



TRINIDAD AND TOBAGO
Act No. 16 of 1963

[L.S.]

AN ACT to amend the Income Tax Ordinance to make better provision for the charge, assessment and collection of income tax, for the establishment of an Appeal Board and for other matters respecting income tax and incidental thereto.

[Assented to 25th June, 1963]

BE IT ENACTED by The Queen's Most Excellent Majesty, Enactment by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

1. This Act may be cited as the Income Tax (Amend- Short title ment) Act, 1963, and shall be read as one with the Income Tax Ordinance hereinafter referred to as "the Ordinance". Ch. 33. No. 1

Construction
of Act

2. (1) This Act has effect for the year of income 1963 and subsequent years of income, except as may be otherwise expressly provided in this Act.

(2) For the purpose of ascertaining the chargeable income of any person and the tax thereon for any former year of assessment before the year of income 1963, the provisions of the Ordinance that are replaced or amended by this Act shall continue to operate as if those provisions had not been replaced or amended by this Act and no amendment contained in this Act shall render invalid any claim made or any assessment, objection or appeal made or pending or affect any liability with respect to tax arising before the commencement of this Act, except as otherwise expressly provided by this Act.

Section 2 of
Ordinance
amended

3. Section 2 of the Ordinance is amended—

(a) by inserting, in alphabetical order the following definitions :

“Appeal Board” or “Board” means the Appeal Board established under section 43;

“former year of assessment” means the period of twelve months commencing on the 1st January in each year that before the commencement of the Income Tax (Amendment) Act, 1963, was the year for which tax was charged, levied and collected upon the chargeable income of any person for the year immediately preceding that year.

(b) by deleting from the definition of “earned income” the words “means in relation to any individual any income arising in respect of—” occurring in lines 1 and 2 thereof and substituting therefor the words “means any income of an individual arising in respect of—”;

(c) by repealing the definition of “person” and substituting therefor the following definition :

“person” includes a corporation sole and a body of persons;

- (d) by deleting the definition of "year of assessment" and substituting therefor the following definition :

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

4. The Ordinance is amended by substituting the words "Trinidad and Tobago" for the word "Colony" wherever the word "Colony" occurs in the Ordinance. "Trinidad and Tobago" replaces "Colony"

5. (1) Section 5 of the Ordinance is amended—

Section 5
of Ordinance
amended

- (a) by re-numbering the section as 5(1);
- (b) by inserting in paragraph (b) of subsection (1) immediately after the word "employment" occurring in lines 1 and 8 thereof the words "or office";
- (c) by adding after the word "Ordinance" occurring at the end of paragraph (c) thereof the words "or under section 90 of the Port-of-Spain Corporation Ordinance or under section 95 of the San Fernando Corporation Ordinance or under section 95 of the Arima Corporation Ordinance"; Ch. 39. No. 1
Ch. 39. No. 7
Ch. 39. No. 11
- (d) by inserting after paragraph (g) thereof the following paragraph—
- “(h) gains or profits or amounts deemed to be income of that person under this Ordinance.”;
- (e) by adding thereto the following subsection—
- “(2) Where a person has ceased to hold any employment and any pension or annual payment is paid to him, or to 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."

(2) The amendments to paragraphs (b) and (c) of subsection (1) of section 5 of the Ordinance shall be deemed always to have been in operation from the commencement of the Ordinance and anything done under the said paragraphs (b) and (c) which would have been lawful if this section had been in operation shall be deemed to have been lawfully done.

Section 6 of Ordinance repealed and replaced

6. Section 6 of the Ordinance is repealed and replaced as follows:

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

Repeal and replacement of section 7 of Ordinance

7. Section 7 of the Ordinance is repealed and replaced as follows:

Chargeable income of certain persons "7. (1) The chargeable income of any person for a year of income so far as such chargeable income arises 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 12 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 Commissioner, 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 12-month period as the Commissioner in his 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 chargeable income 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 Ordinance, or in the case of any new trade, business, profession or vocation, such date as may be agreed by the Commissioner."

8. (1) Subsection (1) of section 8 of the Ordinance is amended by deleting the words, "section 16 (1) (b)", and by substituting therefor the following—

Section 8 of
Ordinance
amended

"paragraph (c) of subsection (1) of section 16".

(2) The amendment made by subsection (1) has effect for the former years of assessment 1953 to 1962 and subsequent years of income.

