



A. by Ord. 18-1958

TRINIDAD AND TOBAGO

No. 23—1957

[L.S.]

I ASSENT,

E. B. BEETHAM

Governor.

10th December, 1957

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

[1st January, 1958.]

Commence-
ment.

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

1. (1) This Ordinance may be cited as the Income Tax Short title and
(Amendment) Ordinance, 1957, and shall be read as one with
the Income Tax Ordinance, hereinafter referred to as the commencement
Principal Ordinance. Ch. 33. No. 1.

(2) This Ordinance shall come into operation on the
1st day of January, 1958:

* Provided that any regulations made under section 75 of the Principal Ordinance for any of the purposes of sections 53A, 53B or 53D of the said Ordinance before this Ordinance comes into operation shall come into force on such day after this Ordinance has been assented to as may be specified in such regulations..

Section 6 of Principal Ordinance amended.

2. Section 6 of the Principal Ordinance is hereby amended by deleting the word "Tax" in the first line and substituting therefor the words "Subject to the provisions of this Ordinance tax".

New section 46A inserted in Principal Ordinance.

3. There is hereby inserted in the Principal Ordinance immediately after section 46 thereof the following new section to be numbered 46A:—

"Refund of excess of tax collected under section 53D.

46A. Notwithstanding any provision of section 46 of this Ordinance to the contrary, where, after assessment has been made in accordance with the provisions of this Ordinance, any amount collected as required by the provisions of section 53B of this Ordinance is found to be in excess of the amount of tax shown to be payable in an assessment, the excess shall be refunded as soon as practicable thereafter to the person from whose emoluments the tax was deducted or withheld."

New Sections added to Principal Ordinance.

4. The Principal Ordinance is hereby amended by inserting immediately after the heading "COLLECTION AND RECOVERY OF TAX" the following new sections to be numbered respectively 53A, 53B, 53C, and 53D:—

"Declaration by persons to whom emoluments are paid.

53A. (1) Subject to the provisions of this section any person whether an employee or the holder of an office to whom any payment is made at any time during the year 1958 or any year thereafter of or on account of any emoluments may, for the purpose of enabling any deductions which may be made under section 53B of this Ordinance to be calculated with reference to the allowances to which such person may be entitled under regulations made under section 75 of this Ordinance, file with the person making the payment a declaration in a form approved by the Commissioner containing such particulars as may be prescribed by regulations made under the said section 75:

✓ of 75 (1)(c)

Provided that a declaration shall not be filed by—

- (a) a person resident outside of the Colony;
- (b) such persons or classes of persons as may be specified by the Commissioner by notice published in the manner provided by regulations made under section 75 of this Ordinance;

unless the Commissioner in any particular case authorises any such person to file a declaration:

Provided further that if any person entitled by this subsection to file a declaration and wishing to file the same is, at the time or times when he is required by the said regulations to file such declaration—

- (a) in the employment of more than one person by whom any such payment is made, or
- (b) being paid emoluments by different persons in respect of the same, or more than one office,

he shall file a declaration with only such one of the persons by whom any such payment is made as he shall think fit.

(2) If any person—

- (a) files a declaration in contravention of paragraph (a) or paragraph (b) of the first proviso to subsection (1) of this section, or
- (b) files a declaration with more than one person in contravention of the second proviso to subsection (1) of this section,

he shall be guilty of an offence and liable on summary conviction therefor to a fine of two hundred dollars.

(3) For the purposes of this section ^{and of section 57B of this Ordinance}—the expression "employment" means the position of an individual in the service of some other person (including Her Majesty, or the Government of the Colony); and the expression "office" means a position, not being an employment, or place entitling the holder thereof to a fixed or ascertainable stipend or remuneration, and includes the office of a Minister of the Crown, the office of a member of the Legislative Council of the Colony, a member of a municipal or county council,

A.S. 2: Ord. 15/58

and any other office the holder of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a company director.

53B. (1) Notwithstanding any provision of this Ordinance to the contrary, on the making of any payment on or after the 1st day of January, 1958, to any employee or the holder of any office of or on account of any emoluments arising or accruing in or derived from or received in the Colony during the year 1958 or any year thereafter, tax shall, subject to and in accordance with any regulations made under section 75 of this Ordinance, be deducted or withheld by the person making the payment notwithstanding that when the payment is made no assessment has been made in respect of the emoluments or that the tax on the emoluments is for a year of assessment other than the year during which the payment is made;

Provided that if any question arises whether any emoluments are or are not emoluments in respect of which tax shall be deducted or withheld pursuant to the provisions of this section, or whether any allowances claimed in a declaration made pursuant to section 53A of this Ordinance should be admitted, such question shall be determined by the Commissioner subject to any provisions as to appeal against such determination as may be provided by the regulations made under section 75 of this Ordinance, and to the provisions of this Ordinance relating to appeals.

