LAWS OF TRINIDAD AND TOBAGO

INCOME TAX ACT

CHAPTER 75:01

Act
34 of 1938

Amended by

22 of 1946	13 of 1968	33/1978
1 of 1951	5 of 1969	1 of 1979
22 of 1951	13 of 1969	10/1979
23 of 1951	32 of 1969	203/1979
33 of 1952	46 of 1969	7 of 1980
20 of 1954	5 of 1970	19 of 1980
30 of 1954	35 of 1971	25 of 1980
26 of 1955	8 of 1972	17 of 1981
11 of 1956	12 of 1972	25 of 1981
34 of 1956	27 of 1972	41 of 1981
23 of 1957	22 of 1974	2 of 1982
18 of 1958	7 of 1975	9 of 1983
3 of 1962	41 of 1975	21 of 1983
16 of 1963	66 of 1975	6 of 1984
5 of 1964	14 of 1976	13 of 1984
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Omissions

(*a*) Double Taxation Relief Orders made under section 93 in respect of the following countries have been omitted:

Associated States (16/1974); Canada (164/1966); Denmark (148/1969); Italy (278/1971); Norway (175/1969); Switzerland (94/1973); United Kingdom (165/1966); U.S.A. (1/1971); Germany (Federal Republic) (194/1976); United Kingdom (162/1983); Sweden (172/1984); Venezuela (201/1985).

(*b*) Approved Agricultural Holdings declared under section 14 have been omitted.

(*c*) Reduction of Withholding Tax Orders made under section 96—

Texaco Refinery 116/1985
Caribbean Development Bank (LIAT 1974) 184/1985.

Corrigendum

At page 83, in section 93(3), for the word "regulations", substitute the word "Regulations".

Note on Transfer of Provisions

The provisions of the Income Tax Ordinance Ch. 33. No. 1 relating to appeals (ss. 43 to 43E) have been transferred to a separate enactment entitled the Tax Appeal Board Act published in this Edition as Chapter 4:50.

Note on Revision Date

The Revision Date for this Chapter is 23rd January, 1986.

CHAPTER 75:01

INCOME TAX ACT

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"participator" has the same meaning as in paragraph 4 of the Third Schedule to the Corporation Tax Act; Ch. 75:02.

"resident company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

"royalties" has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

"separated" means in relation to the marital status of an individual, that the individual is living apart from his or her spouse under—

(*a*) an order of a court of competent jurisdiction;

(*b*) a written agreement of separation; or

(*c*) any other circumstances where the separation is likely to be permanent;

"short term capital gains" means chargeable gains accruing on the disposal of an asset within twelve months of its acquisition;

"tax" means income tax imposed by this Act;

"trade" includes a business, and every trade, manufacture, adventure or concern in the nature of a trade or business;

"withholding tax" means the tax so referred to in section 50;

"year of income" means the period of twelve months commencing on 1st January in each year.

(2) For years of income after the year of income 1965 the provisions, other than section 50 of this Act relating to the charge of income tax shall not apply to the profits or gains accruing or arising—

(*a*) to a resident company; or

(*b*) to a non-resident company, if the profits or gains are within the charge (as defined by section 2(1) of the Corporation Tax Act) to corporation tax.

ADMINISTRATION

3. (1) For the purposes of this Act there is hereby established a Board of Inland Revenue. Board of Inland Revenue. [29 of 1966].

(2) The Board shall consist of three Commissioners whose offices shall be public offices within the meaning of section 3 of the Constitution of Trinidad and Tobago.

(3) The President shall appoint one of the Commissioners to be Chairman and the Chairman shall preside at all meetings of the Board.

(4) Subject to any Regulations made by the President for the purpose, the Board may regulate its own procedure.

Official secrecy. [16 of 1963].

4. (1) Every person having any official duty or being employed in the administration of this Act 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) Any person having possession of or control over any document, 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 President to communicate it; or

(*b*) otherwise than for the purposes of this Act,

is guilty of an offence.

(3) Where, under any law in force in any Commonwealth country provision is made for the allowance of relief from income tax in respect of the payment of income tax in Trinidad and Tobago, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that Commonwealth country 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 Trinidad and Tobago or from income tax in that Commonwealth country aforesaid.

Charging Provisions

Charge to income tax. [29 of 1966 46 of 1969 14 of 1976 10 of 1979 203/1979 19 of 1980 25 of 1981 41 of 1981 21 of 1983 7 of 1985].

5. (1) Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereafter for each year of income upon the income of any person accruing in or derived from Trinidad and Tobago or elsewhere, and whether received in Trinidad and Tobago or not in respect of—

(*a*) gains or profits from farming, agriculture, forestry, fishing or other primary activity;

(*b*) gains or profits from the operation of mines or the exploitation of natural or mineral resources;

(*c*) gains or profits from any other trade or business;

(*d*) gains or profits from the practice of any profession or vocation or management charges for the provision of personal services and technical and managerial skills;

(*e*) gains or profits from any employment or office including pensions or emoluments within the meaning of section 100 and any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in section 27(1)(*c*) or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 28 to 33 and the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment or office whether in money or otherwise; but not including the payment for any passage from or to Trinidad and Tobago for the purpose of leave granted in respect of the employment where such passage is actually utilised, so however that the relief claimed in respect of the payment of the passage does not exceed six thousand dollars;

(*f*) short term capital gains;

(*g*) interest, discounts, annuities or other annual or periodical sums;

(*h*) rents for real property and royalties from the operation of mines, quarries or other natural resources and the annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment and not for the purpose of gain or profit, such annual value being that assessed to any house rate, or taxes under the Lands and Buildings Taxes Act or under the Port-of-Spain Corporation Ordinance or under the San Fernando Corporation Ordinance or under the Arima Corporation Ordinance or under the Point Fortin Act;

Ch. 76:04.
Ch. 39 No. 1. (1950 Ed.).
Ch. 39 No. 7. (1950 Ed.).
Ch. 39 No. 11. (1950 Ed.).
12 of 1980.

(*i*) rentals and royalties for the use or the right to use—

(i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tape for radio and television broadcasting, or other like properties or rights; or

(ii) information concerning industrial, commercial or scientific knowledge, experience or skill;

(*j*) premiums, commissions, fees and licence charges;

(*k*) dividends or other distributions;

(*l*) gains or profits or amounts deemed to be income of that person under this Act;

(*m*) any annual gains or profits not falling under any of the foregoing paragraphs.

(2) In the case of income arising outside Trinidad and Tobago to a person who is not ordinarily resident or not domiciled therein tax shall be payable on the amount received in Trinidad and Tobago, so however, that where any employment or office is exercised by any such person in Trinidad and Tobago, gains or profits from the employment or office, whether received in Trinidad and Tobago or not, shall be treated as income arising therein.

First Schedule.

(3) The Capital Gains (Supplementary Provisions) Rules set out in the First Schedule shall have effect for the computation of short term capital gains and generally for the purposes of the charge to tax thereon.

(4) Where a person has ceased to hold any employment or office and any pension or annual payment is paid to him, or his widow or child, or to any relative or dependant of his by the person by whom he was employed, or by the successors of that last mentioned person, then, notwithstanding that the pension or annual payment is paid voluntarily or is capable of being discontinued, any amount paid in respect of that pension or annual payment shall be deemed to be income of the person to whom, and for the year of income in which, it is so paid.

(5) Notwithstanding anything in this Act or any other rule of law to the contrary, where income arises to a

person from any activities on the continental shelf (this expression here having the same meaning as in the Continental Shelf Act) such income shall for all the purposes of this Act be deemed to have accrued in or to have been derived from Trinidad and Tobago. Ch. 1:52.

(6) Notwithstanding subsection (1)(*e*), where the gains or profits of any employee from any employment for any year of income include an amount which under the contract of employment the employer is liable to pay by way of severance pay upon the termination of such employment by reason of the redundancy of the position held by such employee—

(*a*) with effect from 1st January 1981 an amount not exceeding eighty thousand dollars shall be exempt from tax; and

(*b*) the remainder, if any of such severance pay in excess of the amount exempt under paragraph (*a*), shall not form part of the chargeable income of such person but shall be separately charged to tax at his average rate of tax for the immediately preceding year of income.

(7) For the purposes of subsection (6)—

"severance pay" includes any payment in lieu of notice and any payment made in relation to past service of the employee;

"average rate of tax" means such rate, expressed as a percentage, as results from dividing the tax payable in respect of a year of income by the amount of the chargeable income of that year.

(8) Where the gains or profits from any employment or office which are received by any person during a year of income include an amount paid by way of a retrospective increase in salary, wages, retiring allowances or pension and part of such amount relates to a previous year or years of income, such part (hereinafter referred to in this subsection and in subsection (9) as "the arrears") shall be separately charged to tax at the marginal rate of tax payable for the year of income during which the arrears were received by the person.

(9) For the purposes of subsection (8) "the marginal rate of tax" in relation to the charge to tax on the arrears means the rate of tax which is payable on the last dollar of the chargeable income of that year exclusive of the arrears.

(10) Notwithstanding paragraph (*e*) of subsection (1), a person who receives a retirement severance benefit shall be exempt from income tax to the extent of not more than eighty thousand dollars of such benefit where at the date of his retirement—

(*a*) he is not entitled to a pension other than under the National Insurance Act or the Old Age Pensions Act;

Ch. 32.01.
Ch. 32.02.

(*b*) he is not a member of an approved Pension Fund Plan, or of a Fund or Scheme that is a Provident Fund; and

(*c*) he produces evidence to the satisfaction of the Board of Inland Revenue—

(i) that he has retired from insurable employment within the meaning of the National Insurance Act;

(ii) that he has reached the age of sixty years.

(11) For the purposes of subsection (10) the Board of Inland Revenue may require from the employee the production of a certificate from the National Insurance Board to the effect that the requirements outlined in subsection (10)(*c*) have been fulfilled.

Basis of Assessment

Basis of assessment. [16 of 1963].

6. Tax shall be charged for each year of income upon the chargeable income of any person for that year.

Chargeable income of certain persons. [16 of 1963 5 of 1964 29 of 1966].

7. (1) The gains or profits of any person for a year of income so far as such gains or profits arise from the carrying on of any trade, business, profession or vocation shall be—

(*a*) where there is an established accounting terminal date, the gains or profits of the twelve months from the established accounting terminal date occurring in the year immediately preceding the year of income;

(*b*) in the case of the commencement by any person of any trade, business, profession or vocation, the gains or profits from the date of commencement of such trade, business, profession or vocation occurring in the year immediately preceding the year of income or occurring in the year of income to such date in the year of income as may be agreed by the

Board which agreed date shall thereafter be the established accounting terminal date;

(*c*) in the event of a departure from the established accounting terminal date, the gains or profits for such twelve-month period as the Board in its discretion may determine in respect of the year of income in which the departure from the established accounting terminal date occurs and in respect of the next succeeding year of income; thereafter the accounting terminal date resulting from the change shall be the established accounting terminal date.

(2) Where any person ceases to carry on his trade, business, profession or vocation, the gains or profits of such person arising from his trade, business, profession or vocation for the year of income in which he ceased to carry on his trade, business, profession or vocation shall be the gains or profits from the established accounting terminal date in the year immediately preceding the year of income to the date upon which he ceased his trade, business, profession or vocation.

(3) In this section "established accounting terminal date" means the accounting date to which the accounts of any trade, business, profession or vocation of any person are ordinarily made up and accepted for the purposes of assessment under this Act or in the case of any new trade, business, profession or vocation, such date as may be agreed by the Board.

Exemptions. [29 of 1966 35 of 1971 27 of 1972 30 of 1974 41 of 1975 66 of 1975 40 of 1976 1 of 1979 19 of 1980 198/1985 1 of 1986].

8. (1) There shall be exempt from the tax—

(*a*) the official emoluments received by the President, or a person performing the functions of President temporarily, the pension received by a retired President and by the widow of a President or retired President;

(*b*) the official emoluments received by persons exempt under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act; Ch. 17:01.

(*c*) wound and disability pensions granted to members of the armed forces of any Commonwealth country;

(*d*) gratuities to members of the armed forces of any Commonwealth country in respect of

service rendered during the wars which began on 14th August 1914 and 3rd September 1939;

(*e*) the income arising under a scholarship, exhibition, bursary or any other similar education endowment held by a person receiving full-time instruction at a university, college, school or other educational establishment;

(*f*) the income arising from investments of any fund or scheme approved by the President under section 27(1)(*c*);

(*g*) benefits (including lump sum payments) paid out of the Employment Injury Benefit Fund and the Short Term Benefits Funds established under section 43 of the National Insurance Act; Ch. 32:01.

(*h*) dividends or bonus distributions, or both, paid by a registered co-operative society or dividends paid by the Agricultural Development Bank to a member or a shareholder, as the case may be, who is either resident or ordinarily resident in Trinidad and Tobago;

(*i*) the income of the Council of Legal Education;

(*j*) interest accrued on sums—

(i) in savings and deposit accounts held with any bank licensed under the Banking Act or with the Trinidad and Tobago Post Office Savings Bank, any building society, any financial institution licensed under the Financial Institutions (Non-Banking) Act, or the Agricultural Development Bank of Trinidad and Tobago; or Ch. 79:01. Ch. 83:01.

(ii) deposited with a credit union registered under the Co-operative Societies Act; Ch. 81:03.

but such exemption shall be limited to apply only to five thousand dollars of interest so accrued on all such sums during the year of income.

(2) Nothing in section 6 of the Corporation Tax Act Ch. 75:02. shall be construed so as to exempt in the hands of the recipients any dividends, interests, bonuses, salaries or wages paid or credited to any person wholly or in part out of the income so exempt.

(3) In subsection (1)—

"Agricultural Development Bank" means the Agricultural Development Bank of Trinidad and Tobago established under the Agricultural Development Bank Act; Ch. 79:07.

"registered co-operative society" means a society which has been registered under the Co-operative Societies Act. Ch. 81:03.

Government loans. [16 of 1963].

9. The President may by order provide that the interest payable on any loan charged on the public revenue of Trinidad and Tobago shall be exempt from the tax, either generally or only in respect of interest payable to persons not resident in Trinidad and Tobago; and such interest shall, as from the date and to the extent specified in the order, be exempt accordingly.

Computation of Income

Computation of income generally. [22 of 1951 29 of 1966 30 of 1974 14 of 1976 1 of 1979].

10. (1) In computing the income of any person for a year of income from any source specified in section 5 for the purpose of ascertaining the chargeable income of a person for that year, there shall be allowed to that person all outgoings and expenses wholly and exclusively incurred during the year of income by that person in the production of the income from that source, so however that—

(*a*) in the case of gains or profits from employment or office under section 5(1)(*e*), the expenses allowable shall be those which are wholly, exclusively and necessarily incurred;

(*b*) in the case of outgoings and expenses in respect of management charges paid to or for the benefit of a person not resident in Trinidad and Tobago and to every non-resident company (such person or company not being engaged in a trade or business in Trinidad and Tobago giving rise to such management charges) the expenses allowable shall, subject to subsection (2), be the amount of the management charges or one per cent of the outgoings and expenses (exclusive of such management charges) allowed under this section and section 11(1), other than paragraph (*a*) or (*b*) thereof, whichever is the lesser;

(*c*) in the case of expenses incurred by way of salary or wages paid to one's spouse as an

employee, the expenses shall be allowable only to the extent to which the Board is satisfied that they are reasonable in amount, and any amount not allowed shall be deemed not to be income of the spouse.

(2) Where the Board is satisfied that any outgoings and expenses in respect of management charges incurred in any year of income by a person is of an extraordinary and non-recurrent nature (not being capital expenditure), the Board may, in its discretion, allow so much thereof in excess of one per cent as appears to the Board to be reasonable in the circumstances, so however that nothing in this subsection shall apply unless the Board is satisfied that the management charges were incurred in respect of services that cannot reasonably be expected to be acquired or performed or both in Trinidad and Tobago.