Section 10 of
Ordinance
amended

9. Subsection (1) of section 10 of the Ordinance is amended—

(a) by adding at the end of paragraph (f) thereof the following proviso:

“Provided further that the provisions of this paragraph shall apply only with respect to any such annuities or other annual payments payable either as a charge as aforesaid by virtue of any such deed or will or otherwise or as a reservation thereout, or as a personal debt or obligation by virtue of any such contract, existing prior to the 4th December, 1962.”;

(b) by adding after paragraph (k) thereof the following new paragraphs:

“(l) amounts contributed by an employer or employee to a trust under an approved pension fund plan to the extent provided by section 16A to 16E;

(m) premiums paid by an annuitant under an approved deferred annuity plan to the extent provided by section 16A to 16E.”

Section 11 of
Ordinance
amended

10. Section 11 of the Ordinance is repealed and replaced as follows:

Allowance
for wear
and tear

“11. (1) In ascertaining the chargeable income of any person engaged in a trade, business, profession, or vocation for a year of income, there shall be allowed as a deduction 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 arising out of the use or employment of such plant or machinery in the trade, business, profession, or vocation during that year.

(2) Where deductions have been allowed under subsection (1) to any person in ascertaining his chargeable income and that person ceases to have any interest in the 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, the provisions of section 4 and section 17, as the case may be, of the Income Tax (In Aid of Industry) Ordinance shall apply.” Ch. 33. No. 2

11. Subsection (1) of section 12 of the Ordinance is amended by inserting immediately after the words “of any person” occurring in line 2 thereof, the words “for a year of income”. Section 12 (1) of Ordinance amended

12. Section 14 of the Ordinance is repealed and replaced as follows: Section 14 of Ordinance repealed and replaced

Deductions for individuals “14. In ascertaining the chargeable income of an individual for any year of income, there shall be allowed a deduction of one thousand dollars.”

13. Section 15 of the Ordinance is amended— Section 15 of Ordinance amended

(a) by deleting the words “the sum of twelve hundred dollars” occurring in paragraph (c) of subsection (3) thereof and substituting therefor the words “the sum of nine hundred and sixty dollars”;

(b) by inserting immediately after subsection (3) thereof the following subsection:

“(3a) Notwithstanding paragraph (c), of subsection (3) the deduction allowed under that paragraph in respect of any child who was receiving such full time instruction as a student before the 1st of January, 1963, shall be the sum actually paid for his board and lodging and education in any year of income but so that the deduction does not exceed the sum of twelve hundred dollars.”;

(c) by inserting immediately after the words “paragraph (c) hereof” occurring in the second proviso to subsection (3), the following words “or under subsection (3a)”.

Section 16 of
Ordinance
amended

14. Section 16 of the Ordinance is amended—

- (a) by deleting all the words occurring after paragraph (c) in subsection (1) thereof and substituting therefor the following :

“there 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 16A to 16E”

- (b) by deleting the definition “approved” occurring in subsection (3) thereof and substituting therefor, the following definition :

“ ‘approved’ means approved by the Governor-General before the passing of the Income Tax (Amendment) Act, 1963;”.

Ordinance
amended

15. The Ordinance is amended by inserting immediately after section 16 thereof the following new sections 16A to 16E.

Definitions “16A. (1) In this section and in sections 10 (1) (l) and (m), and 16B to 16E—

- (a) “annuitant” means an individual referred to in paragraph (i) or (ii) of paragraph (b) 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 sections 16A to 16E 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 Governor-General for the purposes of this section that is authorised under the laws to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable 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 Commissioner for the purposes of this Ordinance as complying with the requirements of this section and the regulations;

(d) "approved pension fund plan" means a pension fund plan approved by the Commissioner for the purposes of this Ordinance 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 clause (A) of subparagraph (ii) of paragraph (b), in subparagraph (ii) of paragraph (c) of section 16D 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 subparagraph (i) of paragraph (b) to pay an annuity, or
 - (ii) as a contribution referred to in subparagraph (ii) of paragraph (b) 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 Commissioner therefor for any other reason, as or on account of
- (i) a return of the employee's contribution,
 - (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 on premiums,
or
 - (iii) a share or interest in or a bonus out of profits or gains;
- (n) "regulations" means regulations made under section 16E;

(o) "trustee" means a person in whom a trust in respect of an approved pension fund plan is vested in accordance with section 16C and includes a member of a Management Committee where the trust is vested in a trust corporation;

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(p) "trust corporation" has the meaning assigned to it by the Trustee Ordinance.

