have been discontinued ; or
- (b) a trade or business is, by virtue of subsection (4) of this section, to be treated as if it had been in existence throughout the period during which there was in existence any other trade or business ; or
- (c) a trade or business is, by virtue of subsection (6) of this section, to be treated as a continuation of another trade or business ; or
- (d) any person who is carrying on a trade or business after a transfer is treated by virtue of subsection (7) of this section as having carried on the trade or business as from a date before the transfer ;

the provisions relating to the computation of profits and capital for the purposes of excess profits tax shall, both as

respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Commissioner or, on appeal, the Judge, may think just, and the Commissioner, or, on appeal, the Judge, may make such alterations in the periods which would otherwise be the chargeable accounting periods of the trade or business as they think proper.

RELATION OF EXCESS PROFITS TAX TO INCOME TAX.

Relation of
excess profits
tax to income
tax.

12. The amount of the excess profits tax payable in respect of a trade or business for any chargeable accounting period shall, in computing for the purposes of income tax the profits and gains arising from that trade or business, be allowed to be deducted as an expense incurred in that period :

Provided that where, under the provisions of this Ordinance relating to deficiencies of profits, relief is given by way of repayment from excess profits tax chargeable for any chargeable accounting period previous to that in which the deficiency occurs, the amount of the deduction allowed under this section shall not be altered but the amount repayable shall be taken into account in computing the profits and gains of the trade or business for the purposes of income tax as if it were a profit of the trade or business accruing in the chargeable accounting period in which the deficiency occurs.

PERSONS ACCOUNTABLE FOR TAX.

Persons
accountable
for excess
profits duty.

13. (1) Excess profits tax payable in respect of any chargeable accounting period shall be assessed on the person carrying on the trade or business in that period.

(2) Where two or more persons were carrying on the trade or business jointly in the relevant chargeable accounting period, the assessment shall be made upon them jointly and, in the case of a partnership, may be made in the partnership name, if any.

(3) Where by virtue of the foregoing provisions of this section an assessment could, but for his death, be made on any person either solely or jointly with any other person, the assessment may be made on his personal representative either solely or jointly with that other person, as the case may be.

(4) Where any person liable to assessment under the foregoing provisions of this section in respect of profits arising from a trade or business in any chargeable accounting period is not resident in the Colony, an assessment may be made upon any agent, manager or factor resident in the Colony through whom the trade or business was carried on in that period.

(5) An assessment (including an additional assessment) may be made at any time within six years from the end of the chargeable accounting period in respect of which the assessment is made, and in the absence of a satisfactory return or other information on which to make an assessment the Commissioner may make an assessment to the best of his judgment.

(6) Where a body corporate is being wound up, the liquidator of the body corporate shall not distribute any of the assets of the body corporate to the members thereof unless he has made provision for the payment in full of any excess profits tax which may be found payable by the body corporate.

(7) In a bankruptcy, in the winding up of a company, and in the event of a receiver being appointed on behalf of the holders of any debentures of a company secured by a floating charge, or of possession of any property comprised in or subject to a floating charge being taken by or on behalf of the holders of any debentures of a company secured by that charge, the same priority shall be given to any excess profits tax as is, by the enactments relating to bankruptcy and companies, required to be given to income tax.

RETURNS.

14. (1) Every person who, under the preceding section, Returns. is liable to be assessed for excess profits tax in respect of any chargeable accounting period shall, unless any other

person jointly liable with him to be so assessed shall have already made a full and accurate return to the satisfaction of the Commissioner in accordance with the provisions of this section, render to the Commissioner on or before the prescribed date a return, in such form as may be required by the Commissioner, relating to the trade or business in respect of which the tax is payable.

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

Power of
Commissioner
to obtain
information.

15. (1) Without prejudice to the operation of the preceding section, the Commissioner may by notice require any person who, in the opinion of the Commissioner, is or may be liable to excess profits tax, or who is the attorney of any such person, or who (if such person is dead) is the representative of such person, or (if such person is a body corporate which is being wound up) is the liquidator of the body corporate, or who is an agent or factor or an employee of any such person in connection with any trade or business carried on by him, whether alone or jointly with any other person, in the Colony, within such period as may be specified in the notice —

- (a) to make such return and in such form as may be specified in the notice ;
- (b) to produce to the Commissioner such books or documents (being books or documents in the possession or control of such person) as may be specified in the notice ;
- (c) to attend at the office of the Commissioner and supply such information as may be required by the Commissioner,

being a return of information, or books or documents which the Commissioner considers likely to contain information, or information, which, in the opinion of the Commissioner, is necessary for the purposes of ascertaining the liability (if any) to excess profits tax of the person whom the Commissioner suspects to be so liable or of assessing any such liability.

(2) Where a trade or business is being carried on by persons in partnership, a notice under this section may be given in the partnership name, if any: Provided that, where notice is given in the partnership name, it shall be the duty of the precedent partner or, where no partner is resident in the Colony, of the agent, manager or factor of the firm, to comply with the requirements of the notice. In this subsection "precedent partner" means the partner who, being resident in the Colony —

- (a) is first named in the agreement of partnership; or
- (b) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm; or
- (c) is the precedent acting partner, if the person named with precedence is not an acting partner.