(3) Where in the case of a house owned either by a person or his spouse or jointly by both of them and occupied by them as a residence, the outgoings and expenses in respect of such house and its annual value referred to in section 5(1)(*h*) shall be included in computing the income of the person or his spouse, at their option.

Allowances in certain cases. [29 of 1966 28 of 1967 35 of 1971 30 of 1974 198/1985 1 of 1986].

11. (1) For the purpose of ascertaining the chargeable income of any person for any year of income from any trade, business, profession or vocation, there shall be allowed—

(*a*) where that person has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation that has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as represents 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;

(*b*) a reasonable amount for the exhaustion by wear and tear of any plant and machinery, and any buildings used exclusively for housing such plant and machinery owned by him aris-

ing out of the use or employment of such plant or machinery in the trade, business, profession or vocation during that year;

(*c*) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Board to have become bad during the year of income, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said year, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year, so however that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or doubtful debts shall, for the purpose of this Act be treated as receipts of the trade, business, profession or vocation for that year;

(*d*) rates and taxes on real estate (but not including income tax);

(*e*) premiums paid on any fire insurance policy entered into with an insurance company, the agents or managing directors of which are liable to pay a contribution under section 168A of the Insurance Act 1966, on property used in acquiring the income upon which the tax is payable; [24 of 1966].

(*f*) any annual sums paid by such person (being an employer) in respect of an employee by way of the employer's contribution to any approved fund or scheme referred to in section 27(1)(*c*);

(*g*) in the case of a lump sum payment made by such person (being an employer) in respect of an employee's past services by way of the employer's contribution to any approved fund or scheme referred to in section 27(1)(*c*), one-tenth of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made, but only if the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme;

(*h*) amounts contributed by an employer or employee to a trust under an approved pension fund plan to the extent provided by sections 28 to 33;

(*i*) contributions paid by an employer under the system of national insurance established under the National Insurance Act; and for the purposes of this paragraph "employer" includes the employer of a domestic worker within the meaning of the National Insurance Act;

Ch. 32:01.

(*j*) amounts contributed by an employer to an approved employees' profit-sharing plan established under section 35;

(*k*) where that person is engaged in any trade a deduction to be known as an employment allowance of such amount as is specified in the Second Schedule;

Second Schedule.

(2) Where deductions have been allowed under subsection (1)(*b*) to any person in ascertaining his chargeable income for a year of income from any trade, business, profession or vocation, and that person ceases to have any interest in plant and machinery and buildings in respect of which the deductions have been allowed, a balancing allowance or a balancing charge shall be made, and for the purposes of ascertaining such allowance or charge, section 4 and section 17, as the case may be, of the Income Tax (In Aid to Industry) Act shall apply.

Ch. 85:04.

Deductions not allowed. [30 of 1954 16 of 1963 29 of 1966].

12. In ascertaining the chargeable income of any person for any year of income, no deduction shall be allowed from the income in respect of—

(*a*) any disbursements or expenses not being moneys wholly and exclusively laid out or expended for the purpose of producing the income;

(*b*) domestic or private expenses;

(*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 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 the production of the income;

(*g*) any amounts paid or payable in respect of foreign income tax, except in accordance with the provisions of this Act or of any double taxation arrangements entered into with the foreign country;

(*h*) sums paid by any person by way of interest upon any money borrowed by that person for use in the production of the income, unless—

(i) the person receiving such interest is chargeable to tax, or

(ii) such interest is exempt in the hands of the person entitled to receive it by virtue of the provisions of this Act or any other written law;

(*i*) payments within the meaning of section 51, unless the payer has accounted for and paid over withholding tax to the Board.

13. (1) Notwithstanding anything to the contrary contained in this Act— **Relief to hotel proprietors. [30 of 1954 29 of 1966].**

(*a*) in any case approved by the President in which the erection of a hotel or of any extension to a hotel is commenced after 1st of July 1954 and in which a licence has been granted to any person in respect of such hotel under the Hotel Development Act, the proprietor of such hotel shall be exempt from income tax in respect of the income arising from such hotel in each of the five years of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed, and thereafter shall be allowed in each of any five of the eight years of assessment next following to set off against the income arising from such hotel one-fifth of the capital expenditure upon such hotel or extension thereof as the case may be, so however, that no such set-off be allowed in any year of assessment later than the thirteenth year of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed; Ch. 85:02.

(*b*) in any case approved by the President in which a licence has been granted to any person under the Hotel Development Act but which is not within the contemplation of paragraph (*a*) the proprietor of the hotel to which such licence relates shall be allowed in each of any five of the eight years of assessment next after the year of assessment in which the licence is granted to set off against the income arising from the hotel one-fifth of the capital expenditure upon such hotel, so however that no such set-off be allowed in any year of assessment later than the eighth year after the year of assessment in which the capital expenditure was incurred.

Ch. 85:02.

(2) Where the capital expenditure is allowed to be set-off against the income arising from a hotel, section 11(1)(*b*) shall not apply in respect of such expenditure.

(3) For the purposes of this section, the question whether the erection or extension of a hotel was commenced before 1st July 1954 shall be for determination by the President. The President shall also for the purposes of this section determine on what date the erection or extension of a hotel is completed. His determination in each case shall be final.

(4) Relief under subsection (1)(*a*) shall not be granted to any person unless such person—

(*a*) applies in writing to the President through the Minister, for approval of the case before commencing the erection or extension, as the case may be, of the hotel; and

(*b*) notifies the Minister in writing of the date on which he intends to commence the erection or extension, as the case may be, of the hotel.

(5) Where any case is approved by the President for the purposes of subsection (1)(*a*) the Minister shall—

(*a*) report to the President the dates on which, in his opinion, the erection or extension, as the case may be, of the hotel was commenced and completed;

(*b*) issue to the Board a certificate stating the fact of such approval and the dates fixed by the

President as the dates on which the erection or extension, as the case may be, of the hotel was commenced and completed.

(6) The Minister, or any person authorised by him in writing to do so, may at any reasonable time enter upon the premises on which a hotel or any extension of a hotel is to be, or is being, erected, for the purpose of obtaining such information as will enable the Minister to report to the President in accordance with the requirements of subsection (5)(*a*).

(7) The President may by Regulations make any provision which in his opinion is necessary or expedient for the better carrying into effect of the provisions of this section.

(8) In this section—

"capital expenditure" means such sum as the Board is satisfied has been expended on—

(*a*) advertising, publicising and promoting the business of the hotel prior to the commencement of such business;

(*b*) the purchase of building materials for the construction of the hotel and on effecting such construction;

(*c*) the purchase of any existing hotel where—

(i) an existing hotel has been purchased;

(ii) there has been a *bona fide* change of ownership; and

(iii) the purchaser qualifies for relief under the Hotel Development Act in respect of the buildings comprising the hotel; but no account shall be taken of any sum paid in respect of the purchase price of the land on which such hotel stands or in respect of goodwill; Ch. 85:02.

(*d*) the purchase of articles of hotel equipment and on the installation of such articles of hotel equipment,

and for the purposes of this definition "articles of hotel equipment" and "construction" have the same meanings as are respectively assigned to the said expressions in the Hotel Development Act;

"hotel" has the same meaning as is assigned to that expression in the Hotel Development Act.

"Minister" means the Minister responsible for Industry.

Exemption of income from approved agricultural holdings. [30 of 1974 46 of 1977 25 of 1980 73/1984].

14. (1) Notwithstanding anything to the contrary contained in section 5, but subject to this section, the gains or profits from commercial farming shall be exempt from tax during the period commencing 1st January 1982 and ending 31st December 1986 (hereinafter referred to as "the period of exemption") where such farming is carried out on an approved agricultural holding.

(2) Where, in any year of income during the period of exemption, a loss is incurred, that loss or where the loss occurs in more than one year of income the aggregate of those losses shall be carried forward until the end of the period of exemption and there shall be deducted from that loss or the aggregate of those losses any profits made during the period of exemption and the remainder of that loss or such losses, if any (hereinafter referred to as the "net loss") shall be dealt with in accordance with subsection (3).

(3) Any net loss incurred by any person during the period of exemption shall be set off against his income of succeeding years of income in the manner provided by section 16 save that subsection (2)(*b*) of that section shall not apply.

(4) Where, during the period of exemption, an approved agricultural holding is—

(*a*) sold or otherwise disposed of; or

(*b*) increased so that it ceases to qualify as an approved agricultural holding,

the net loss, calculated in accordance with subsection (2), incurred by a person before the occurrence of either of these two events shall be set off against his income of succeeding years of income in the manner provided by section 16.

(5) For the purposes of this section the Minister may by Notification approve any parcel of land as an approved agricultural holding, but no such approval shall be given in respect of a parcel of land which—

(*a*) exceeds one hundred acres in area;

(*b*) is used as a pleasure ground, private garden or an allotment garden;

(*c*) is used or preserved mainly for sporting or other recreational purposes, unless the Minister is satisfied that the use of such land for agricultural purposes does not conflict with its main usage.

(6) In this section—

"approved agricultural holding" means a parcel of land, held by way of freehold, leasehold or other form of occupancy including mere user, which is used or is capable of being used for the purpose of farming that is approved by the Minister under subsection (5);

"Minister" means the Minister responsible for agriculture.

President may vary period of exemption. [46 of 1977].

15. The President may by Order extend from time to time the period of exemption specified in section 14(1).

Allowance of trade losses. [11 of 1956 16 of 1963 30 of 1974].

16. (1) Subject to subsection (2), where the amount of a loss incurred in the year of income 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 succeeding years.

(2) (*a*) 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.

(*b*) In no case shall such set-off be allowed to an extent which would reduce the tax payable for any year of income to less than one-half of the amount which would have been payable had the set-off not been allowed.

(*c*) The amount of any such loss shall be set off as far as possible against what would otherwise have been his chargeable income for the first succeeding year, and so far as it cannot be so set off, then against the said income for the next succeeding year and so on.

(*d*) No loss incurred in connection with any hotel in any year in respect of which any allowance is granted under section 13 shall be set off against the profits arising from any other trade, business, profession or vocation carried on by the person to whom the allowance is granted.

Reliefs allowable to residents. [16 of 1963 66 of 1975 46 of 1977].

17. In ascertaining the chargeable income for any year of an individual who is resident in Trinidad and Tobago, there shall, upon due claim and subject to such evidence as

the Board may require, be allowed as a deduction any amounts to which he is entitled under sections 18 to 31 and sections 36 and 37.

Deductions for individuals. [26 of 1955 16 of 1963 5 of 1964 29 of 1966 66 of 1975 14 of 1976 21/1978 31/1978 25 of 1981 2 of 1982].

18. (1) An individual to whom section 17 applies shall be entitled to a personal allowance of two thousand five hundred dollars.

(2) An individual to whom section 17 applies, if aged sixty years or over and in receipt of a pension that is subject to tax is entitled to an additional personal allowance of either two thousand five hundred dollars or the amount of the pension whichever is the less.

Deduction for spouse. [29 of 1966 5 of 1970 66 of 1975 14 of 1976 33/1978 25 of 1981 2 of 1982].

19. (1) Subject to this section, an individual to whom section 17 applies shall be entitled to a deduction of one thousand eight hundred dollars in respect of his or her spouse if, at any time during the year of income the spouse is living with him or her or is maintained by and not separated from him or her in circumstances in which he or she is entitled to a deduction under section 20.

(2) The deduction allowable under this section shall be reduced where the spouse has an income in excess of of one thousand eight hundred dollars—

(*a*) in respect of the year of income 1975, by one dollar for each dollar by which the income of the spouse exceeds one thousand eight hundred dollars; and

(*b*) in respect of the year of income 1976 and subsequent years of income, by two dollars for each three dollars by which the income of the spouse exceeds one thousand eight hundred dollars.

Maintenance and alimony. [66 of 1975].

20. (1) Subject to subsection (2), an individual to whom section 17 applies who, in the year of income has paid—

(*a*) a maintenance or separation allowance in accordance with the terms of a registered deed of separation or an order of any court of competent jurisdiction to his or her spouse from whom he or she is separated; or

(*b*) alimony to a former spouse from whom he or she is divorced under a divorce recognised under the laws of Trinidad and Tobago,

shall be entitled to a deduction equal to the amount of such allowance or alimony.

(2) The deduction allowable under this section shall not apply unless the spouse or former spouse, as the case may be, receiving such maintenance or separation allowance or alimony is chargeable to tax thereon under this Act.

Deduction for maintenance of children. [66 of 1975 21/1978 25 of 1981].

21. (1) Subject to this section, an individual to whom section 17 applies who, during the year of income, maintained a child who—

(*a*) was born during the year of income; or

(*b*) at the commencement of the year of income has not attained the age of sixteen years or, irrespective of age, was a student child or an invalid child,

shall be entitled to a deduction of seven hundred dollars.

(2) The deduction allowable under this section shall not apply in relation to any child whose income from any source during the year of income exceeded seven hundred dollars.

(3) Where two or more individuals contribute towards the maintenance of a child to whom this section applies the deduction allowable may be apportioned between the individuals in such manner as appears to the Board to be reasonable.

(4) In this section—

"student child" means a child who, at any time during the year of income, was—

(*a*) receiving full time education at a school, college or other educational institution but not including a university or other institution providing technical or professional education of a standard equivalent to a university; or

(*b*) serving full time as an apprentice or under articles or indentures with a view to qualifying in a trade or profession;

"invalid child" means a child of the individual claiming the deduction provided by this section who is by reason of permanent disability dependent upon his parent for his maintenance.

Deduction for education and book allowance. [66 of 1975].

22. (1) Where an individual to whom section 17 applies, during the year of income maintained a child who, irrespective of age, was a student child within the meaning of

paragraph (*a*) of the definition of that expression in section 21(4) he shall be entitled to an education and book allowance of one hundred dollars in respect of such child.

(2) The deduction allowable under subsection (1) shall be in addition to any deduction allowable under section 21 or section 23.

Deduction for education of certain children. [66 of 1975 21/1978 25 of 1981].

23. (1) Subject to this section an individual to whom section 17 applies who, during the year of income, maintained a child who, during the year of income—

(*a*) had attained the age of ten years;

(*b*) was a student child within the meaning of section 21(4), whether in Trinidad and Tobago or elsewhere; and

(*c*) resided away from the home of the individual claiming the deduction in connection with his education or training,

shall be entitled to a deduction in respect of any expenses incurred in such year in connection with the education or training of such child.

(2) The deduction allowable under this section shall not exceed one thousand five hundred dollars in respect of any one child.

(3) Where two or more individuals contribute towards the maintenance of a child to whom this section applies the deduction allowable may be apportioned between the individuals in such manner as appears to the Board to be reasonable.

(4) Where a deduction is allowable under this section no deduction shall be allowed in respect of the same child under section 21.

Deduction for higher education. [66 of 1975 21/1978 25 of 1981].

24. (1) Subject to this section, an individual to whom section 17 applies, who is a relative of a person whom he maintained during the year of income, shall, if that person, irrespective of age, was a university student, whether in Trinidad and Tobago or elsewhere, during that year of income, be entitled to a deduction in respect of any expenses incurred in such year in connection with the education of such university student.

(2) The deduction allowable under this section shall not exceed three thousand eight hundred dollars in respect of any one person.

(3) Where a deduction is allowable under this section no deduction shall be allowed in respect of the same person under section 21 or section 22.

(4) Where two or more individuals contribute towards the maintenance of a person to whom this section applies the deduction allowable may be apportioned between the individuals in such manner as appears to the Board to be reasonable.

(5) In this section—

"relative" means a parent, grandparent, brother, sister, uncle or aunt and includes a person in *loco parentis;*

"university student" means a person receiving full time education at a university or at any other institution providing technical or professional education of a standard equivalent to university education.

Deduction in respect of housekeeper or day nursery. [2 of 1982].