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

(a) the Governor-General shall not approve any fund or scheme under section 16 of this Ordinance;

(b) no deductions under paragraphs (i) and (k) of subsection (1) of section 10 of this Ordinance or under paragraph (c) of subsection (1) of section 16 of this Ordinance 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) An approved fund or scheme within the meaning of section 16 may at any time be converted into an approved pension fund plan if it complies with the provisions of this section and the regulations and the Commissioner approves the plan save that where such approved fund or scheme is so converted the regulations shall not apply to pension accrued at the date of approval of the plan.

(4) The Commissioner shall not approve for the purposes of this Ordinance any pension fund plan or deferred annuity plan unless, in his opinion, it complies with the following conditions:

(a) the pension fund plan or deferred annuity plan does not, subject to subsections (5) and (6)—

(i) provide for the payment of any benefit before retirement or maturity except by way of

a refund of contributions, or a refund of premiums, as the case may be, or

(ii) provide for the payment of any benefit after retirement or maturity except by way of gratuity and pension, or

(A) an annuity to the annuitant for his life, or

(B) an annuity to the annuitant for the lives, jointly, of the annuitant and spouse and to the survivor of them for his or her life,

commencing at maturity and with or without a guaranteed term, not exceeding 15 years, as the case may be;

(b) the pension fund plan or deferred annuity plan does not,

(i) subject to subsection (5), provide for the payment of any amount by way of pension or of an annuity except equal annual or periodic amounts throughout the lifetime of the employee after retirement, or the annuitant as the case may be, or in the case of a deferred annuity plan equal annual or other periodic amounts (not exceeding the corresponding annual or other periodic amounts aforementioned) throughout the period, if any, after the death of the annuitant, or which payment of the annuity is provided for by the deferred annuity plan;

- (ii) provide for the payment of any contribution after retirement, or premium after maturity, as the case may be, or
 - (iii) provide for retirement or maturity before such time as the employee or annuitant attains fifty years of age.
- (c) the pension fund plan or deferred annuity plan includes a provision stipulating that no pension or annuity payable thereunder is capable either in whole or in part of surrender, commutation or assignment; and
- (d) the pension fund plan or deferred annuity plan in all other respects complies with sections 16A to 16E and the regulations.
- (5) The Commissioner may approve for the purposes of this Ordinance any pension fund plan notwithstanding that the pension fund plan—
- (a) is a non-contributory plan; and
 - (b) contains such other terms and provisions, not inconsistent with this section, as are authorised or permitted by the regulations.
- (6) The Commissioner may approve for the purposes of this Ordinance any deferred annuity plan notwithstanding that the plan—
- (a) provides for the payment of a benefit after maturity by way of dividend;
 - (b) provides for the commutation of any annuity payable thereunder if the amount so payable, expressed in terms of a monthly rate is less than \$25.00;
 - (c) in the case of an annuity for a guaranteed term, provides for the annuity to be assignable by will, or, in the event of the death of any person to whom any such annuity is payable, to be assignable

by the heir, executors, administrators or other legal representatives of such person in the distribution of his estate, so as to give effect to any testamentary disposition, or to the rights of any person on an intestacy, or to its appropriation to a legacy or a share or interest in the estate;

- (d) is adjoined to a contract or other arrangement that is not a deferred annuity plan; or
- (e) contains such other terms and provisions, not inconsistent with this section, as are authorised or permitted by the regulations.

(7) No tax is payable under this Ordinance by a trust on the chargeable income of the trust for a period during which the trust was governed by an approved pension fund plan.

(8) All amounts received by any person in a year of income as a benefit under an approved pension fund plan or approved deferred annuity plan, otherwise than by way of a refund of contributions or refund of premiums or a lump sum equivalent to the capitalized value of 25 per cent. of the annual pension or annuity, as the case may be, shall be deemed to be the income of that person.

(9) Where an amount is payable by a trustee or trust corporation under an approved pension fund plan or by a company under an approved deferred annuity plan for a year of income by way of a refund of contributions or refund of premiums, as the case may be, there shall be deducted or withheld an amount equal to 10 per cent. of the amount so payable, and such amount shall forthwith be paid to the Commissioner, and the remainder, when received by the employee or annuitant, shall be deemed not to be income of that person for the purposes of this Ordinance.