ASSESSMENT LISTS AND ASSESSMENT NOTICES.

16. (1) The Commissioner shall prepare assessment lists from time to time setting forth the names and addresses of persons liable to excess profits tax, the amount of tax payable by each person in respect of each chargeable accounting period and such other particulars as he may deem necessary.

Assessment
Lists and
Assessment
Notices.

(2) The Commissioner shall serve on each person assessed for excess profits tax a notice of assessment stating the amount of tax payable and the basis of assessment and informing him of his rights under the next subsection.

(3) 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.

(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.

APPEALS.

Appeals.

17. (1) Any person who, being aggrieved by an assessment made upon him, has applied to the Commissioner to review or revise the same in accordance with subsection (3) of section 16 of this Ordinance and has failed to agree with the Commissioner in the manner provided in subsection (4) of that section, may appeal against the assessment to a Judge in chambers upon giving notice in writing to the Commissioner within fifteen days 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 is 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. Rules.

(12) Notwithstanding anything contained in any other provision of this Ordinance, if the Judge is satisfied that tax in accordance with his decision upon appeal may not be recovered, the Judge may require the appellant forthwith to furnish such security for payment of the tax, if any, which may become payable by the appellant as may seem to the Judge to be proper. If such security is not given the tax assessed shall become due and payable forthwith.

ERRORS IN ASSESSMENTS AND NOTICES.

Errors in
Assessments,
&c.

18. (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.

ADDITIONAL ASSESSMENTS.

Additional
assessment.

19. Where the Commissioner discovers that any person liable to tax has been assessed at a less amount than ought to have been charged, the Commissioner may, subject to the provisions of subsection (5) of section 13 of this Ordinance, make an additional assessment against such person and the provisions of this Ordinance shall apply as though such additional assessment was an assessment.

REPAYMENT OF TAX.

Circumstances
in which re-
payment may
be made.

20. (1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax 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 chargeable accounting period 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 Treasurer 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 chargeable accounting period 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

period, 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.

COLLECTION AND RECOVERY OF TAX.

21. (1) The Commissioner shall from time to time forward to the Treasurer, 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 Treasurer.

(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 Treasurer 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.

22. 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.

23. 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 trade or business in respect of which the tax is assessed and to the person making default in payment.

Recovery of tax.

Issue of
warrants to
enforce pay-
ment.

24. It shall be lawful for the Treasurer to issue warrants under his hand addressed to the Marshal requiring him to enforce payment of the tax.

Duty of
Marshal.

25. 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 described in section 23 of this Ordinance and to sell so much of the same as may be required to satisfy such liability.

Marshal's fees.

26. (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 Treasury.

Sale by public
auction.

27. 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.

28. (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, 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.

29. (1) Any surplus moneys arising on any sales 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.

30. (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. Release.

31. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave the Colony before such tax becomes payable without having paid such tax, he may by notice in writing to such person demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith. Recovery of tax in certain cases.

(2) Any tax recoverable by virtue of subsection (1) of this section or subsection (12) of section 17 of this Ordinance shall be recoverable in the manner provided in Section 23 of this Ordinance.

(3) Without prejudice to the preceding provisions of this Ordinance any tax recoverable under this Ordinance may be recovered by suit in the name of the Commissioner.

PROVISIONS AS TO NOTICES.

Signature of
notices.

32. (1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some other 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 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.

(3) 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 of post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

GENERAL.

False
statements
and returns.

33. (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 representation; 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 matters relevant to the assessment of tax,

shall be guilty of an offence against this Ordinance.

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

35. Any person guilty of an offence against this Ordinance shall, unless some other penalty is specifically provided for such offence, be liable, on summary conviction before a Magistrate, to a fine of four hundred and eighty dollars, and in default of payment to imprisonment, with or without hard labour, for six months. Punishment for offences.

36. Prosecutions for offences against this Ordinance may be commenced at any time within three years next after the cause of complaint arose. Limitation of time for prosecutions.

37. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law. Saving for Criminal proceedings.

38. The Governor in Council may remit, on such conditions as he may determine 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. Governor in Council may remit tax.

39. (1) The Governor in Council may make regulations for carrying out the purposes of this Ordinance and, in particular and without prejudice to the generality of this power, any such regulations may provide—

(a) for the matters authorised by this Ordinance to be prescribed;

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- (b) for regulating the principles on which the profits arising from a trade or business in the standard period or in any chargeable accounting period and the average amount of capital employed in a trade or business in the standard period or in any chargeable accounting period shall be computed in the case of inter-connected companies or corporations and in the case of groups of companies or corporations ;
- (c) for regulating the incidence of the liability to excess profits tax in the case of inter-connected companies or corporations, and groups of companies or corporations, including the aggregation or apportionment of capital and profits in such cases ;
- (d) for regulating the assessment and collection of excess profits tax.

(2) The power to prescribe a date for the making of returns or the payment of tax shall include the power to prescribe different dates for different classes of trades or businesses and to prescribe dates fixed by relation, in the case of each trade or business, to any specified event occurring in connection with that trade or business.

(3) Regulations made under this section shall not have any force or effect until they have been approved by resolution of the Legislative Council.

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

W. J. BOOS,
Clerk of the Council.