25. (1) Subject to this section where an individual to whom section 17 applies, being a widower or a widow, or unmarried, divorced or separated, maintains a person, who, during the year of income, resided with him or her, as the case may be—

(*a*) for the purpose of having the charge and care of any child of his or hers; or

(*b*) in the capacity of housekeeper; or

where that individual incurs expenses for day nursery or nursery school facilities in the care of his or her children who at the commencement of the year of income have not yet attained the age of five years, that individual is entitled to an allowance of six hundred dollars.

(2) The deduction allowable under this section in respect of a person referred to in subsection (1) is granted only—

(*a*) in respect of one such person in any year of income; and

(*b*) where no other individual is entitled to a deduction in respect of the maintenance of that person.

(3) Where a deduction is allowable under this section in respect of a person referred to in subsection (1), no deduction shall be allowed in respect of that same person under section 26.

Deduction in respect of dependent relatives. [66 of 1975 21/1978].

26. (1) Subject to this section, where an individual to whom section 17 applies, maintains a dependent relative during the year of income, he shall be entitled to an allowance of four hundred dollars.

(2) The deduction allowable under this section shall not apply in relation to—

(*a*) any dependent relative whose income from any source during the year of income exceeded four hundred dollars;

(*b*) any child in respect of whom a deduction is allowable under section 21.

(3) Where two or more individuals contribute towards the maintenance of a dependent relative to whom this section applies the deduction allowable may be apportioned between such individuals in such manner as appears to the Board to be reasonable.

(4) In this section "dependent relative" means, in relation to an individual, a person who—

(*a*) whether incapacitated or not is the mother of the individual or of his wife and is unmarried, divorced, widowed or separated; or

(*b*) is incapacitated by old age or infirmity or is unemployable by reason of old age and is the father, uncle, aunt, grandfather, grandmother, child, grandchild, brother, sister, nephew or niece of the individual or of his wife.

Deduction in respect of Life Insurance and contribution to Widows' and Orphans' Fund. [20 of 1954 26 of 1955 16 of 1963 5 of 1964 29 of 1966 35 of 1971 12 of 1972 66 of 1975 14 of 1976 21/1978 7 of 1980].

27. (1) An individual to whom section 17 applies who—

(*a*) has paid premiums for insurance or a deferred annuity contract made before 1st January 1980 on his or her life or the life of his or her spouse, with any company, as defined in this Act carrying on the business of life insurance, or with any other body of persons carrying on the business of life insurance which is legally established in the United Kingdom or in any Commonwealth country or in the Republic of Ireland, or with any registered friendly society, or with any approved body of persons carrying on the business of life insurance;

(*b*) has paid premiums for insurance or a deferred annuity contract made before 1st January 1953

on his or her life or the life of his or her spouse with any body of persons legally established in any foreign country and not carrying on the business of life insurance in Trinidad and Tobago;

(*c*) has made a contribution under the Widows' and Orphans' Pensions Act or under any similar written law in the United Kingdom or in any Commonwealth country, or to any approved fund or scheme; or Ch. 23:54.

(*d*) being an insured person within the meaning of the National Insurance Act, has paid a contribution under the system of national insurance established by that Act, Ch. 32:01.

shall be allowed such deduction of the premiums paid by him for such insurance or contract or contribution as the case may be, in accordance with sections 28 to 32.

(2) Nothing in subsection (1)(*d*) shall apply to so much of the contribution of an employed person who is registered or eligible to be registered under the system of national insurance established by the National Insurance Act as is paid out of contributions of a contributor under the Widows' and Orphans' Pensions Act in accordance with section 18(3) thereof.

(3) Notwithstanding the provisions of subsection (1)(*a*), an individual to whom section 17 applies who has paid premiums for insurance or a deferred annuity contract made after 31st December 1979, shall be allowed such deduction of the premiums paid by him for such insurance or contract in accordance with sections 28 to 32 where the insurance or contract is made with—

(*a*) a local company which is registered, or in respect of which there is pending an application to be registered, to carry on the business of long-term insurance in Trinidad and Tobago; or

(*b*) a foreign company approved by the Minister under subsection (4).

(4) For the purpose of allowing deductions under subsection (3), the Minister may by Notification approve a loreign company registered to carry on the business of ofng-term insurance in Trinidad and Tobago where—

(*a*) that company is incorporated in a Member State of the Common Market; or

(*b*) the business of that company in Trinidad and Tobago is wholly or substantially transacted with members of credit union organizations in Trinidad and Tobago.

(5) The Minister may by Notification withdraw his approval under subsection (4) with effect from a date not less than six months after the date of publication of the Notification in the *Gazette*.

(6) For the purposes of this section a contribution of an employee paid by an employer on behalf of the employee to an approved fund or scheme referred to in subsection (1)(*c*) shall be deemed to be a contribution to such fund or scheme by the employee.

(7) In this section—

"approved" means approved by the Governor-General before the passing of the Income Tax (Amendment) Act 1963; 16 of 1963.

"the Common Market" means the Caribbean Common Market established under the Annex to the Treaty establishing the Caribbean Community and done at Chaguaramas on 4th July 1973;

"any Commonwealth country" includes Pakistan and South West Africa;

"contract" means an agreement which provides for the payment to the individual by a company of a pension or annuity to commence at a specified age, or for the payment of a lump sum in lieu of such pension or annuity;

"foreign company" means a company which is incorporated outside Trinidad and Tobago;

"foreign country" means any country other than the United Kingdom, any Commonwealth country or the Republic of Ireland;

"local company" means a company which is incorporated under the Companies Ordinance or any other written law; Ch. 31 No. 1. (1950 Ed.).

"Minister" means the Minister responsible for Finance;

"pension age" means the specified age at which the payment of a pension or annuity under a contract is due to commence;

"registered friendly society" means a friendly society registered under the Friendly Societies Act. Ch. 32:50.

(8) (*a*) Subject to paragraphs (*b*) and (*c*), where the insurance or contract referred to in subsection (1) was made after 15th April 1955, the deductions to be allowed under section 31(1)(*a*) shall be limited to an amount equal toseven per cent of the capital sum payable on the insurance policy or contract if that amount is less than the deductions allowed by section 31(1)(*a*), and no such deduction shall be allowed in respect of the insurance policy unless there is a capital sum payable at death whether in conjunction with any other benefit or not.

(*b*) Where, however, the insurance or contract was made for a period of not less than ten years by an individual who has attained the age of fifty years, and—

(i) the insurance policy does not mature before the individual attains the age of sixty-five years; or

(ii) the pension age under such contract is not less than sixty-five years,

the provisions of this subsection limiting the amount of the deduction to be allowed to seven per cent of the capital sum payable on the insurance policy or contract shall not apply.

(*c*) (i) If any such contract is surrendered before the individual attains the pension age, the amount payable to the individual on such surrender shall be deemed to be part of his income for the year in which the surrender is made.

(ii) If the individual who has made any such contract dies before he attains the pension age, the amount payable under the contract on such death shall in equal shares be deemed to be part of the income of the individual for the year in which he died and for each of the two years immediately preceding such year, and the estate of the individual shall accordingly be liable to be assessed by the Board at such amount or additional amount as according to

the judgment of the Board ought to be charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.

Interpretation. [16 of 1963 5 of 1964 29 of 1966 8 of 1972].

28. (1) In this section and in section 11(1)(*h*) and sections 29 to 32—

(*a*) "annuitant" means an individual referred to in paragraph (*b*)(i) or (*b*)(ii) to whom, under an approved deferred annuity plan, any annuity for life is agreed to be paid or is to be provided;

(*b*) "deferred annuity plan" means—

(i) a contract between an individual and a person authorised to carry on an annuities business in Trinidad and Tobago, under which, in consideration of payment by the individual of any periodic or other amount as consideration under the contract, that person agrees to pay to the individual, commencing at maturity, an annuity for life, in this section and in sections 29 to 32 referred to as an approved deferred annuity plan; or

(ii) an arrangement under which payment is made by an individual—

(A) in trust to a company of any periodic or other amount as a contribution under the trust; or

(B) in trust to a company, approved by the President for the purposes of this section that is authorised by law to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable amount at maturity, of any periodic or other amount as a contribution under any such contract between the individual and that investment company,

to be used, invested or otherwise applied by that company or that investment company, as the case may be, for the

purpose of providing to the individual, commencing at maturity, an annuity for life;

(*c*) "approved deferred annuity plan" means a deferred annuity plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the Regulations;

(*d*) "approved pension fund plan" means a pension fund plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the Regulations;

(*e*) "benefit" means any amount paid or payable under an approved pension fund plan or an approved deferred annuity plan otherwise than as a contribution or premium as the case may be;

(*f*) "contribution" means other than in paragraph (*b*)(ii)(A) and in paragraph (*k*)(ii) any periodic or other amount paid or payable under a pension fund plan as a contribution referred to in paragraph (*j*) for the purpose stated in that paragraph;

(*g*) "employee" means any person employed in the service of another at a weekly, monthly or other periodic remuneration other than the directors not actively engaged in the day to day management of a company, whether the company is incorporated or not;

(*h*) "maturity" means the date fixed under an approved deferred annuity plan for the commencement of any annuity the payment of which is provided for by the plan;

(*i*) "non-contributory plan" means a pension fund plan under the terms of which no payment of any amount is made by employees as a contribution to the plan;

(*j*) "pension fund plan" means an arrangement under which payment is made by—

(i) an employee in trust to trustees or a corporation sole of any periodic or other amount as a contribution under the trust; and

(ii) by an employer in respect of that employee in trust to the said trustees or corporation sole of any periodic or other amount as a contribution under the trust,

to be used, invested or otherwise applied by the said trustee or trust corporation, as the case may be, in accordance with the Regulations for the purpose of providing to the employee commencing on retirement a pension for life;

(*k*) "premium" means any periodic or other amount paid or payable under an approved deferred annuity plan—

(i) as consideration for any agreement referred to in paragraph (*b*)(i) to pay an annuity; or

(ii) as a contribution referred to in paragraph (*b*)(ii) for the purpose stated in that subparagraph;

(*l*) "refund of contributions" means any amount paid or payable under an approved pension fund plan on the withdrawal from a plan before five years contribution is made of an employee, or on approval of an application by the Board therefore for any other reason, as or on account of—

(i) a return of the employee's contributions;

(ii) reasonable interest on the employee's contributions;

(*m*) "refund of premiums" means any amount paid or payable under an approved deferred annuity plan, on or after the death of the annuitant thereunder in the event of his death before maturity, as or on account of—

(i) a return of premiums;

(ii) reasonable interest of premiums; or

(iii) a share or interest in or a bonus out of profits or gains;

(*n*) "Regulations" means Regulations made under section 32;

(*o*) "trustee" means a person in whom a trust in respect of an approved pension fund plan is vested in accordance with section 30 and includes a member of a Management Committee where the trust is vested in a trust corporation;

(*p*) "trust corporation" has the meaning assigned to it by the Trustee Ordinance.* Ch. 8 No. 3. (1950 Ed.).

(2) After the passing of the Income Tax (Amendment) Act 1963— 16 of 1963.

(*a*) the President shall not approve any fund or scheme under section 27;

(*b*) no deductions under section 11(1)(*f*) and (*g*) or under section 27(1)(*c*) on account of a contribution to an approved fund or scheme that is a Provident Fund, shall be allowed with respect to any new contributor under such approved fund or scheme.

(3) Where an approved fund or scheme (within the meaning of section 27) is registered under Part VI of the Insurance Act the fund or scheme shall unless converted under subsection (4) continue to be treated as an approved fund or scheme under section 27 for the purposes of this Act, notwithstanding any amendment to its Rules directed to be made by the Supervisor of Insurance— Ch. 84:01.

(*a*) for the purpose of the qualification of the fund or scheme for registration; or

*This Ordinance has been repealed by the Trustee Act, 1981 (Act 21 of 1981) but up to the date of the revision of this Chapter, Act 21 of 1981 had not yet been brought into operation.

(i) in respect of contributions under such written laws; or

(ii) with respect to such approved fund or scheme, as is mentioned in section 27(1)(*c*); and

(*b*) a deduction under subsection (5) either in respect of contributions or premiums—

(i) to an approved pension fund plan; or

(ii) to an approved deferred annuity plan,

as the case may be.

(5) In ascertaining the chargeable income of any person who has made contributions, in respect of an approved pension fund plan or has paid premiums under an approved deferred annuity plan, there shall be allowed a deduction of the amount of the contribution made or of the premium paid so however that the deduction does not exceed one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Act before making the deductions specified in subsection (1) and in sections 18 to 26.

Regulations. [16 of 1963].

32. (1) The President may make Regulations generally for the purpose of carrying out the provisions of sections 28 to 31 and such Regulations may provide for the granting of pensions and gratuities to employees under an approved pension fund plan.

(2) The Regulations shall be laid on the table of the Senate and the House of Representatives within thirty days of the making thereof.

(3) Where the President is satisfied that it is equitable that any regulation should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any employee that regulation may be given effect for that purpose.

(4) A regulation having retrospective effect shall be subject to affirmative resolution of Parliament.

Conversion of certain policies into local currency. [29 of 1966].

33. (1) Notwithstanding the provisions of sections 27 to 32, but subject to this section, no deduction shall, for the year of income 1966, and subsequent years of income, be allowed—

(*a*) in respect of any insurance or contract, as the case may be, unless—

(i) such insurance or contract is made with

Ch. 84:01.

an insurer registered in accordance with the provisions of the Insurance Act; and

(ii) such insurance or contract is in the currency of the East Caribbean Currency Authority or is in the currency of Trinidad and Tobago or of Barbados, or of Guyana or, if it is in the currency of some other country, it is converted into the currency of Trinidad and Tobago;

(*b*) in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme are payable only in the currency of the East Caribbean Currency Authority or in the currency of Trinidad and Tobago or if payable in the currency of some other country, are converted within a reasonable period of time to be made payable in the currency of Trinidad and Tobago, such period to be determined by the Minister.

(2) Nothing in this section shall apply—

(*a*) to any such insurance or contract as is mentioned under subsection (1)(*a*), if—

(i) such insurance or contract had been made before 1st January 1953 with a company legally established in any foreign country and not carrying on the business of life insurance in Trinidad and Tobago;

(ii) such insurance or contract had been made before 1st January 1966 with a company legally established in any Commonwealth country or in the Republic of Ireland and not carrying on the business of life insurance in Trinidad and Tobago;

(iii) such insurance or contract had been made before 1st January 1966 with a company legally established in any Commonwealth country or in the Republic of Ireland and carrying on the business of life insurance in Trinidad and Tobago and such insurance or contract had been made by an individual who at the time of

such making was not resident in Trinidad and Tobago and such insurance or contract is not payable in Trinidad and Tobago;

(*b*) to any such contribution as is mentioned under subsection (1)(*b*) if the person who makes such contribution entered outside Trinidad and Tobago into the agreement to make such contribution and if at the time of entering into such agreement the beneficiary was not resident and not domiciled in Trinidad and Tobago and if the benefits payable under the fund, plan or scheme to which such contribution relates are not payable in Trinidad and Tobago.

Tax on surrender value of a life insurance policy. [5 of 1969].

34. (1) Where a life insurance policy is surrendered before the policy holder attains the age of sixty years there shall be deducted or withheld from any sum paid to a person in a year of income as the surrender value thereof, by the person paying that sum, tax equal to five per cent thereof and any amount so deducted or withheld shall forthwith be remitted to the Board.

(2) Where tax has been paid to the Board under subsection (1)—

(*a*) the person making the payment shall as against any person entitled to the payment, be acquitted and discharged of so much money as is represented by the tax as if that sum had actually been paid;

(*b*) the balance of the surrender value when received by the person entitled thereto shall be deemed not to be income of that person for the purposes of this Act.

(3) A life insurance policy shall be taken to have been surrendered if the policy ceases to be an active policy on the books of the company, other than by way of maturity or on death.

