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TRINIDAD AND TOBAGO

No. 26—1955

[L.S.]

I ASSENT,

M. H. DORMAN  
*Acting Governor.*

17th June, 1955.

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

[23rd June, 1955.]

Commencement

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

Enactment

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance, 1955, and shall be read as one with the Income Tax Ordinance, as amended, hereinafter referred to as the Principal Ordinance.

Short title  
Ch. 33. No. 1  
Laws  
(1951-1953),  
Vol. 1.  
p. 412.  
Ord. 20—1954  
Ord. 30—1954

Section 2 of  
Principal  
Ordinance  
amended

2. Section 2 of the Principal Ordinance is hereby amended as follows—

(a) by inserting, immediately after the definition of the expression “company”, the following—

““earned income” means, in relation to any individual, any income arising in respect of—

(a) any gains or profits immediately derived by the individual from any trade, business, profession or vocation carried on or exercised by the individual either as an individual or in the case of a partnership as a partner personally acting therein; or

(b) any gains or profits from any employment, including any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in paragraph (c) of subsection (1) of section 16 of this Ordinance and the estimated annual value of any quarters or board, residence or of any other allowance granted in respect of employment whether in money or otherwise, but not including the payment for any passage from or to the Colony for the purpose of leave granted in respect of the employment where such passage is actually utilised; or

(c) any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person, whether the individual or husband or parent of the individual shall

have contributed to such pension, superannuation or other allowance or not;" and

(b) by inserting, immediately after the definition of the expression "tax", the following—

"“trade” includes every trade, manufacture, adventure or concern in the nature of trade;”.

3. Section 5 of the Principal Ordinance is hereby amended as follows— Section 5 of  
Principal  
Ordinance  
amended

(a) by deleting the words and commas “manufacture, adventure or concern in the nature of a trade,” wherever they occur in paragraph (a) thereof; and

(b) by substituting for paragraph (b) thereof the following—

“(b) gains or profits from any employment, including any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in paragraph (c) of subsection (1) of section 16 of this Ordinance and the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise; but not including the payment for any passage from or to the Colony for the purpose of leave granted in respect of the employment where such passage is actually utilised;”; and

(c) by substituting, for the proviso thereto, the following—

“Provided that in the case of income arising outside of the Colony—

(a) which is earned income, or

(b) which arises to a person who is not ordinarily resident or not domiciled in the Colony,

the tax shall be payable on the amount received in the Colony:

Provided further that the gains or profits from any employment exercised

in the Colony shall be deemed to be income arising within the Colony whether the gains or profits from such employment are received in the Colony or not."

Section 8 of  
Principal  
Ordinance  
amended

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

(a) by substituting a semi-colon for the colon at the end of paragraph (m) thereof and by inserting immediately thereafter the following paragraph as paragraph (n) thereof—

"(n) the income of any sporting body of persons derived from public or private subscriptions or donations, whether by deed of covenant or otherwise, or derived from charges for admission to witness sporting events, or from the provision of refreshments to patrons who witness sporting events;"

(b) by re-numbering the same, as so amended, as subsection (1) of section 8; and

(c) by adding thereto the following new subsection to be numbered (2)—

"(2) For the purposes of paragraph (n) of subsection (1) of this section—

"sporting body of persons" means a body of persons established for the purpose of promoting or advancing sporting events, being a body of persons to a share in the income of which no member or person other than another sporting body of persons is entitled, and being a body of persons whose income is applied wholly to the promotion or advancement of sporting events or to the provision of facilities or amenities for competitors in, or the members of the public who attend, sporting events:

"Provided that a body of persons shall not cease to be a sporting body of persons by reason only of the fact that a portion of its income is donated to any charitable or educational institution of a public character;" and

"sporting events" means athletics, badminton, basket ball, billiards, amateur

boxing, amateur wrestling, cricket, cycling, flying, model aeroplane flying, football, golf, hockey, netball, polo, swimming, tennis, weight lifting, yachting, or such other activities as may be prescribed."