(2) The tax deducted or withheld as required by the provisions of subsection (1) of this section shall, subject to and in accordance with any regulations made under section 75 of this Ordinance, be paid to the Commissioner by the person deducting or withholding the same at such time or times and by such date or dates as may be prescribed by such regulations, and on the payment thereof the Commissioner shall send to such person a receipt which shall to the extent of the amount referred to therein be a good and sufficient discharge of the liability of such person for any amount deducted or withheld as required by the provisions of this section.

(3) Subject to the provisions of subsection (10) of this section, where an amount has been deducted or withheld under subsection (1) of this section from the emoluments of any person, it shall, for the purposes of this Ordinance, be deemed to have been received by such person at the time of the deduction or withholding thereof.

(4) If any person shall fail—

(a) to deduct or withhold any amount required to be deducted ^{or withheld} by him by subsection (1) of this section, or *A. S. 3(e): 18/58*

(b) to remit or pay to the Commissioner any amount which he is required by subsection (2) of this section to pay to the Commissioner by such date or dates as may be prescribed by regulations made under section 75 of this Ordinance,

~~such person shall be liable to a penalty of ten per centum of the amount or ten dollars whichever is the greater in addition to the amount itself together with interest on the amount at the rate of ten per centum per annum, and in addition he shall be guilty of an offence and shall be liable on summary conviction therefor to a fine of four hundred and eighty dollars.~~

*Subs. 5.3(b):
Ord. 18/1958*

(5) All amounts deducted or withheld by any person pursuant to the provisions of subsection (1) of this section shall be deemed to be held in trust by such person for Her Majesty Her heirs and successors for the use of the Colony and shall not be subject to attachment in respect of any debt or liability of the said person and in the event of any liquidation, assignment, or bankruptcy the said amounts shall form no part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Commissioner before any distribution of the property is made.

(6) Every person who shall have deducted or withheld any tax pursuant to the provisions of subsection (1) of this section, shall deliver personally or send by post within such time or times as may be prescribed by regulations made under section 75 of this Ordinance to the person from whose emoluments the tax was deducted or withheld or to such other

person as may be prescribed by the said regulations such certificate of account relating to the amount of tax deducted by him as may be prescribed by the said regulations.

(7) If any person shall fail to comply with the provisions of subsection (6) of this section or shall fail to deliver or send to the Commissioner within such time or times as may be prescribed by regulations made under section 75 of this Ordinance any return, account or certificate or any copy thereof which he may be required by the said regulations to deliver or send to the Commissioner for the purpose of rendering him accountable to the Commissioner for any tax deducted or withheld by him pursuant to the provisions of this section, he shall be guilty of an offence and liable on summary conviction therefor to a fine of ten dollars for every day during which such failure shall continue :

Provided that it shall be a good and sufficient defence to any complaint brought under this subsection that any such failure was not due to the wilful neglect or default of the defendant or of any person acting on his behalf.

(8) No action shall lie against any person for deducting or withholding any sum of money in compliance or intended compliance with the provisions of subsection (1) of this section.

(9) Where by this Ordinance any obligation is imposed on any person to deduct or withhold any tax pursuant to the provisions of subsection (1) of this section any agreement made by any such person not to withhold or deduct such tax shall be void and of no force or effect whatsoever.

(10) Every person from whose emoluments any amount shall be deducted or withheld pursuant to the provisions of subsection (1) of this section shall upon the amount being so deducted or withheld be deemed to have paid the same and shall thereupon cease to be liable for tax to the extent of the amount so deducted.

(11) The provisions of this Ordinance requiring a person to deduct or withhold an amount in respect of taxes from emoluments payable to a taxpayer shall

apply to Her Majesty in relation to the Colony and to the Government of the Colony.

(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 paragraph (a) of subsection (2) of section 38 of this Ordinance shall be personally liable for the performance of 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.

and of subsection (a) of section 38

53C. For the purposes of sections 53A and 53B, ~~and paragraph (a) of subsection (1) of section 75 of this Ordinance~~, 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 the Colony and which are assessable to income tax, but shall 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.

Definition of emoluments A.S. 4-15/58

53D. The Commissioner 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 Ordinance or any regulations made under section 75 thereof to deduct or withhold tax pursuant to the provisions of subsection (1) of section 53B of this Ordinance, for the purpose of enabling any such person to calculate subject to and in accordance with any regulations made under the said section 75 the amount of any tax to be so deducted or withheld."