(4) In determining whether a policy has ceased to be an active policy on the books of the company, an amount in respect of the tax charged under subsection (1) shall be taken to be included in the amount of the debts owing to the company under the policy and upon the debts owing

to the company under, or secured by, the policy and the amount of the overdue premium equalling the surrender value thereof, the policy shall be treated as having ceased to be an active policy on the books of the company.

(5) Where subsection (4) applies, the company shall be liable to account for and pay over to the Board the amount of such tax and may thereupon forfeit the policy under section 136 of the Insurance Act; so however that if the policy is re-instated by the company, acting in its discretion in any case, the tax paid to the Board under this subsection shall be refunded to the company.

Ch. 84:01.

(6) In this section—

"surrender value" means the total cash surrender value of a life insurance policy determined (before making allowance for any debts owing to the company under, or secured by, the policy, and the amount of any overdue premium), by the company's actuary;

"life insurance policy" means a policy issued in the course of the ordinary life insurance business of an assurance company.

Company may establish employees' profit-sharing plan.
[30 of 1974].

35. (1) Subject to this section, a company may establish an employees' profit-sharing plan to which contributions may be made annually by that company.

(2) An employees' profit-sharing plan shall not be approved by the Board unless it is satisfied that the plan provides—

(*a*) for the annual distribution of profits by way of bonus (hereinafter referred to as "the annual bonus distribution") to all permanent employees;

(*b*) that not less than forty per cent of the annual bonus distribution shall be utilised to purchase shares in the company;

(*c*) that the annual bonus distribution to employees does not discriminate against any employees or class of employees; but nothing in this paragraph shall, however, be construed as precluding the allocation of bonus distributions of different amounts to any employee by reason of—

(i) different salary or wage levels; or

(ii) length of service; and

(*d*) for its constitution by a trust under which the property of the plan is irrevocably vested in—

(i) not less than three persons where the trustees are individuals; or

(ii) a trust corporation.

(3) A company shall transfer not less than forty per cent of the annual bonus distribution to the trustee of an approved employees' profit-sharing plan to be applied towards the purchase of shares in the company and the remainder, if any, may be applied by the company towards cash payments to the employees.

(4) Where the whole or any part of the annual bonus distribution of a company is applied towards the purchase of shares in the company, the whole or such part of the profits that has been so applied shall be deemed not to be the income of the employee or the trustee.

(5) The trustee shall—

(*a*) allocate all the shares purchased by him to the employees in proportion to their entitlement thereto;

(*b*) pay over to each employee any distribution in respect of shares held in trust for that employee, who shall be entitled to the dividend income allowance provided by section 56 in respect of such distribution;

(*c*) furnish each employee, not later than 31st December in each year, with a statement showing—

(i) the number of shares allocated to him during that year; and

(ii) the total number of shares held on his behalf at the date on which the statement was furnished.

(6) Where shares have been allocated to an employee pursuant to this section the trustee shall—

(*a*) at the request of the employee, transfer such shares to the employee, or his nominee—

(i) where the employee is still in the employment of the employer, at any time after the expiration of five years from the date of the allocation of the shares; or

(ii) where for any reason other than retirement or death the employee ceases to be in the employment of the employer, at any time after cessation of such employment;

(*b*) on the retirement date of the employee, or on the cessation of employment, where an employee retires prematurely as a result of mental or physical infirmity, transfer such shares to the employee or his nominee; or

(*c*) on the death of the employee before his retirement date, transfer such shares to the personal representative of the employee.

In this subsection "retirement date" means, in relation to an employee, the date fixed under an approved employees' profit-sharing plan as the date of retirement from employment of that employee.

(7) Where shares are transferred pursuant to subsection (6)(*a*) the market value of the shares at the date of transfer shall be deemed to be income accrued to the beneficial owner of the shares on that date and the full amount of such income shall be separately charged to tax at the following rates:

	Rate of Tax on every dollar
For every dollar of the first $5,000	... 5%
For every dollar of the next $5,000	... 15%
For every dollar of the next $5,000	... 20%
For every dollar of the remainder	... 25%

(8) Notwithstanding the provisions of subsection (6)(*a*) and of subsection (7), a transfer of shares shall not be made under subsection (6)(*a*) until the tax chargeable under subsection (7) has been paid to the Board.

(9) Where shares are transferred pursuant to subsection (6)(*b*) or (*c*), no income shall, by reason of such transfer, be deemed to have accrued to the beneficial owner of the shares.

(10) Where an approved employees' profit-sharing plan is vested in—

(*a*) individuals, at least one trustee shall be a representative of the employees selected by them; or

(*b*) a trust corporation, a management committee shall be established comprising not less than three individuals at least one of whom shall be a representative of the employees selected by them.

(11) No employer shall be capable of being a trustee of any plan established under this section, but nothing herein shall be construed as preventing an employer from appointing a representative under subsection (10) either as a trustee or a member of the management committee, as the case may be.

(12) In this section—

"approved employees' profit-sharing plan" means an employees' profit-sharing plan approved by the Board for the purposes of this Act as complying with the requirements of this section;

"employees' profit-sharing plan" means an arrangement whereby the whole or part of a company's annual bonus distribution is transferred to a trustee to be applied towards the purchase of shares in the company to be held by the trustee to the use and benefit of the employees of the company and otherwise dealt with in accordance with this section.

Deduction for medical expenses. [46 of 1977 1 of 1979 25 of 1981].

36. (1) Subject to this section, an individual to whom section 17 applies shall be entitled to a deduction for medical expenses equal to the amount of the medical expenses paid by him in a year of income in respect of himself or a dependant.

(2) The deduction allowable under this section shall not exceed eight hundred dollars.

(3) In computing an individual's medical expenses there shall be deducted therefrom any amount—

(*a*) paid to the individual or his dependant; and

(*b*) which the individual or his dependant is entitled to be paid,

on account of the medical expenses paid by the individual in a year of income in respect of himself or a dependant under an insurance contract or otherwise.

(4) Where an insurance contract undertakes the payment of medical expenses and other expenses or benefits, a policyholder or an employee who is party to the insurance contract on making a claim for the deduction for medical expenses shall submit to the Board a statement from the insurer showing the amount of the premium attributable to medical expenses.

(5) Premiums paid on an insurance contract under which amounts are payable in respect of medical expenses shall be deemed to be payments for medical expenses.

(6) In this section—

"dependant" means in relation to an individual a person who is—

(*a*) his or her spouse and is living with him or her;

(*b*) under eighteen years of age and is a child of the individual;

(*c*) an invalid child; or

(*d*) a dependent relative within the meaning of section 26;

"insurance contract" means a contract between—

(*a*) an insurer and an individual; or

(*b*) an insurer and an employer (including a company) in respect of his employees which provides for the payment of amounts in respect of medical and such other expenses or benefits, if any, as may be agreed upon;

"invalid child" means a child of the individual, whether or not under eighteen years of age, who is by reason of permanent disability dependent upon the individual for his maintenance;

"medical expenses" means amounts paid—

(*a*) to a registered medical practitioner, a qualified nurse or midwife, a chemist or to a hospital or other similar institution for services rendered, facilities provided or medicines prescribed by

a registered medical practitioner for the treatment of any illness or in connection with the birth of a child;

(*b*) to a qualified dentist for dental services rendered or services rendered in the supply or repair of artificial teeth or to a dental technician for such of those services as he is qualified to perform;

(*c*) for therapeutic treatment administered on the advice of a registered medical practitioner;

(*d*) in respect of an artificial limb or part thereof, an artificial eye or a hearing aid;

(*e*) in respect of a medical or a surgical appliance prescribed by a registered medical practitioner for the personal use of the individual or his dependant;

(*f*) for the testing of eyes or the prescribing of spectacles by a person qualified to perform those services and for spectacles purchased as a result of such prescription; or

(*g*) to a person for services rendered by him as an attendant of a person who is blind or permanently incapacitated by infirmity.

Deduction for purchase of bonds. [46 of 1977 203/1979 19 of 1980 25 of 1981 21 of 1983].

37. (1) Subject to this section, an individual to whom section 17 applies shall be entitled to a deduction of an amount not exceeding twelve thousand dollars in a year of income in respect of the purchase of such treasury bonds as may from time to time be approved by the President by Notification.

(2) The deduction mentioned in subsection (1) shall be allowed only—

(*a*) to the original purchaser of the bonds; and

(*b*) in respect of the year of income in which the bonds are purchased.

"(3) Subject to subsection (4) interest on treasury bonds is exempt from income tax.

(4) The exemption referred to in subsection (3) applies only to such portion of treasury bonds held by any person, which does not exceed sixty thousand dollars in value.

Deductions in respect of purchase of units in Unit Trust. [3/1986 1 of 1986]. Ch. 83:03.

37A. An individual to whom section 17 applies shall be allowed a deduction in respect of the net increase of units for a year of income purchased after 1st January, 1986, in the Unit Trust established under the Unit Trust Corporation of Trinidad and Tobago Act, to the value of two thousand five hundred dollars.

Employer may establish employees' savings plan. [46 of 1977].

38. (1) Subject to this section, an employer may with the approval of the Board establish an employees' saving plan to which contributions may be made annually by the employer and the employee.

(2) All persons in the employ of an employer are eligible to become members of an employees' savings plan (hereinafter referred to as "the plan").

(3) The Board shall not approve the establishment of a plan unless it is satisfied that—

(*a*) membership in the plan is voluntary;

(*b*) the plan is intended as a supplement and not as a substitute for any approved pension fund plan or deferred annuity plan;

(*c*) the plan is to be constituted by trust vested—

(i) in not less than three trustees where the trustees are individuals; or

(ii) in a trust corporation;

(*d*) the funds of the plan are to be invested in assets originating and situated in Trinidad and Tobago;

(*e*) where the employer is a public company, any investment in the company by way of shares or debentures would not exceed one-third of the total assets of the plan; and

(*f*) the plan provides for contributions—

(i) not exceeding three per cent of the salary or wages of an employee, subject to a maximum of one thousand two hundred dollars, to be made by an employer (hereinafter referred to as "the employer's contribution"); and

(ii) at least equal to but not exceeding twice the amount of the employer's contribution to be made by an employee.

(4) The President may, in order to confer a benefit on the employees, approve with retrospective effect any plan which was in operation before the commencement of this Act where he is satisfied that the plan is not inconsistent with the provisions of this Act.

(5) Where pursuant to subsection (4) a plan has been approved with retrospective effect, the provisions of this Act shall apply to that plan as if this Act had been in operation on the date from which the plan was given retrospective effect.

Employer's contribution to be allowed as deduction for income tax. [46 of 1977].

39. (1) Every employer who establishes a plan shall, for the purpose of computing his chargeable income for the year of income, be allowed a deduction of the amount contributed by him to the plan in respect of each employee who is a member of the plan.

(2) For the purpose of computing the chargeable income of an employee, no deduction may be allowed in respect of his contribution to a plan.

(3) The employer's contribution shall not form part of the chargeable income of the employee except where such contribution is withdrawn pursuant to section 41(3).

Trustees to be taxed on income dervived from investment. [46 of 1977].

40. (1) Where the funds of a plan are invested the trustees of the plan shall be taxable on the income derived from the investment—

(*a*) at prevailing scale rates for the appropriate year of income, where the income does not exceed five thousand four hundred dollars; or

(*b*) at a flat rate of fifteen per cent where the income exceeds five thousand four hundred dollars.

(2) An employee is entitled to a proportionate share in the income derived from investing the funds of the plan established by the employer.

(3) The share to which the employee is entitled shall be calculated on the amount contributed by him, on the employer's contribution and on the interest accruing in respect of such contributions.

(4) The trustees of a plan shall on or before 31st December in each year—

(*a*) submit to the Board accounts of revenue and expenditure in respect of the plan; and

(*b*) furnish to each employee who is a member of the plan a statement showing the amounts—

(i) contributed by the employee;

(ii) of interest to which the employee is entitled in respect of his contribution;

(iii) of the employer's contribution;

(iv) of interest to which the employee is entitled in respect of the employer's contribution; and

(v) withdrawn by the employee.

Withdrawal of contributions. [46 of 1977].

41. (1) An employee may without being liable to tax at anytime withdraw—

(*a*) all or part of the contribution made by him to the plan and the interest accruing in respect thereof;

(*b*) all or part of the interest accruing in respect of the employer's contribution.

(2) An employee or his personal representative, as the case may require, may, without being liable to tax, withdraw the employer's contribution—

(*a*) on the death of the employee;

(*b*) on the termination of the employee's employment by virtue of redundancy;

(*c*) on the retirement of the employee at anytime after he has attained the age of fifty; or

(*d*) on the retirement of the employee before he has attained the age of fifty where such retirement is on the grounds of ill-health or infirmity.

(3) Where an employee withdraws the employer's contribution in circumstances other than those specified in subsection (2), the amount of the contribution withdrawn shall be subject to tax at the marginal rate of tax for the year of income in respect of which the contribution was withdrawn.

(4) An employee who ceases to be in the employ of a particular employer may, without being liable to tax, transfer from one plan to another the contribution made by him to the plan and the employer's contribution and any interest accruing on such contributions and the amount so transferred shall be deemed not to have been withdrawn.

(5) For the purposes of this section and of sections 38, 39 and 40—

"employer" means a company, a partnership or a sole trader each of which has in its employ at least fifty persons;

"employees' savings plan" or "plan" means an arrangement whereby the contributions made by an employer and an employee in accordance with this Act are held by trustees in order to encourage savings and investment by employees.

(6) For the purposes of subsection (3), "marginal rate of tax" means the rate of tax payable on the last dollar of the chargeable income of the employee for the year of income in respect of which the employer's contribution was withdrawn exclusive of the amount, if any, of the employer's contribution withdrawn by the employee and any arrears of salary chargeable to tax in accordance with section 5(8).

Deduction for increase in shareholding in co-operative societies, etc. [2 of 1982]. Ch. 81:03.

41A. (1) Subject to subsection (2), where an individual to whom section 17 applies, purchases shares in any year of income in a society registered under the Co-operative Societies Act, he is entitled to a deduction for that year of income in respect of the purchase price of such of those shares that are held by him at the end of that year of income, but where at the end of the year of income immediately prior to the purchase he held shares in that or a similar society, the deduction shall be in respect only of the increased nominal value of this total shareholding over the nominal value of the shares held by him at the end of the previous year of income.

(2) A deduction under this section shall not exceed two thousand five hundred dollars.

(3) An individual claiming deduction under this section shall furnish the Board with a certificate from every

society in which he held shares in the year of income in respect of which the deduction is being claimed and the certificate shall show—

(*a*) the number of shares held by him at the end of the year of income immediately preceding and the nominal value of those shares; and

(*b*) the number of shares purchased or sold by him in the year of income in respect of which the deduction is being claimed and the nominal value of his shareholding at the end of that year of income.

(4) Where in the year of income immediately preceding the year of income in which deduction is being claimed, an individual was allowed a deduction in respect of shareholding in a society other than that in which he holds the shares giving rise to his claim, he shall in addition to the certificate referred to in subsection (3), furnish the Board with a certificate from that other society and that certificate shall show—

(*a*) the number of shares held in that society at the end of the year of income immediately preceding and the nominal value of those shares; and

(*b*) the number of shares held in that society at the end of the year of income in respect of which the deduction is being claimed and the nominal value of those shares.

Deductions for health surcharge. [13 of 1984]. Chap. 32:01.

41B. Where an individual to whom section 17 applies, pays in any year of income health surcharge under the National Insurance Act he is entitled to a deduction for that year of income in respect of the amount of health surcharge so paid.

Income Tax exemptions. [3 of 1962 29 of 1966 13 of 1969 14 of 1976 46 of 1977 1 of 1979 203/1979 19 of 1980 25 of 1981].

42. (1) In this section and in sections 43 to 46, "Minister" means the Minister responsible for Housing; and "prescribed" means prescribed by Regulations made under the Housing Act.