5. Subsection (1) of section 10 of the Principal Ordinance is hereby amended by substituting, for paragraphs (h) to (k) inclusive, the following—

Section 10 of  
Principal  
Ordinance  
amended

“(h) 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 13 of the Fire Brigades Ordinance, on property used in acquiring the income upon which the tax is payable;

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(i) 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 paragraph (c) of subsection (1) of section 16 of this Ordinance;

(j) such other deductions as may be authorised by resolution of the Legislative Council;

(k) 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 paragraph (c) of subsection (1) of section 16 of this Ordinance, one-tenth of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made:

Provided that the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme.”

6. Section 15 of the Principal Ordinance is hereby amended as follows—

Section 15 of  
Principal  
Ordinance  
amended

(a) in subsection (4) thereof by inserting immediately after paragraph (b) the following paragraph :—

“(bb) no deduction shall be allowed under this subsection where the claimant has claimed and been allowed in respect of the female

relative a deduction under the provisions of subsection (5) of this section; and"; and

(b) in subsection (5) thereof—

- (i) by substituting, for the words and symbol "or mother (not being a widowed mother)" occurring in the fifth and sixth lines, the words and symbol "or mother (not being an unmarried or widowed mother) or his or his wife's aunt or grandmother"; and
- (ii) by substituting, for the words "wife's widowed mother", occurring in the ninth line, the words "wife's unmarried or widowed mother".

Section 16 of  
Principal  
Ordinance  
amended

7. Section 16 of the Principal Ordinance is hereby amended as follows—

"(a) by inserting, after subsection (3) thereof, the following subsection—

"(4) Where the insurance or contract referred to in subsection (1) of this section was made after the 15th day of April, 1955, the deduction allowed by the said subsection shall, subject to the provisions of the said subsection, be limited to seven per centum of the capital sum payable on the insurance policy or contract 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;

Provided that where 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—

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

(b) 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 centum of the capital sum payable on the insurance policy or contract shall not apply:

Provided further that if—

(a) 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;

- (b) 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 Commissioner at such amount or additional amount as according to the judgment of the Commissioner ought to be charged, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder.”; and

- (b) by substituting, for subsection (2) thereof, the following—

“(2) 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 paragraph (c) of subsection (1) of this section shall be deemed to be a contribution to such fund or scheme by the employee.”; and

- (c) in subsection (3), by inserting the following definitions in their appropriate alphabetical order—

“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;

“pension age” means the specified age at which the payment of a pension or annuity under a contract is due to commence.”

New section  
18A added to  
Principal  
Ordinance

**8.** After section 18 of the Principal Ordinance the following section shall be inserted:—

“Deduction  
in respect  
of wife’s  
earned income

18A. (1) In ascertaining the chargeable income of any individual, in which is included any earned income of his wife, there shall be allowed a deduction equal to the amount of such earned income but not exceeding in any case two hundred and forty dollars.

(2) A deduction shall not be allowed under subsection (1) of this section unless the individual proves to the satisfaction of the Commissioner that his wife has devoted substantially the whole of her time to the conduct of the trade, business, profession or vocation or to the performance of the duties of the employment from which such income is derived.

(3) For the purposes of this section any earned income of an individual’s wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office given otherwise than in respect of her past services in any office or employment of profit shall be deemed not to be earned income of his wife.”

Section 21 of  
Principal  
Ordinance  
amended

**9.** Section 21 of the Principal Ordinance is hereby amended by substituting the word “outside” for the word “out” occurring in the second line.

Section 34 of  
Principal  
Ordinance  
amended  
Laws  
(1951-1953)  
Vol. 1, p. 412

**10.** Subsection (7) of section 34 of the Principal Ordinance as enacted by the Income Tax (Amendment) Ordinance, 1951-1953, is hereby amended by inserting the word and comma “settlement,” between the word “any” and the word “trust”.

Section 35 of  
Principal  
Ordinance  
amended

**11.** Section 35 of the Principal Ordinance is hereby amended as follows—

(a) by substituting for the words “controlled by not more than five persons” occurring in the third line of subsection (1) thereof, the words “to which this section applies”; and

(b) by inserting, after subsection (2) thereof, the following subsections—

“(3) This section shall apply to any company which is under the control of not more than five persons and which is not a subsidiary company or a company in which the public are substantially interested.