Commissioner to prepare tax tables.

5. Section 54 of the Principal Ordinance is hereby amended—
(a) by inserting immediately after the word "date" in the third line of subsection (1) thereof the following

Section 54 of Principal Ordinance amended.

words, namely, "or dates, and a different date or dates may be prescribed for different classes of persons";

(b) by inserting immediately after subsection (1) thereof the following new subsection to be numbered (1A):—

"(1A) Nothing contained in subsection (2) or subsection (3) of this section shall apply or be construed as applying to any provisions as to appeal referred to in the proviso to subsection (1) of section 53B of this Ordinance which may be contained in any regulations made under section 75 of this Ordinance."

6. Section 55 of the Principal Ordinance is hereby amended—

(a) by re-numbering the same as subsection (1) of section 55, and

(b) by adding thereto the following new subsections to be numbered (2), (3) and (4):—

"(2) The provisions of subsection (1) of this section shall apply only in respect of tax which becomes payable on or before the 31st day of December, 1957.

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

(4) The provisions of subsections (1), (2) and (3) of this section shall not apply in respect of any tax deducted or withheld pursuant to the provisions of subsection (1) of section 53B of this Ordinance and not paid to the Commissioner."

7. Section 56 of the Principal Ordinance is hereby amended—

(a) by renumbering the same as subsection (1) of section 56;

Section 55
of Principal
Ordinance
amended.

2.5.58 - 1958

Section 56
of Principal
Ordinance
amended

- (b) by deleting the full stop after the word "payment" occurring in the fifth line thereof and adding the words and full stop "or in any other manner provided by this Ordinance."; and
- (c) by adding at the end thereof the following new subsection to be numbered (2):—

R. S. 6 (a) : 18
1958

"(2) For the purposes of this section any amount deducted or withheld pursuant to the provisions of subsection (1) of section 53B of this Ordinance and not paid to the Commissioner by the person deducting or withholding the amount by such date or dates as may be prescribed by regulations made under section 75 of this Ordinance, and any penalty and interest added thereto by virtue of the provisions of subsection (4) of the said section 53B and not remitted, shall be deemed to be unpaid tax due from such person and may be recovered in the manner provided by subsection (1) of this section."

8. The Principal Ordinance is hereby amended by inserting immediately after section 64 thereof the following new sections to be numbered 64A and 64B:—

New sections
64A and 64B
inserted in
the Principal
Ordinance.

Certificates. 64A. (1) Where any amount payable to the Commissioner under section 53B or under any other provision of this Ordinance has not been paid within thirty days after payment thereof became due, the Commissioner may make out a certificate in such form as may be prescribed stating the amount payable and the name, the trade or profession and the usual or last known place of abode of the person by whom such amount is payable.

Judgments.

(2) On production thereof to the Registrar of the Supreme Court, a certificate made under this section shall be registered by him in the said Court and when so registered shall have the same force and effect, and all proceedings may be taken thereon, as if the said certificate were a judgment for the Crown obtained in the said Court for a debt of the amount specified in the certificate together with any interest required to be paid by this Ordinance to the day of payment.

Ch. 3. No. 1.

(3) Rules of Court may be made under section 46 of the Judicature Ordinance providing for the procedure to be followed upon the registration of such certificates.

(4) All reasonable costs and charges attendant upon the registration of the certificate shall be recoverable in like manner as if they had been included in such certificate.

Garnishments.

64B. (1) When the Commissioner has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Ordinance, he may, by registered letter or by a letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to him on account of the liability of the second-mentioned person under this Ordinance.

(2) The receipt of the Commissioner for moneys paid as required under this section shall to the extent of the payment be a good and sufficient discharge of the original liability—

- (a) of the person who pays such moneys to the Commissioner to the person liable to make a payment of tax under this Ordinance;
- (b) of the person liable to make a payment of tax under this Ordinance to the Commissioner.

(3) Where the Commissioner, under this section, has required an employer to pay to him on account of an employee's liability under this Ordinance moneys otherwise payable by the employer to the employee as remuneration, the requirement shall be applicable to all future payments by the employer to the employee in respect of remuneration until the liability of the employee under this Ordinance is satisfied and shall operate to require payments to the Commissioner out of each payment of remuneration due to the employee of such amount as may be stipulated by the Commissioner in the registered or other letter.

(4) Every person who has discharged any liability to a person liable to make a payment of tax under this Ordinance without complying with a requirement under this section shall be liable to pay to the Commissioner as a debt due to the Crown an amount equal to the liability discharged or the amount which he was required under this section to pay to the Commissioner, whichever is the less.

Service of notices.

(5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) of this section may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) of this section may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership."