(2) Notwithstanding any of the provisions of this Act, there shall be exempted from income tax—

(*a*) the annual value, as contemplated by paragraph (*h*) of subsection (1) of section 5, of a house, during such time as the house is occupied as a residence by the owner thereof;

(*b*) subject to subsection (7), premiums and rents derived from the letting of any newly constructed houses whether constructed on, before or after 31st December 1978 of the class specified in section 43;

(*c*) gains or profits derived from the initial sale of newly constructed houses of the class specified in section 43 by any person registered in the prescribed manner as a trader in such houses;

(*d*) interest on a loan secured by, and any service charge payable under, a mortgage held by an approved mortgage company if the rate of interest charged in respect of the loan does not exceed the prescribed tax free interest rate;

(*e*) interest on a loan secured by and any service charge payable under any mortgage on a newly constructed house, if the loan is of not less than ninety per cent of the value of the house and if the rate of interest charged in respect of the loan does not exceed the prescribed tax free interest rate.

(3) The income tax exemption given under subsection (2)(*a*) shall not be granted to, and does not apply in respect of, any one person for more than one house at the same time.

(4) Paragraphs (*b*), (*c*), (*d*) and (*e*) of subsection (2) do not apply in respect of a newly constructed house that was constructed by way of rental, mortgage or aided self-help projects to which public funds of Trinidad and Tobago have been contributed by way of subsidising any such project and not merely by way of a loan from the public funds.

(5) The exemption provided under subsection (2)(*e*) applies in respect of a newly constructed house the cost of construction of which, inclusive of the cost and value of the land, in the opinion of the National Housing Authority, having regard to normal building costs prevailing at the time of its construction, would not exceed—

(*a*) twenty-five thousand dollars, where construction commenced after 31st December 1967, but not later than 31st December 1973;

(*b*) forty thousand dollars, where construction commenced after 31st December 1973, but not later than 31st December 1975;

(*c*) sixty thousand dollars where construction commenced after 31st December 1975, but not later than 31st December 1976; or

(*d*) eighty thousand dollars where construction commenced after 31st December 1976.

(6) For the purposes of subsection (2)(*e*), "service charge" means a service charge prescribed by the Minister as the charge for administering a mortgage that is not a guaranteed mortgage.

(7) The exemption as to rent referred to in subsection (2)(*b*) shall not be granted where the monthly rental income, whether payable to the owner or to any other person, in any month of the year of income—

(*a*) in respect of an unfurnished letting, exceeds seven hundred and fifty dollars;

(*b*) in respect of an unfurnished letting, in connection with which services are provided, exceeds eight hundred and twenty-five dollars;

(*c*) in respect of a furnished letting, exceeds nine hundred dollars; or

(*d*) in respect of a furnished letting in connection with which services are provided, exceeds nine hundred and seventy-five dollars.

(8) In subsection (7)—

"furnished letting" means a house rented with furniture consisting of a stove, a refrigerator, a bed and living and dining room furniture;

"services" includes any utility for which the landlord pays the supplier of that utility.

Limitation on tax exemption. [3 of 1962 13 of 1969 7 of 1975 14 of 1976 46 of 1977 203/1979 19 of 1980 25 of 1981].

43. (1) The exemptions provided under section 42(2)(*b*) and (*c*) apply in respect of a house the cost of construction of which, exclusive of the cost and value of the land, in the opinion of the Minister, having regard to normal building costs prevailing at the time of its construction, would not exceed—

(*a*) twenty thousand dollars, where construction

commenced after 31st December 1957, but not later than 31st December 1967;

(*b*) twenty-five thousand dollars, where construction commenced after 31st December 1967, but not later than 31st December 1972;

(*c*) thirty thousand dollars, where construction commenced after 31st December 1972, but not later than 31st December 1973;

(*d*) forty thousand dollars, where construction commenced after 31st December 1973, but not later than 31st December 1975;

(*e*) eighty thousand dollars where construction commenced after 31st December 1976 but not later than 31st December 1977;

(*f*) eighty thousand dollars where construction commenced after 31st December 1976 but not later than 31st December 1979;

(*g*) two hundred and fifty thousand dollars where construction commenced after 31st December 1979.

(2) The exemption provided under section 42(2)(*b*) is operative for a period of ten years beginning with the date of the completion of the newly constructed house.

(3) The exemption provided under section 42(2)(*b*) ceases to apply in respect of a house where, in the opinion of the Minister, the cost of repairs, alterations or improvements made to the house when added to the cost of construction as determined under subsection (1) exceeds—

(*a*) twenty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1957, but not later than 31st, December 1967;

(*b*) twenty-five thousand dollars, where the repairs alterations or improvements were made after 31st December 1967, but not later than 31st December 1972;

(*c*) thirty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1972, but not later than 31st December 1973;

(*d*) forty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1973, but not later than 31st December 1975;

(*e*) sixty thousand dollars where the repairs, alterations or improvements were made after 31st December 1975, but not later than 31st December 1976;

(*f*) eighty thousand dollars where the repairs, alterations and improvements were made after 31st December 1976 but not later than 31st December 1979; or

(*g*) two hundred and fifty thousand dollars where the repairs, alterations or improvements were made after 31st December 1979.

(4) Subsection (3) does not apply where the Minister has, before the repairs, alterations or improvements are made, authorised the making thereof.

(5) The Minister of Finance may from time to time by Order amend—

(*a*) section 42(5) and subsection (1), by specifying the cost of construction of newly constructed houses in respect of which exemptions under section 42(2) would apply and the date after which construction of the house should commence; and

(*b*) subsection (3), by specifying the cost of construction of a house built after a specified date, and of repairs, alterations or improvements made thereto, in respect of which exemption under section 42(2) would cease to apply.

Builder excluded from tax exemptions. [3 of 1962 29 of 1966].

44. (1) Nothing in section 42 creates any exemption from liability to income tax in respect of income derived from the exercise of the trade or profession of a builder; and if a question arises under that section as to whether any amount ought properly to be regarded as profit derived from a transaction of sale or as being wholly or in part attributable to the exercise of the trade or profession of a builder, the question shall be determined by the Board.

(2) A person aggrieved by a determination under subsection (1) may appeal in the manner herein provided.

(3) In this section "builder" means a person who builds houses for sale or for rent.

Application of section 10. [3 of 1962 29 of 1966 25 of 1981]. Ch. 75:02.

45. Section 10 has effect in relation to houses, referred to in section 42, as if section 42 and paragraph 1 of the Fifth Schedule of the Corporation Tax Act had not been enacted.

Board require certificate of exemption. [3 of 1962 29 of 1966].

46. In assessing the chargeable income of a person under this Act, the Board may, as a condition precedent to applying any of the provisions of sections 42 to 45 to the assessment of income, require that person to produce a certificate in the prescribed form from the Minister to the effect that in the opinion of the Minister the provisions of sections 42 to 45 inclusive, may properly be so applied.

Temporary Residents

Temporary residents. [26 of 1955 16 of 1963].

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

Rate of Tax

Rates as per Third Schedule. [16 of 1963 29 of 1966 42 of 1966].

48. There shall be levied and paid on the chargeable income of every person tax at the rates set forth in Part I of the Third Schedule.

Tax on Distributions and Other Payments

Meaning of distribution. [34 of 1956 29 of 1966 30 of 1974].

49. (1) In relation to any company "distribution" means—

(*a*) any dividend paid by the company including a capital dividend;

(*b*) any other distribution of the assets of the company (whether in cash or otherwise) in respect of shares of the company, except so much as represents the repayment of share capital, or is equal in amount or value to any new consideration given on the distribution;

(*c*) any redeemable share capital or security issued by the company in respect of shares in the company, to the extent that such share capital or security is not issued for a new consideration;

(*d*) any interests or other distributions out of assets of the company in respect of securities of the company (except so much, if any, of any such distribution as represents the principal thereby secured), where the securities are either—

(i) securities issued as mentioned in paragraph (*c*);

(ii) subject to subsection (2), securities convertible directly or indirectly into shares of the company;

(iii) securities under which a consideration given by the company for the use of the principal secured is to any extent dependent on the result of the company's business or any part of it, under which the consideration so given represents more than a reasonable commercial return on the use of that principal; or

(iv) securities issued by the company to a non-resident company, where the former is a subsidiary of the latter or both are subsidiaries of a third company;

(*e*) any such amount as is required to be treated as a distribution by subsection (3) or (4).

(2) Subsection (1)(*d*)(ii) does not apply to securities issued by a company, not being a private company within the meaning of section

28(1) of the Companies Ordinance, by means of a prospectus where the issue of such securities had been approved by the Minister after being satisfied— Ch. 31 No. 1. (1950 Ed.).

(a) as to the period within which and the price at which such securities may be converted into shares of the company;

(b) as to the rate of interest payable on such securities;

(c) as to the total value of such securities in relation to the issued share capital of the company;

(d) as to the absence of any control by the company over the transferability of such securities;

(e) that in the issue of such securities preference was given to citizens of Trinidad and Tobago and to bodies of persons established in Trinidad and Tobago; and

(f) of such other matters as he thinks fit.

(3) Notwithstanding subsection (2) any interest paid during the period commencing on 1st January 1971, and ending on 31st December 1973, on securities referred to in that subsection, shall be deemed to be a distribution for the purposes of the dividend income allowance provided by section 56.

(4) In subsection (1)*(d)*(iv), a body corporate shall be deemed to be a subsidiary of any other body corporate if and so long as not less than half of its share capital of all classes of stock or half of the total combined voting power in respect of all classes of stock is owned by that other body corporate, whether directly or through any other body corporate, or other bodies corporate, or partly through any other body corporate or other bodies corporate.

(5) Where on a transfer of assets or liabilities by a company to its members or to a company by its members the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the difference.

(6) Where, after 1st January 1966, a company—

(a) repays any share capital, or has done so at any time after the commencement of the accounting period for the year of income 1966; and

(b) at or after the time of that repayment (but not before the year of income 1966) issues as paid up otherwise than by the receipt of a new consideration any share capital, not being redeemable share capital,

the amount so paid up shall be treated as a distribution made in respect of

the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of the share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as a distribution.

(7) Where—

(a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after the commencement of the accounting period for the year of income 1966; and

(b) any amount so paid up does not fall to be treated as a distribution,

then, for the purposes of subsections (1) to (6), distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

(8) In subsection (7), "relevant distributions" means so much of any distribution made in respect of shares representing the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.

(9) For the purposes of subsections (7) and (8), all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

(10) In this section "whole-time service director" has the same meaning as in the Third Schedule of the Corporation Tax Act. Ch. 75:02.

(11) In this section, "new consideration" means consideration not provided directly or indirectly out of assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution, so however that where share capital has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up the share capital shall be treated as new consideration also for that share capital.

(12) A distribution shall be treated under this section as made, or consideration as provided, out of assets of a company if the cost falls on the company.

(13) The following kinds of expenditure when paid by a close company to a participator shall be treated as distributions:

(a) interest or other consideration paid or given by the company to a participator who is also a director (other than a whole-time service director) or an associate of such participator for the use of money advanced by any person, or to a person who is an associate of such director for the use of money so advanced;

(b) any annuity or other annual payment other than interest;

(c) any rent, royalty or other consideration paid for the use of property other than money.

(14) For the purposes of subsection (13)*(c)* in the case of tangible property or copyrights, the excess only over what the Board may consider to be reasonable consideration therefor shall be treated as a distribution.

Rates of withholding tax. [16 of 1963 29 of 1966 42 of 1966 66 of 1975]. Third Schedule

50. (1) There shall be levied and paid income tax, in this Act referred to as withholding tax, at the rate set out in Part II of the Third Schedule—

(a) on any distribution made to any person not resident in Trinidad and Tobago and to every non-resident company;

(b) on any payment made to any person not resident in Trinidad and Tobago or to any person on behalf of such non-resident person, and to every non-resident company (where such person or company is not engaged in trade or business in Trinidad and Tobago), so however that in the case of a payment arising outside Trinidad and Tobago to such a person or company withholding tax shall not be payable.

(2) Where, after 1st January 1966, a person or company makes any payment or distribution to any such person as is mentioned in subsection (1), or to any non-resident company, the person or the company shall under this subsection, within thirty days, account for and pay withholding tax in respect of the payment or distribution aforesaid at the rate referred to in subsection (1).

(3) Where the payment or distribution is made to a person who is not resident in Trinidad and Tobago or to a non-resident company, and such person or company is resident in a country with which there is a double taxation agreement or Order under section 93, the person or company making the payment shall, nevertheless, deduct tax at the rate specified in Part II of the Third Schedule, unless the person or company making the payments satisfies the Board that a reduced rate of withholding tax applies under or by virtue of the double taxation agreement or Order under section 93.

(4) A person liable under subsection (2) to account for and pay

over withholding tax to the Board who fails to do so is guilty of an offence, and the provisions of section 99(4) shall apply accordingly.

(5) Notwithstanding the provisions of section 5, where a payment or distribution that is subject to withholding tax is made to any person not resident in Trinidad and Tobago or to any non-resident company, income tax under section 5 or corporation tax shall not be payable in respect of such payment or distribution.

(6) Where an office or a branch or agency of any non-resident company engaged in trade or business in Trinidad and Tobago remits or is deemed to remit any part of the profits of such non-resident company accruing in or derived from Trinidad and Tobago, such office or branch or agency of the non-resident company shall be liable to account for and pay over withholding tax in respect of such profits in accordance with the provisions of this section as if the remitting of such profits was a distribution.

(7) For the purpose of subsection (6) an office or a branch or agency of a non-resident company shall be deemed to have remitted all the profits thereof, except to the extent that the office or the branch or agency has reinvested to the satisfaction of the Board such profits or any part thereof in Trinidad and Tobago, other than in the replacement of fixed assets.

(8) In subsections (6) and (7) "profits" means—

(a) in relation to any company charged to tax under the Petroleum Taxes Act, profits computed by applying ordinary accounting practices in accordance with section 28(2) of that Act, after deducting however any petroleum profits tax, refinery throughput tax and any unemployment levy paid in respect of such profits, so however that any such profits shall be deemed to include any amount authorised to be deducted as submarine well allowance or submarine production allowance by the Income Tax (In Aid of Industry) Act in ascertaining the taxable profits of any company for the purposes of the petroleum profits tax, and all such amounts shall be included accordingly;

Ch. 75:04.

Ch. 85:04.

(b) in relation to any other company, the chargeable profits of that company, for each year of income, after deducting however any corporation tax and any unemployment levy paid in respect of such profits.

Meaning of "payment" 16 of 1963 29 of 1966 42 of 1966 32 of 1969].

51. In section 49 and 56—

"payment" means a payment without any deductions whatsoever, other than a distribution, not being a payment to which section 99 applies

with respect to—

(*a*) interest, discounts, annuities or other annual or periodic sums;

(*b*) rentals;

(*c*) royalties;

(*d*) management charges or charges for the provision of personal services and technical and managerial skills;

(*e*) premiums (other than premiums paid to insurance companies and contributions to pension funds and schemes), commissions, fees and licences;

(*f*) such other payment as may from time to time be prescribed.

Loans to directors of close companies [29 of 1966].

52. (1) Subject to subsection (2), where, after 1st January 1966 a close company, otherwise than in the ordinary course of its business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator, the amount of such loan or advance shall be deemed to be a distribution made in the year of income in which the loan was made, unless the loan is repaid within one year after the end of such year of income and it is established that the repayment was not made as part of a series of loans and repayments.

(2) Where in any subsequent year of income a participator or associate repays any part of a loan deemed to be a distribution made under subsection (1), relief shall be given to such participator or associate by setting off against the tax payable on his chargeable income for the year the tax attributable to the proportionate part of the loan which was included in his chargeable income for the year in which the loan was deemed to be a distribution.

Settlements in favour of participators of close companies [29 of 1966].

53. Any income which by virtue of any settlement made directly or indirectly by a close company may accrue to or may be received by a participator of the company or an

associate of a participator shall be deemed to be a distribution by the company to such participator or associate as the case may be.