(4) For the purposes of this section a company shall be deemed to be under the control of not more than five persons—

- (a) if any five or fewer persons together exercise, or are able to exercise, or are entitled to acquire control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the foregoing words, if any five or fewer persons together possess, or are entitled to acquire, the greater part of the share capital or voting power of the company; or
- (b) if any five or fewer persons together possess, or are entitled to acquire, either the greater part of the issued share capital of the company, or such part of that capital as would, if the whole of the income of the company were in fact distributed to the members, entitle them to receive the greater part of the amount so distributed; or
- (c) if, on the assumption that the company is a company to which this section applies, more than half of the income of the company (including any income which has been apportioned to it, or could on that assumption be apportioned to it, for the purposes of this section) could be apportioned for those purposes among not more than five persons.

(5) (a) In determining for the purposes of this section whether a company is or is not under the control of not more than five persons, persons who are relatives of one another, persons who are nominees of any other person together with that other person, persons in partnership, and persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, shall respectively be treated as a single person.

(b) For the purposes of this subsection—

(i) “relative” means a husband, wife, ancestor, lineal descendant, brother or sister;

(ii) a person shall be deemed to be a nominee of another person if, whether directly or indirectly, he possesses on behalf of that other person, or may be required to exercise, on the direction of or on behalf of that other person, any right or power which, by virtue of any of the provisions of this Ordinance, is material in determining whether a company is or is not to be deemed to be under the control of not more than five persons.

(6) For the purposes of this section a company shall be deemed to be a subsidiary company if, by reason of the beneficial ownership of shares therein, the control of the company is in the hands of a company not being a company to which the provisions of this section apply, or of two or more companies none of which is a company to which those provisions apply.

(7) For the purposes of this section, a company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per centum of the voting power have been allocated unconditionally by, and are, at the end of the year or other period mentioned in subsection (1) of this section for which the accounts of the company have been made up, beneficially held by, the public (not including a company to which this section applies) and any shares have in the course of such year or other period been the subject of dealings.

(8) For the purposes of this section—

- (a) “company” means any company incorporated or registered under any law in force in the Colony; and
- (b) “member” includes any person having a share or interest in the capital or profits of the company.”

12. Section 74 of the Principal Ordinance is hereby amended— Section 74 of  
Principal  
Ordinance  
amended

- (a) by inserting the words “or refund” immediately after the word “remit” occurring in the first line thereof; and
- (b) by inserting the words and commas “or paid, as the case may be,” immediately after the word “payable” occurring in the second line thereof.

13. The following subsection is hereby substituted for subsection (2) of section 75 of the Principal Ordinance:— Section 75 of  
Principal  
Ordinance  
amended

“(2) Regulations made under subsection (1) of this section may prescribe in respect of any contravention thereof or failure to comply therewith a penalty not exceeding four hundred and eighty dollars on summary conviction.”

14. The Schedule to the Principal Ordinance is hereby amended by substituting, for the first eight lines of paragraph (1), the following— Schedule to  
Principal  
Ordinance  
amended

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

For every dollar of the first 1,000 dollars	...	6 cents
For every dollar of the next 1,000 dollars	...	8 cents
For every dollar of the next 1,000 dollars	...	12 cents
For every dollar of the next 1,000 dollars	...	18 cents
For every dollar of the next 1,000 dollars	...	25 cents
For every dollar of the next 1,000 dollars	...	28 cents
For every dollar of the next 1,000 dollars	...	30 cents
For every dollar of the next 3,000 dollars	...	35 cents.”

Application  
of certain  
provisions of  
Ordinance

**15.** The provisions of sections 2(a), 4, 6(b), 8 and 14 of this Ordinance shall apply for the purpose of ascertaining the chargeable income of any person for the year immediately preceding the year of assessment commencing on the 1st day of January, 1955, and for each year subsequent to the year 1954.

Passed in Council this sixth day of May, in the year of Our Lord one thousand nine hundred and fifty-five.

G. E. L. LAFOREST  
*Clerk of the Council*