9. Section 69 of the Principal Ordinance is hereby amended by substituting a semi-colon for the comma occurring at the end of paragraph (b) and by inserting immediately thereafter the following new paragraph to be numbered (c):—

Section 69 of Principal Ordinance amended.

"(c) makes or furnishes a declaration which may be filed under section 53A of this Ordinance knowing or having reasonable cause to believe the same to be false."

10. Section 75 of the Principal Ordinance is hereby amended— (a) by substituting for paragraph (a) of subsection (1) thereof the following new paragraph:—

Section 75 of Principal Ordinance amended.

"(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 Ordinance regulations may be made under this section;"

cf. section 53A
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(b) by inserting immediately after subsection (1) thereof the following new subsection to be numbered (1A):—

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

- From previous section was amended by P. A. G. 1957.*
- (a) for requiring any person, including Her Majesty in respect of the Colony and the Government of the Colony, 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 Commissioner under section 53D of this Ordinance and for rendering persons who are required to make any such deduction accountable to the Commissioner;
 - (b) prescribing the allowances which may be included in a declaration for the purposes of subsection (1) of section 53A of this Ordinance, and which may be admitted for the purposes of calculating the amount of tax to be deducted or withheld pursuant to subsection (1) of section 53B of this Ordinance;
 - (c) for the production to and inspection by the Commissioner or any person authorised by him of wages sheets and other documents and records for the purpose of satisfying the Commissioner 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 53A of this Ordinance;
 - (f) for regulating the manner in which amounts of excess of tax are refunded under section 46A of this Ordinance.”;

Ordinance No. 26 of 1955

(c) by repealing subsection (2) thereof as enacted by section 13 of the Income Tax (Amendment) Ordinance, 1955, and replacing the same by the following subsection:—

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

(d) by inserting immediately after subsection (2) thereof the following new subsection to be numbered (3):—

“(3) Any regulations made under the provisions of this section shall not affect any right of appeal to a Judge in Chambers which a person would have apart from such regulations.”

11. The Principal Ordinance is hereby amended by adding immediately after section 75 thereof the following new section to be numbered 76:—

New section 76 inserted in Principal Ordinance.

Transitional provisions

76. (1) Notwithstanding anything contained in this Ordinance, but subject to the provisions of this section, income tax on all emoluments arising or accruing in or derived from or received in the Colony 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 the Colony 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 the Colony during the year 1958 from which deductions are made in accordance with the provisions of section 53B of this Ordinance.

~~(3) Where any person in the same employment or holding the same office during the years 1956 and 1957 received during the year 1957 any emoluments in respect of that employment or office assessable to income tax under the provisions of this Ordinance in the year 1958 and such emoluments are in excess of the emoluments received by him in respect of that employment or office during the year 1956 by reason of—~~

~~(a) an additional amount being granted on or after the 1st day of January, 1957, or~~

(2) Inserted s. 70(a): Ord. 18/1958

Subs (3) + (4)

R + R. by s. 70(b)

Ord. 18-1958

- (b) a change in the conditions of service attaching to that employment or office being effected on or after the 1st day of January, 1957,

income tax on the amount of the excess shall not be discharged:

Provided that this subsection shall not apply to any increase of emoluments arising from—

- (a) promotion in the ordinary course of events, or the ordinary application of an incremental scale of emoluments; or
 (b) overtime paid at ordinary rates.

(4) For the purposes of subsection (3) of this section the income tax on the amount of the excess which shall not be discharged shall be an amount that bears to the difference between the income tax on the emoluments received in the year 1957 assessable to income tax pursuant to the provisions of this Ordinance in the year 1958 and the income tax on the emoluments received in the year 1956 assessable to income tax pursuant to the provisions of this Ordinance in the year 1957 the same proportion that the amount of the excess of emoluments in respect of which income tax is not discharged as provided for in the said subsection (3) bears to the difference between the emoluments received in the year 1957 and the emoluments received in the year 1956.

(5) For the purpose of determining the amount of income tax on any emoluments ^{where} ~~in respect of which the income tax to be discharged~~ form a part only of the total income assessed to income tax pursuant to the provisions of this Ordinance, the amount of income tax on such emoluments shall be an amount that bears to the full amount of income tax so assessed the same proportion that the emoluments bear to the total income.

(6) For the purposes of this section the expressions "employment", "office" and "emoluments" shall have the respective meanings assigned to those expressions by subsection (3) of section 53A or section 53C of this Ordinance.

Passed in Council this twenty-ninth day of November in the year of Our Lord one thousand nine hundred and fifty-seven.

G. E. L. LAFOREST

Clerk of the Council