Discharge of Liability for withholding tax. [29 of 1966].

54. Where a person or a company is liable under section 50 to account for withholding tax deducted or withheld in respect of any payment or distribution made by them, the person or company shall, as against any person entitled to the payment or distribution, be acquitted and discharged of so much money as is represented by the withholding tax as if that sum had actually been paid.

Certificate for deduction of tax. [29 of 1966].

55. (1) Where, after 1st January 1966 (that is, the date of the commencement of the Finance Act 1966), a person or a resident company makes any payments or distribution which is subject to withholding tax, the payer shall furnish to the recipient of the payment or distribution a statement in writing showing the gross amount of the payment, the amount of the withholding tax and the actual amount paid.

(2) The duty imposed by subsection (1) shall be enforceable at the suit or instance of the person entitled to the statement.

Dividend income allowance. [29 of 1966 5 of 1969 5 of 1970 25 of 1981 6 of 1984]. Fourth Schedule.

56. (1) Where an individual who is resident or ordinarily resident in Trinidad and Tobago receives a distribution from a resident company there shall be made to that individual a dividend income allowance calculated in the manner set out in the Fourth Schedule.

(2) Where a distribution is received by—

(*a*) an approved fund or scheme established in Trinidad and Tobago;

(*b*) a charity exempt from the payment of income tax or corporation tax on its profits;

(*c*) the Unit Trust Corporation of Trinidad and Tobago,

the provisions of subsection (1) shall apply as if the distribution had been received by an individual.

(3) The provisions of this section shall be applied so as to allow the payment by the Board to the individual, approved fund or scheme or charity of any excess of the dividend income allowance over the amount of the tax charged under the assessment.

(4) In this section and in the Fourth Schedule, "distribution" does not include a preference dividend (as defined by section 2 of the Corporation Tax Act) or a distribution made out of— Ch. 75:02.

(*a*) any profits of long-term insurance business of an assurance company that has not borne corporation tax at the higher rate as provided for in the First Schedule to the Corporation Tax Act;

(*b*) profits, in the hands of a company, not within the charge (as defined by section 2 of the Corporation Tax Act) before 1st January 1966 to income tax or after that date to corporation tax; or

(*c*) profits or gains of a company on which before 1st January 1966 no income tax was paid or after that date no corporation tax was paid.

(5) Nothing in subsection (4) shall be construed so as to prevent the application of a Dividend Income allowance in respect of a dividend paid by a resident company out of profits, though not within charge in its own hands, in respect of which income tax before 1st January, 1966 or corporation tax after that date has been paid by any other resident company.

57. (1) Notwithstanding section 56— **No set-off of tax. [16 of 1963 29 of 1966].**

(*a*) where a dividend is paid to a shareholder; and

(*b*) where a share to which a person is entitled in the income of a body of persons assessed under this Act is paid to that person,

(*b*) is able to have access, by borrowing or otherwise, to the whole or any part of the income arising under the settlement or of the assets comprised therein; or

(*c*) has power, whether immediately or in the future and whether with or without the consent of any other person, to revoke or otherwise determine the settlement and, in the event of the exercise of such power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property comprised in the settlement or to the income from the whole or any part of such property;

but a settlement shall not be deemed to be revocable by reason only that under its terms the settlor has a right to re-assume control, directly or indirectly, over any income or assets relating to the interest of any beneficiary under the settlement in the event that such beneficiary should predecease him.

When income of settlement not income of settlor. [16 of 1963 30 of 1974 14 of 1976].

70. (1) Where income under a settlement may accrue to or may be received by any person other than the settlor, then unless under the settlement the income either accrues to or is received by—

(*a*) an individual who is not in the service of the settlor, or accustomed to act as the solicitor or agent of the settlor;

(*b*) a charitable body or a non-proprietary sporting club or association or a public institution; or

(*c*) a trustee for such an individual, body, club, association or institution,

the income shall be deemed to be the income of the settlor and not the income of any other person.

(2) In this section and in section 71(2) a reference to a charitable body, non-proprietary sporting club or association or a public institution shall be construed as a reference to such a body, club, association or institution which is exempt from corporation tax under section 6 of the Corporation Tax Act. Ch. 75:02.

(3) Notwithstanding subsection (1) where income which has accrued to any person is assigned by that person

under a deed of covenant or other instrument of assignment to his or her spouse, such income shall be deemed to be the income of the assignor and not the income of the spouse.

Special provisions for certain settlements. [16 of 1963]. 29 of 1966 66 of 1975].

71. (1) Notwithstanding anything in this Act to the contrary, where a deduction is allowable in respect of the maintenance and education of a child under the provisions of section 24 any income that may accrue to or be received by the child under and by virtue of any settlement made directly or indirectly by any person shall be deemed to be the income of the disponer.

(2) Notwithstanding the provisions of section 68, income which by virtue of any settlement made for a period of not less than two years accrues to or is received by a charitable body or non-proprietary sporting club or association or a public institution shall be deemed to be the income of such body, club, association, institution or trustee, as the case may be.

Interpretation of sections 68 to 71. [16 of 1963].

72. In sections 68 to 71—

"relative" means a husband, wife, ancestor, lineal descendant, brother or sister;

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

"settlor", in relation to a settlement, includes any person by whom the settlement was made.

Commencement of sections 68 to 72. [16 of 1963].

73. Sections 68 to 72 have effect from 5th December 1962.

Limitations on certain settlements. [29 of 1966 9 of 1983].

74. (1) Notwithstanding any rule of law to the contrary, but subject to this section, where, by virtue of any disposition made on or after 17th December 1965 directly or indirectly by any person, any income may accrue to or may be received by any other person, and the income is under section 75 to be treated as the income of that other person, such portion of the income under the disposition as exceeds twenty-five per cent of the total income of the disponer shall be deemed to be the income of the disponer.

(2) Where under or by virtue of any disposition made directly or indirectly by any person before 17th December 1965 (herein referred to as the "former disposition"), any income may accrue to or be received by

any other person, the provisions of subsection (1) shall apply to such portion of the income under any disposition made after that date as exceeds the percentage, if any, of the total income of the disponer remaining after subtracting from twenty-five per cent the percentage of the total income represented by the income under the former disposition.

(3) Where under or by virtue of any disposition made directly or indirectly by any person any income may accrue to or may be received by—

(*a*) any individual or a trustee for an individual, the reference to twenty-five per cent occurring in subsections (1) and (2) shall be read as a reference to—

(i) for the year of income 1978—twenty per cent;

(ii) for the year of income 1979—fifteen per cent;

(iii) for the year of income 1980—ten cent;

(iv) for the year of income 1982 and subsequent years of income—10 per cent.

(*b*) any charitable body or non-proprietary sporting club or association or a public institution or a trustee for such body, club, association or institution, the reference to twenty-five per cent shall be read as reduced by the amount of any percentage of the total income claimed by the disponer in accordance with paragraph (*a*).

(4) Nothing in subsection (1) shall apply so as to cause any part of the income under any such disposition to be treated as the income of any person other than the disponer, unless the disponer has accounted for and paid over to the Board any withholding tax for which he is liable under section 50.

(5) In this section—

"disposition" has the same meaning as in section 67(7) and includes a settlement as defined by section 72;

"disponer", in relation to a disposition includes any person by whom the disposition was made;

"total income" means the aggregate amount of the income of the disponer from the sources specified in section 5 before making any deductions allowed by any provision of this Act other than sections 10, 11 and 16 and the Income Tax (In Aid of Industry) Act.

Ch. 85:04.

Deductions for settlements. [29 of 1966].

75. Where under or by virtue of any disposition (as defined by section 74) made directly or indirectly by any person any income may accrue to or may be received by any other person, such income shall to the extent that it is not otherwise directed to be regarded by any provision of this Act be treated as the income of the disponee, and not as the income of any other person.

Returns: By Whom to be Made

Returns of income. [66 of 1975].

76. (1) Every person liable to furnish a return of income in respect of any year of income either personally or in a representative capacity, shall furnish a return in such form as may be approved by the Board within four months after the end of that year of income.

(2) The return shall be signed by the person liable to furnish the return of income or by an agent authorised to sign on his behalf and shall contain—

(*a*) a calculation of the tax payable in respect of the chargeable income, if any, disclosed therein; and

(*b*) an address for service of notices.

(3) For the purposes of this section, "every person liable to furnish a return of income" includes—

(*a*) every person liable to pay tax under this Act;

(*b*) every partnership;

(*c*) every person who in that or any previous year of income has made a loss in respect of which he may be entitled to claim a deduction in the year of income or any subsequent year of income;

(*d*) subject to subsection (4), every person who derives any income from any source specified in section 5, irrespective of the amount of such income; and

(*e*) every person who derives any income which would be charged to tax under this Act but for the provisions of any other written law which exempts such income from the charge to tax.

(4) Notwithstanding subsection (3)—

(*a*) an individual who is resident in Trinidad and Tobago, whose sole source of income is from an office or employment and whose income from which does not exceed three thousand dollars; or

(*b*) a person not resident in Trinidad and Tobago, whose income derived from Trinidad and Tobago consists only of income to which the provisions of section 50 other than subsection (6) thereof apply, shall be relieved of the obligation of furnishing a return of income under subsection (1).

(5) Any person liable to furnish a return of income in respect of any year of income who fails, neglects or refuses to do so is guilty of an offence.

Board of Inland Revenue file number. [17 of 1985].

76A. (1) Notwithstanding any other law, any person who makes an application to or is issued any permission, licence, authority or any such other document by any—

(*a*) Government Department,

(*b*) Public Authority including a local authority,

(*c*) Public Corporation or other State Agency, or

(*d*) the Central Bank,

may be required to furnish the person processing the application or issuing the document with his Board of Inland Revenue file number (hereinafter referred to as "the B.I.R. file number").

(2) Where any person referred to in subsection (1) fails to furnish the B.I.R. file number when required to do so, the Central Bank or Public Agency referred to in subsection (1) shall not process the application or issue the document.

(3) In this Act "the Board of Inland Revenue file number" means the Board of Inland Revenue file number assigned by the Board to a taxpayer for the purpose of processing an income tax return under section 76.

Employee or officer to furnish B.I.R. file number to employer. [17 of 1985].

G.N. 177/1957.

76B. Every employee or officer from whose emoluments tax was deducted by the employer shall furnish his employer with his B.I.R. file number, and the employer shall record that number on the certificate issued by him under regulation 12 of the Income Tax (Employment) Regulations.

Exemptions. [17 of 1985].

76C. The following persons are exempted from compliance with the provisions of section 76A—

(*a*) any person of the age of sixteen years and under;

(*b*) any person specified in section 8(1)(*a*) and (*b*) of the Act but only in respect of emoluments or pension referred to in that section;

(*c*) temporary residents in Trinidad and Tobago not in receipt of income where the total period of residence in Trinidad and Tobago does not exceed six weeks;

(*d*) a person who satisfies the Board that he is not in receipt of income or is not required to furnish a return of income under section 76(4), and who is in receipt of a certificate issued by the Board to that effect in respect of a year of income.

Power of Board to require returns. [16 of 1963 29 of 1966].

77. (1) The Board 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 Trinidad and Tobago, to make returns under this Act within the time specified in such notice.

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

Additional tax on increased chargeable income.

(4) Subject to section 89(2) and (3), if at any time within the year of income or within six years after the expiration thereof, the Board makes an assessment which results in a person being charged to tax for the year of income in respect of a total chargeable income in excess of the chargeable income disclosed in the return of income rendered by such person, the Board may (unless the person assessed proves to the Board'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.

Additional tax for non-return of income

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

(6) Nothing in subsections (1) to (5) shall be construed as derogating from any other provisions of this Act.

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

Board may remit additional tax.

(8) Without prejudice to the powers conferred by section 124 the Board may for reasons which may appear to it sufficient at any time remit in whole or in part any additional tax charged under this section.

Appeal Board's discretion re additional tax.

(9) A discretion to charge additional tax vested in the Board by this section may be exercised, on appeal under section 87 by the Appeal Board; but if the Appeal Board confirms the decision of the Board to charge additional tax and finds that the additional tax imposed by the Board did not exceed the maximum additional tax which could properly be charged, the appeal as regards the additional tax shall be dismissed.

Appointment of agent in the United Kingdom. [16 of 1963 29 of 1966].

84. (1) For the purposes of facilitating the assessment of the income of persons residing in the United Kingdom, the President may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Board in respect

of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Board the amount of the chargeable income of such person in accordance with this Act, and shall forward to the Board the accounts and computations upon which his report is based. The Board, on receipt of the report, shall enter the amount reported in the assessment list.

(2) If it appears to the Board that any error has occurred in the accounts or computation it may refer the report back for further consideration.

(3) Nothing in this section shall prevent the appeal to the Appeal Board in Trinidad and Tobago conferred by section 87.

Assessment Lists

Lists of persons assessed and notices of assessments. [29 of 1966].

85. (1) After completing its assessment, the Board 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 the tax payable by him, and such other particulars as may be necessary.

Notices of Assessments

Notices to be served on persons assessed. [16 of 1963 29 of 1966 32 of 1969 1 of 1986].

86. (1) The Board shall cause to be served on each person whose name appears on the assessment list 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 subsection (2).

(2) If any person disputes the assessment he may apply to the Board by notice of objection in writing delivered to the Board 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

(3) An application under subsection (2) may be made out of time if the Board is satisfied that there was a reasonable excuse for not making the application within the time limited and that the application was made thereafter without unreasonable delay.

(4) Where the Board disallows an objection for the reason that it is not satisfied under subsection (3), an appeal shall lie to the Appeal Board from such a decision in accordance with section 87.

(5) On receipt of a notice of objection duly made, the Board shall reconsider the assessment and may vacate or vary the assessment, or confirm the assessment and disallow the objection.

(6) The Board shall serve on the objector notice of its decision under subsection (5).

(7) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Board 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; but in the event of any person who under subsection (2) has applied to the Board for a revision of the assessment made upon him failing to agree with the Board as to the amount at which he is liable to be assessed, his right of appeal to the Appeal Board under this Act against the assessment made upon him shall remain unimpaired.

(8) Where within twenty-four months after the service of the notice of objection, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

(9) Where, upon the expiration of twelve months after the service of the notice of objection the Board fails to determine the objection, the person who has disputed his assessment may, notwithstanding section 7(2) of the Tax Appeal Board Act appeal to the Appeal Board within twelve months of such expiration. Ch. 4:50.

(10) Where an objection against an assessment has been made before 27th September, 1966 (that is, the date of the passing of the Finance Act 1966), and proceedings in respect of that objection are subsequent to the date of the coming into operation of the said Act still pending before the Board, then unless such objection is determined by the Board within one year from the passing of the Act, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

29 of 1966.

(11) Upon the expiration of the time for giving notice of appeal to the Appeal Board under section 7 of the Tax Appeal Board Act, the person who has disputed his assessment shall, if no appeal is then pending, within thirty days, pay to the Board of Inland Revenue any part of the tax that was in dispute and any interest and penalties remaining unpaid as is determined by the Board.

Ch. 4:50.

Appeals Against Assessment

Right of appeal against Board decision. [16 of 1963 29 of 1966]. Ch. 4:50.

87. Any person who has disputed his assessment by notice of objection under this Act and who is dissatisfied with the decision of the Board may appeal to the Appeal Board in accordance with the provisions of the Tax Appeal Board Act.

Errors in Assessments and Notices

Liability not affected by inaccurate or incomplete assessments, absence of assessments, errors of form or description. [16 of 1963 29 of 1966].

88. (1) Liability for tax under this Act shall not be affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(2) The Board shall not be bound by a return or information supplied by or on behalf of a person chargeable to tax and in making an assessment may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable.

(3) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be squashed 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 Act or any written law 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.

(4) 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;

(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 Assessment

Assessments, additional assessments, etc. [16 of 1963 29 of 1966].

89. (1) Subject to this section, where it appears to the Board 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 Board may, within the year of income or within six years after the expiration thereof, assess such person at such amount or additional amount as according to its judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings under this Act shall apply to such assessment or additional assessment and to the tax charged thereunder.

withhold an amount in respect of taxes from emoluments payable to a taxpayer applies to the State and to the Government of Trinidad and Tobago.

(12) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the precedent partner of the partnership as defined in section 78(2)(*a*) shall be personally liable for the performance or the duties by the preceding provisions of this section required to be performed by the person making the payment or by the person deducting or withholding any amount of tax; and where a trade, business, profession or vocation is carried on by a company, the managing director and the secretary of the company shall each, in addition to the company itself, be personally liable for the performance of the said duties.

Interpretation of emoluments. [23 of 1957 18 of 1958 16 of 1963].

100. For the purposes of sections 98, 99, 125(1)(*a*) and 125(2)(*a*), the expression "emoluments" means all salary, wages, overtime, bonus, remuneration, perquisites including the value of board and lodging, stipend, commission or other amounts for services, directors' fees, retiring allowances or pension, arising or accruing in or derived from or received in Trinidad and Tobago and which are assessable to income tax, but does not include any salary or share of profits arising from a trade, business, profession or vocation carried on by any person either by himself or in partnership with any other person.

Board to prepare tax tables. [23 of 1957 29 of 1966].

101. The Board shall from time to time as occasion may require prepare tax tables, a copy whereof shall be made available to any person required by this Act or any Regulations made under section 125 thereof to deduct or withhold tax pursuant to section 99(1), for the purpose of enabling any such person to calculate, subject to and in accordance

with any Regulations made under section 125, the amount of tax to be so deducted or withheld.

Penalty for non-payment of tax; and enforcement of payment. [23 of 1957 18 of 1958 16 of 1963].

102. (1) If any tax is not paid on or before the prescribed date, a sum equal to five per cent of the amount of the tax payable shall be added thereto, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

(2) Subsection (1) applies only in respect of tax which becomes payable on or before 31st December 1957.

(3) If any tax which becomes payable on or after 1st January 1958 is not paid on or before the prescribed date, a sum shall be added thereto calculated at the rate of twelve per cent a year of the amount of such tax remaining unpaid, and if any amount of such tax is not paid within twelve months after the prescribed date, the rate of fifteen per cent a year of the amount of such tax remaining unpaid, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

(4) Subsection (3) applies only in respect of tax payable for the former years of assessment of 1958 to 1962.

Interest. [16 of 1963 5 of 1964 29 of 1966].

103. (1) Where the amount paid on account of tax payable by any person for a year of income on or before the expiration of the time allowed for filing the return of that person's income is less than the amount of tax payable for the year, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment at the rate of—

(*a*) twelve per cent a year for the part of the period preceding the thirtieth day after the day of serving of the notice of assessment or the one

hundred and twentieth day after the expiration of the time allowed for filing the return of the income, whichever is the later; and

(*b*) fifteen per cent a year for the remainder, if any, of the period,

unless the Board, on being satisfied that the difference between those two amounts did not result from the taxpayer's own default, directs a reduction in the rate of interest payable.

(2) In addition to the interest payable under subsection (1), where any person, being required by this Act to pay a part or instalment of tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, pay interest at twelve per cent a year from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection (1), whichever is earlier.

Distraint by Board. [23 of 1957 18 of 1958 16 of 1963 29 of 1966]. Sixth Schedule.

104. (1) If upon demand made by the Board a person neglects or refuses to pay any tax or any portion thereof that has become payable, the Board by warrant under its hand, in the form given in the Sixth Schedule, may authorise any person hereinafter referred to as an "authorised person" to distrain the person charged by his goods and chattels.

(2) For the purpose of levying any such distress, the authorised person may break open, in the daytime, any house or premises, calling to his assistance any constable. Every such constable shall, when so required, aid and assist the authorised person in the execution of the warrant and in levying the distress in the house or premises.

reference to subsection (2) occurring therein was a reference to subsection (1) of this section.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing—

(*a*) that admission to any premises has been refused, or that refusal is apprehended, or that an application for admission would defeat the object of the entry; and

(*b*) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1),

the Magistrate may by warrant under his hand authorise the Board by any authorised officer to enter the premises, if need be by force, except that such a warrant shall not be issued unless the Magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the giving of such notice would defeat the object of the entry. Where it is shown to the satisfaction of the Magistrate that the giving of the notice would defeat the object of the entry, the provisions of this subsection shall apply notwithstanding anything to the contrary in subsection (2).

(4) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) Any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace, discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, liable to a fine of five thousand dollars or to imprisonment for twelve months.

(7) Any person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevent or attempts to prevent any person from doing any such thing and any person who unless he is unable to do

so fails or refuses to do anything he is required by or pursuant to this section to do is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

Offence in respect of fraud. [17 of 1985].

119. (1) Any person who—

(*a*) knowingly or recklessly makes or participates in or assents to or acquiesces in the making of false or deceptive statements or representations in a return, certificate, statement, declaration or answer filed as required by or under this Act or any Regulations;

(*b*) with intent to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of any records or books of account;

(*c*) knowingly or recklessly makes or assents to or acquiesces in the making of false or deceptive entries, or omits or assents to or acquiesces in the omission to enter a material particular in any records or books of account;

(*d*) wilfully in any manner evades or attempts to evade, compliance with this Act or payment of taxes imposed by this Act;

(*e*) with intent to deceive, furnishes the Central Bank or Public Agency under section 76A(1) with a B.I.R. file number which is not his own;

(*f*) being an employee or an officer, and who, with intent to deceive, furnishes his employer under section 76B, with a B.I.R. file number which is not his own;

(*g*) being an employer, and who knowingly or recklessly records under section 76B, a B.I.R. file number of an employee or officer which is different from the number furnished by that employee or officer;

(*h*) conspires with any person to commit an offence described in paragraphs (*a*) to (*g*),

is guilty of an offence, and in addition to any penalty otherwise provided is liable on summary conviction to a fine of eight thousand dollars and to imprisonment for three years.

(2) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Act, may notwithstanding anything to the contrary in that law, be taken at any time within twelve months from the date of the commission of the offence or within six months from the date on which evidence sufficient in the opinion of the Board to justify the proceedings come to the knowledge of the Board whichever period last expires, or where the person in question was outside Trinidad and Tobago at the date last mentioned, within twelve months from the date on which he first arrives in Trinidad and Tobago thereafter.

(3) For the purposes of this section a certificate of the Board as to the date on which such evidence as aforesaid comes to the knowledge of the Board shall be conclusive evidence thereof.

Failure to perform required duty.

120. Any person who fails or neglects to perform any duty required to be performed under this Act is guilty of an offence.

Offences and penalties. [29 of 1966].

121. (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of three thousand dollars and to imprisonment for six months.

(2) Where a person is guilty of an offence under this Act, the Court may, in addition to any penalty which it may impose, make an order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such order for imprisonment in default for any period not exceeding two years as it may consider fit.

Time limit for proceeding to recover fines and penalties. [16 of 1963 5 of 1964 29 of 1966].

122. (1) Proceedings for the recovery of any fine or penalty incurred under this Act in connection with or in relation to tax may be commenced at any time within seven years next after the date on which it was incurred.

(2) The time limited by subsection (1) for commencing proceedings for the recovery of any fine or penalty from any person in connection with or in relation to any tax covered by any assessment shall, where any form of fraud or wilful default has been committed by him or on his behalf in connection with or in relation to that tax, be extended so as to authorise the commencement of such proceedings at any time within three years from the final determination of the amount of tax covered by the assessment.

(3) For the purposes of subsection (2), the amount of the tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied or revised, whether by the Board of Inland Revenue or by the Appeal Board or by the order of any Court.

(4) Nothing in subsection (2) shall extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or wilful default has been committed.

Saving for criminal proceedings.

123. The provisions of this Act shall not affect any criminal proceedings under any other written law.

President may remit tax. [26 of 1955].

124. The President may remit or refund the whole or any part of the tax payable or paid, as the case may be, by any person if he is satisfied that it would be just and equitable to do so.

125. (1) The President may make Regulations generally for carrying out the provisions of this Act and may, in particular, by those Regulations provide— Regulations. [26 of 1955 23 of 1957 16 of 1963 29 of 1966].

(*a*) for the collection, recovery and refund of tax in respect of emoluments and with respect to any matter for which by any provision of this Act, Regulations may be made under this section;

(*b*) for the payment of tax by monthly or other instalments;

(*c*) for any such matters as are authorised by this Act to be prescribed; and

(*d*) 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 Act into execution.

(2) Without prejudice to the provisions of subsection (1), Regulations made under this section may, in particular, include provision—

(*a*) for requiring any person, including the State and the Government for Trinidad and Tobago, making any payment of, or on account of, any emoluments, at the time of making the payment to make a deduction of tax calculated by reference to the tax tables prepared by the Board under section 101 and for rendering persons who are required to make any such deduction accountable to the Board;

(*b*) prescribing the allowances which may be included in a declaration for the purposes of section 98(1) and which may be admitted for the purposes of calculating the amount of tax to be deducted or withheld pursuant to section 99(1);

(*c*) for the production to and inspection by the Board or any person authorised by it of wages sheets and other documents and records for the purpose of satisfying the Board that tax has been and is being deducted and accounted for in accordance with the Regulations;

(*d*) for appeals with respect to matters arising under the Regulations which would not otherwise be the subject of appeal;

(*e*) for regulating the times when, the dates on which or the periods within which declarations may be filed under section 98;

(*f*) for the purpose of safeguarding the collection of tax.

(3) Regulations made under subsection (1) may prescribe in respect of any contravention of or failure to comply with any provision thereof a penalty on summary conviction of a fine of two thousand dollars or imprisonment for three months.

The Appeal Board.

(4) Any Regulations made under the provisions of this section shall not affect any right of appeal to the Appeal Board which a person would have apart from such Regulations.

Transitional provisions. [23 of 1957 18 of 1958 16 of 1963].

126. (1) Notwithstanding anything contained in this Act but subject to the provisions of this section, income tax on all emoluments arising or accruing in or derived from or received in Trinidad and Tobago during the year 1957 is hereby discharged.

(2) Income tax shall not be discharged as aforesaid unless the person entitled to any emoluments arising or accruing in or derived from or received in Trinidad and Tobago during the year 1957 is at some time during the year 1958 in receipt of emoluments arising or accruing in or derived from or received in Trinidad and Tobago during the year 1958 from which deductions are made in accordance with the provisions of section 99 of this Act.

(3) If any person is in receipt for part only of the year 1958 of emoluments arising or accruing in or derived from Trinidad and Tobago during that year the amount of income tax to be discharged shall be an

(5) Nothing in subsection (4) shall prevent any loss incurred during a former year of assessment that is permitted under this Act to be set off in a subsequent year from being so set off in a year of income in computing the chargeable income of such person for that year of income.

(6) Where the amount of tax to be discharged as determined by subsection (2) is less than the tax that would have been payable for what would have been the year of assessment 1963, had the Income Tax (Amendment) Act 1963 not been passed, the remainder of the tax that would have been so payable shall be deemed to be tax payable in respect of the year of income 1963.

Assessments deemed to be those of previous years. [16 of 1963 5 of 1964].

128. (1) Notwithstanding the provisions of this Act, assessments on all emoluments as defined in section 100 for the former years of assessment 1959 to 1962 inclusive shall be deemed to have been assessments for the former years of assessment 1958 to 1961 respectively, and tax paid or payable in respect to the former years of assessment 1959 to 1962 inclusive shall be deemed to have been paid or to be payable in respect of those years at the then prevailing rates.

(2) Amounts deducted in the year 1962 from emoluments, as defined in section 100 earned in that year on account of tax which would have been assessable on such emoluments in what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed, shall be deemed to have been chargeable and deductible on account of tax for the former year of assessment 1962 at the then prevailing rates and the remainder of such tax, on such emoluments if any, shall be deemed to be chargeable and payable in respect of tax for the said former year of assessment 1962 at the then prevailing rates.

(3) Nothing in subsections (1) and (2) shall be construed as permitting adjustments to be made that would not otherwise have fallen to have been made if this section had not been enacted.

Assessments already made for 1963. [16 of 1963 29 of 1966].

129. Notwithstanding that any assessment has been made upon any person before the Income Tax (Amendment) Act 1963 was passed in respect of his chargeable income for what would have been the year of assessment 1963 had that Act not been passed, the provisions of this Act shall have effect in relation to that income and the Board may refund the amount paid, if any, in respect of the tax discharged by this Act or instead of making a refund, may, where the person is liable or about to become liable to make a payment under this Act for the year of income 1963, apply any part of that amount to that other liability and refund any balance to such person and notify such person of that action.

Miscellaneous Powers of the Board

Power to obtain information as to interest paid or credited without deduction of tax. [16 of 1963 29 of 1966].

130. (1) Subject to subsections (2) and (3), every person carrying on a trade or business either on his own behalf or who, in the ordinary course of the operations thereof, receives or retains money in such circumstances that interest becomes payable thereon which is paid or credited, and, in particular, every person carrying on the trade or business of banking shall, if required to do so by notice from the Board, make and deliver to the Board, within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating in each case the amount of interest.

(2) No interest paid or credited to any person shall be required to be included in any such return if the total amount of the interest paid or credited to that person which would otherwise have fallen to be included in the return does not exceed two hundred and fifty dollars.

(3) The year specified in a notice under subsection (1) shall not be a year ending more than three years before the date of the service of the notice.

(4) Without prejudice to the generality of so much of subsection (1) as enables different notices to be served thereunder in relation to different parts of a trade or business, separate notices may be served under that subsection as respects the transactions carried on at any branch or branches respectively specified in the notices, and any such separate notice shall, if served on the manager or other person in charge of the branch or branches in question, be deemed to have been duly served on the person carrying on the trade or business; and where such a separate notice is so served as respects the transactions carried on at any branch or branches, any notice subsequently served under the said subsection (1) on the person carrying on the trade or business shall not be deemed to extend to any transaction to which the said separate notice extends.

(5) This section shall, with any necessary adaptations, apply in relation to the Post Office Savings Bank as if it were a trade or business carried on by the Postmaster General. Ch. 79:04.

(6) Subsection (5) shall have effect notwithstanding anything in section 15 of the Post Office Savings Bank Act, but save as aforesaid that section shall remain in full force and effect.

(7) This section shall apply to interest paid or credited on or at any time after 31st December 1962.

appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that subrule, and where that subrule does not apply by reason of such an election, the profits of the trade shall be computed accordingly, except that if a person making an election under this subrule is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

Transactions between Connected Persons

17. (1) This rule shall apply where a person acquires an asset and the person making the disposal is connected with him.

(2) Without prejudice to the generality of rule 4(2) the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.

(3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible from a chargeable gain accruing to him on some other disposal of an asset.

Husband and Wife

18. If, in any year of income, and in the case of a woman who in that year of income is a married woman living with her husband the man disposes of an asset to the wife, or the wife disposes of an asset to the man, both shall be treated as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor loss would accrue to the one making the disposal.

Connected Persons

19. (1) Any question whether a person is connected with another shall for the purposes of this Part be determined in accordance with the following subrules (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor.

[198/1985 3/1986 1 of 1986].

SECOND SCHEDULE

EMPLOYMENT ALLOWANCE RULES

Grant of employment allowance.

1. Where a person is engaged in any trade an employment allowance shall be granted to that person in accordance with rule 2 in respect of every additional worker other than a family worker whom he employs on or after 1st January, 1986, at a salary not exceeding four thousand dollars per month.

Amount of employment allowance.

2. (1) An employment allowance of one hundred and fifty per cent of the wages actually paid to each additional worker shall be granted to the person engaged in trade and such allowance shall be granted in respect of each additional worker for the duration of his unbroken employment not exceeding twelve consecutive months.

(2) In this rule "wages" means salary or wages paid to an employee and includes a bonus but does not include payments made for overtime work.

Number of workers to determine whether a person qualifies for an allowance.

3. For the purpose of determining whether a person qualifies for the grant of an employment allowance, regard shall be had to the number of workers employed in that trade either—

(*a*) on 1st January, or

(*b*) on the date of the commencement of such trade

in the year immediately preceding the year of income in respect of which the allowance is claimed.

Workers deemed to be additional workers on commencement of new trade.

4. Where, after 1st January, 1986, a person engages for the first time in trade, the total number of workers employed at the date of commencement of such trade shall be deemed to be additional workers for the purposes of rule 2.

Employees of existing trade not to be treated as additional workers on merger, amalgamation or takeover of such trade.

5. Notwithstanding rule 3 where, after 1st January, 1986, there is a merger or amalgamation of two or more trades or the take-over of one trade by another, a person who was an employee of any of those trades before such merger, amalgamation or take-over shall not be treated as an additional worker for the purposes of rule 2.

Claims for allowance to be made in prescribed form.

6. Every person claiming an employment allowance in any year of income shall make an application to the Board in such form as may be approved by the Board.

Interpretation.

7. In these Rules—

"additional worker" means, subject to rules 3, 4 and 5 any worker employed in a qualifying year in excess of the number of workers employed in the preceding year;

"family worker" means a person who is, in relation to an employer, the parent, uncle, aunt, brother, sister or child (including an illegitimate child) of that employer;

"worker" means a person who has entered into or works under a contract of employment with an employer including a contract of apprenticeship or indenture but does not include a family worker.

Sections 48 and 50. [16 of 1963 29 of 1966 42 of 1966 13 of 1968 1 of 1979 19 of 1980 25 of 1981].

THIRD SCHEDULE

PART I

RATES OF TAX PAYABLE ON CHARGEABLE INCOME OF A PERSON OTHER THAN A COMPANY

1. The rates of tax payable on the chargeable income of a person other than a company shall be as follows:

Chargeable Income	*Rate of Tax*
(*a*) for every dollar of the first $2,000 ...	5%
(*b*) for every dollar of the next $2,000 ...	10%
(*c*) for every dollar of the next $2,000 ...	15%
(*d*) for every dollar of the next $2,000 ...	20%
(*e*) for every dollar of the next $2,000 ...	25%
(*f*) for every dollar of the next $5,000 ...	30%
(*g*) for every dollar of the next $5,000 ...	35%
(*h*) for every dollar of the next $5,000 ...	40%
(*i*) for every dollar of the next $5,000 ...	45%
(*j*) for every dollar of the next $10,000 ...	50%
(*k*) for every dollar of the next $20,000 ...	60%
(*l*) for every dollar after the first $60,000	70%

but so however that the tax payable shall not exceed 50 per cent of the total amount of the chargeable income.

2. Notwithstanding the rates of tax set out in paragraph 1, where the chargeable income of a person (other than a company) who is resident in Trinidad and Tobago—

(*a*) does not exceed $5,000, no tax shall be charged;

(*b*) exceeds $5,000, but does not exceed $5,500, the tax payable shall be limited to 52½ per cent of the amount by which the chargeable income exceeds $5,000;

(*c*) exceeds $5,000, but does not exceed $6,000, the tax payable shall be reduced by 50 per cent;

(*d*) exceeds $6,000, but does not exceed $7,000, the tax payable shall be limited to $300 plus 34 per cent of the amount by which the chargeable income exceeds $6,000;

(*e*) exceeds $7,000, but does not exceed $8,000, the tax payable shall be reduced by 20 per cent;

(*f*) exceeds $8,000, but does not exceed $8,500, the tax payable shall be limited to $800 plus 65 per cent of the amount by which the chargeable income exceeds $8,000.

PART II

Rates of Withholding Tax

The rates of withholding tax shall be—

(i) on any distribution made—25 per cent;
but where such distribution is made to a parent company the rate shall be 15 per cent;

(ii) on any payment made to a person other than a company—20 per cent;
but where such payment is a payment of interest on any debt, mortgage or other security the rate shall be 25 per cent;

(iii) on any payment made to a company—30 per cent;
but where there is a Double Taxation Agreement in force or where an Order is made under section 96 of this Act, the rate of withholding tax shall be such lesser rate as may be therein provided.

Section 56. [29 of 1966 2 of 1982].

FOURTH SCHEDULE

DIVIDEND INCOME ALLOWANCE

1. The income of any person from any distribution made by a resident company in the year shall be taken to be 185 per cent of the distribution actually made.

2. Where such income is included in the chargeable income of such person, there shall be set off for the purposes of collection against the tax payable by such person an amount equal to 85 per cent of the distribution actually made.

FIFTH SCHEDULE

Sections 93, 95 and 96. [29 of 1966 42 of 1966].

DOUBLE TAXATION REGULATIONS

PART I

PROVISIONS AS TO RELIEF FROM INCOME TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX

Interpretation

1. (1) In this Part of these Regulations—

"Trinidad and Tobago tax" means income tax;

"foreign tax" means in relation to any country, arrangements with the Government of which have effect by virtue of section 93 of this Act any tax chargeable under the laws of that country for which credit may be allowed under the arrangements;

"foreign income tax" means any foreign tax which corresponds to income tax;

"total income" means the aggregate amount of the income of any person from the sources specified in section 5 of this Act for a year of income.

Fifth Schedule.

(2) Where arrangements having effect by virtue of the said section 93 of this Act provide for any tax chargeable under the laws of the country concerned being treated as income tax, that tax shall, notwithstanding anything contained in this regulation be treated as foreign income tax or foreign tax other than foreign income tax as the case may be.

(3) Any reference in these Regulations to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the country with the Government of which the arrangements were made.

General

2. (1) Subject to the provisions of these Regulations where, under the arrangements, credit is to be allowed against any Trinidad and Tobago tax chargeable in respect of any income, the amount of the Trinidad and Tobago taxes so chargeable shall be reduced by the amount of the credit.

(2) For the year of income 1973, the following provision shall be deemed to have had effect in place of the proviso to Part I of the Third Schedule to this Act—

Where chargeable income of a person—

(i) does not exceed $250, no tax shall be charged;

(ii) exceeds $250, but does not exceed $1,000 the tax payable shall be reduced by fifty per cent;

Fifth Schedule.

(iii) exceeds $1,000 but does not exceed $2,000, the tax payable shall be reduced by ten per cent;

(iv) exceeds $2,000 but does not exceed $4,000, the tax payable shall be reduced by five per cent;

(v) exceeds $61,450, the tax payable shall not exceed fifty per cent of the total amount of the chargeable income.

(3) Nothing contained in this regulation authorises the allowance of credit against any Trinidad and Tobago tax against which credit is not allowable under the arrangements.

Requirement as to Residence

3. Credit shall not be allowed against tax for any year of income unless the person in respect of whose income the tax is chargeable is resident in Trinidad and Tobago for that year.

Limit on Total Credit

4. The credit shall not exceed the amount which would be produced by computing the amount of the income of the person in question in accordance with the provisions of this Act and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 93 of this Act) on the total income by the amount of the total income.

SUBSIDIARY LEGISLATION

INCOME TAX (REDUCTION OF WITHHOLDING TAX) ORDER

100/1970.

made under section 96(1)

Citation.

1. This Order may be cited as the Income Tax (Reduction of Withholding Tax) Order.

Reduction in rate of withholding tax on dividends.

2. Subject to clause 3, the rate of withholding tax to be levied on any dividend paid or on any other distribution that is a dividend made to any person to whom this Order applies, is hereby reduced to nil.

Order not to apply to certain dividends. Ch. 75:02.

3. Clause 2 shall not apply to any preference dividend as defined by section 2 of the Corporation Tax Act, and any dividend paid out of—

(*a*) profits in the hands of a company, not within the charge to corporation tax; or

(*b*) profits or gains of a company on which no corporation tax was paid.

Persons to whom Order applies.

4. This Order applies to the following persons, being persons who own shares or stock in their own right in the company paying the dividend or making the distribution:

(*a*) an individual who is not resident in Trinidad and Tobago but who is ordinarily resident in any of the territories specified in the Schedule; and

Schedule.

(*b*) a company resident in any of the territories specified in the Schedule, not less than three-quarters of whose ordinary share capital is owned by individuals referred to in subclause (*a*) above,

if, but only if, the Board is satisfied that income tax or corporation tax is chargeable and leviable upon such dividend or other distribution in the hands of such persons at the rates applicable to persons carrying on a trade or business in the territory in which such persons are resident.

SCHEDULE

Antigua	Jamaica
Barbados	Montserrat
Dominica	Saint Kitts, Nevis and Anguilla
Grenada	Saint Lucia
Guyana	Saint Vincent

[Subsidiary] *Income Tax (Exit Clearance) Regulations*

132/1971.
[4/1985
17 of 1985].

INCOME TAX (EXIT CLEARANCE) REGULATIONS

made under section 125

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation.
2. Interpretation.
3. Exit Certificate.
4. Issue of Exit Certificate.
5. Travel Agent to require certificates.
6. General exemption.
7. Certificate valid for more than thirty days.
8. Revocation of certificates.
9. Special provision for ex-cases.
10. Appeal.
11. Offence and penalty.

SCHEDULE.

Citation.

1. These Regulations may be cited as the Income Tax (Exit Clearance) Regulations.

Interpretation.

2. In these Regulations—

"Board" includes a Commissioner thereof;

"Customs Officer" has the meaning assigned thereto by section 2 of the Customs Act;

Ch. 78:01.

"Immigration Officer" has the meaning assigned thereto by section 2 of the Immigration Act;

Ch. 18:01.

Form "A". Schedule.

"Exit Certificate" means a certificate in the form set out as Form "A" in the Schedule issued by or on behalf of the Board.

Exit Certificate.

3. (1) Subject to these Regulations, a person may not leave or attempt to leave Trinidad and Tobago without obtaining an Exit Certificate that is in force for the purpose.

(2) A person, not exempted under regulation 6, when about to leave Trinidad and Tobago shall present to an Immigration Officer, Customs Officer, or other officer authorised by the Board, and subject to regulation 8, surrender to such officer an Exit Certificate that is in force for the purpose.

(3) A person who applies for an Exit Certificate shall pay a fee of ten dollars in respect of the application.

Issue of Exit Certificate.

4. (1) The Board may issue or cause to be issued an Exit Certificate where the Board is satisfied that the person to whom the same is to be issued—

(*a*) does not owe any income tax on his own behalf or on behalf of any other person; or

(*b*) has made satisfactory arrangement with the Board for the payment of any income tax payable by him on his own behalf or on behalf of any other person.

(2) An Exit Certificate shall be valid for such period as may be determined by the Board but not exceeding twelve months.

Travel Agent to require certificates.

5. Subject to these Regulations, a person who carries on the business of arranging, making, booking or reserving exit passages for passengers intending to leave Trinidad and Tobago, may not—

(*a*) accept or cause to be accepted as a passenger; or

(*b*) arrange or cause to be arranged any transportation for any person intending to be a passenger,

unless there is in force an Exit Certificate for the purpose.

General exemption.

6. (1) The following persons shall be exempt from complying with the provisions of regulation 3:

(*a*) any person of the age of sixteen years or under;

(*b*) the President and his spouse;

(*c*) the Prime Minister and his spouse;

(*d*) any Minister of Government or any member of the Legislature, Judiciary or Statutory Authority, or any public officer, when travelling on Government business;

(*e*) any person being a member of the military, naval or air forces of the Commonwealth or of any foreign State;

(*f*) any person whose official emoluments are exempt from tax under section 8(1)(*b*) of the Act by virtue of the provisions of the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act;

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(*g*) subject to subregulation (2), any person who was temporarily resident in Trinidad and Tobago and did not carry on any trade or business or render personal services for gain or profit therein. For the purposes of this paragraph a person shall be deemed to be temporarily resident if the total period of residence in Trinidad and Tobago in any year does not exceed six weeks.

(2) An Immigration Officer, Customs Officer or officer authorised by the Board shall require the production of an Exit Certificate by a person referred to in subregulation (1)(*g*), if he has information from a public officer that income tax is payable by such person and the provisions of regulation 3 shall thereupon apply to such person.

Certificate valid for more than thirty days.

7. Where an Exit Certificate is issued by the Board and such Certificate is valid for a period in excess of thirty days from the date of its issue, the Immigration Officer, Customs Officer or officer authorised by the Board as the case may be, shall after inspection of the Certificate at the time of the person's departure from Trinidad and Tobago, permit such person to retain the certificate in his possession until the expiration of the period of its validity.

Revocation of certificates.

8. (1) The Board may, in its discretion, at any time after an Exit Certificate is issued, revoke such Certificate.

(2) The Board shall serve notice of any revocation upon the person to whom the Certificate was issued at his last known place of business or private address and upon the service of such notice the Certificate shall become invalid.

(3) The Board shall immediately inform the Chief Immigration Officer and the Comptroller of Customs and Excise of such revocation.

Special provision for ex-cases.

9. (1) Notwithstanding anything to the contrary in these Regulations, where an Immigration Officer, Customs Officer or any officer authorised by the Board (in this

regulation called an "authorised officer"), being at the port of departure is satisfied on evidence produced and on application made to him by any person, that exceptional circumstances exist in which it is impracticable for such person before leaving Trinidad and Tobago to apply to the Board for an Exit Certificate, then the authorised officer shall permit the person to leave Trinidad and Tobago without complying with the provisions of these Regulations, if such person or any person on his behalf enters into a bond in the form set out as Form "C" in the Schedule with such surety or sureties, if any, as the authorised officer shall require, in such sum as he shall determine, for the payment by such person of any income tax due and owing by him.

Form C. Schedule.

(2) The authorised officer shall immediately thereafter forward to the Board the relevant evidence together with the bond.

(3) A person aggrieved by the refusal of the authorised officer to permit such person to leave Trinidad and Tobago may appeal to the Board.

10. A person aggrieved by the refusal of the Board to grant to him an Exit Certificate may appeal to the Appeal Board and the decision of the Appeal Board shall be final.

Appeal.

11. A person who contravenes or fails to comply with any of these Regulations is liable on summary conviction to a fine of one thousand dollars or to imprisonment for three months.

Offence and penalty.

SCHEDULE

FORM A

THE INCOME TAX REGULATIONS

EXIT CERTIFICATE

(to be presented to Shipping or Air Transport Lines and to be presented or surrendered on demand to an Immigration Officer, Customs Officer or other authorised Officer at the place of departure).

THIS CERTIFICATE IS ISSUED TO .....

.....

(*Full name and occupation*)

of .....

(*Address*)

being the holder of ..... Passport No. .....

This certificate is valid for .....

from the .....day of .....19.....

.....

Board

FORM B

THE INCOME TAX REGULATIONS

BOND

TRINIDAD AND TOBAGO

KNOW ALL MEN BY THESE PRESENTS THAT I .....

of .....

and I (We) .....

of .....

and ..... of .....
in the Country of Trinidad and Tobago (hereinafter referred to as the Surety or Sureties) are held and firmly bound unto the Board for the time being of the said Country in the sum of ..... dollars to be paid to the said Board, for which payment to be well and truly made we bind ourselves and each one of us, our and each of our heirs, executors and administrators jointly and severally by these presents.

Dated this .....day of ....., 19.....

WHEREAS ..... is desirous of leaving the Country.

AND WHEREAS the said Surety or Sureties desire to enable the said .....
to leave the Country.
NOW THEREFORE the conditions of the above-written bond are as follows:

(*a*) if the said ..... returns to the Country within

..... of the date of this Bond; or

(*b*) pays or makes arrangements for the payment of the income tax due and owing by him on the day of his/her departure from the Country then the above-written bond shall be void, but otherwise the same shall remain in full force and virtue.

Signed .....

of .....

Signed .....
(Surety)

of .....

Signed .....
(Surety)

of .....

Before me .....
Immigration, Customs or Authorised Officer

Made this ..... day of ....., 19.....