(10) Where, at any time after a pension fund plan or deferred annuity plan has been approved by the Commissioner for the purposes of this Ordinance, the plan is revised or amended or a new pension fund plan or a new deferred annuity plan is substituted therefor, and the plan as revised or amended or the new pension fund plan or the new deferred annuity plan substituted therefor, as the case may be (hereinafter in either case in this subsection referred to as the "amended plan") does not comply with the requirements of this section for its approval by the Commissioner for the purposes of this Ordinance, the following rules apply:

- (a) the amended plan shall be deemed, for the purposes of this Ordinance, not to be an approved pension fund plan or deferred annuity plan, as the case may be;
- (b) there shall be included in computing the income of a person for a year of income all amounts received by him in the year that, by virtue of subsection (8), would have been so included—
 - (i) if the amended plan had been an approved pension fund plan or an approved deferred annuity plan, as the case may be, at the time he received those amounts, and
 - (ii) if those amounts had been received by him otherwise than by way of a refund of contributions or a refund of premiums as the case may be;
- (c) there shall be deducted or withheld from any amount paid to a person in a year of income as a benefit under the amended plan, by the person paying that amount, an amount equal to 25 per cent. thereof, and any amount so withheld or deducted shall forthwith be remitted to the Commissioner on account of the payee's tax for the year under this Ordinance;

- (d) where an amount is deducted or withheld under this subsection from any amount paid to a person as a benefit under an amended plan, it shall be deemed, for all purposes of this Ordinance, to have been received at that time by the person to whom the benefit was paid.
- (11) For the purposes of subsection (10),
- (a) a reference to an amount paid as a benefit under an amended plan shall be deemed to include any amount paid under that amended plan, otherwise than as a contribution or premium as the case may be or an amount that would, by virtue of paragraphs (f) or (k) of subsection (1), as the case may be, be regarded as contribution or premium if that amended plan were a pension fund plan or deferred annuity plan; and
- (b) an arrangement under which a right or obligation under an approved pension fund plan or an approved deferred annuity plan is released or extinguished either wholly or in part and either in exchange or substitution for any other right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the plan) or under which payment of any amount by way of loan or otherwise is made on the security of a right under an approved pension fund plan, or an approved deferred annuity plan shall be deemed to be a new plan substituted for that approved pension fund plan or approved deferred annuity plan, as the case may be.

(12) Where any amount has been paid in a year of income as a contribution or premium under a pension fund plan or a deferred annuity plan that was, at the end of that year of income, an approved pension fund plan or an approved deferred annuity plan, the amount so paid shall be deemed, for the purposes of this Ordinance, to have been paid in that year as a contribution or premium under an approved pension fund plan, or an approved deferred annuity plan, as the case may be.

Employer's
special
payments
to funds

16B. (1) Where an employer has made a special payment or payments on account of an approved pension fund plan in respect of the past services of employees

- (a) pursuant to a recommendation of a qualified actuary in whose opinion the resources of the plan require to be augmented by the amount of one or more special payments to ensure that all the obligations of the plan to employees may be discharged in full, or
- (b) to enable employees with service prior to the constitution of the approved pension fund plan to receive benefits that relate to such service,

and has made the payment so that it is irrevocably vested in or for the plan and the payment has been approved by the Commissioner then subject to subsection (2) the whole amount of the payment is deductible in computing the chargeable income of the employer for the year of income.

(2) Where the payment under subsection (1) is equal to or greater than the ordinary annual contribution of the employer to the approved pension fund plan there may be

deducted in computing the chargeable income of the employer for the year of income and for the next nine years one-tenth of the whole amount paid under subsection (1).

(3) In the case where a special contribution is made by an employee for the purposes of paragraph (b) of subsection (1) the whole of the contribution may be deducted in computing the chargeable income of the employee for the year of income.

Constitu-
tion of
pension
fund plan

16C. (1) Every approved pension fund plan under this Ordinance shall be constituted by trust irrevocably vested

- (a) in not less than three trustees where the trustees are individuals, or
- (b) in a trust corporation.

(2) Subject to subsection (3) where the trustees are individuals at least one trustee shall be a representative of the employees selected by the employees and where the trustee is a trust corporation there shall be established a Management Committee of not less than three members at least one of whom is a representative of the employees selected by the employees.

(3) No employer shall be capable of being a trustee in respect of any plan.

Rules for
deductions
in respect of
insurance,
&c.

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

- (a) has made insurance on his life or on the life of his wife or has contracted for any deferred annuity on his life or on the life of his wife, with any company or with any other body of persons as is mentioned in paragraph (a) or paragraph (b) of subsection (1) of section 16, before the 1st January, 1963, there

shall be allowed a deduction of 60 per cent. of the annual amount of the premium paid by him for such insurance or contract for such annuity, but so that such deduction does not exceed 10 per cent. of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making deductions specified in this subsection and in subsection (7) and in sections 14 and 15;

- (b) has insurance on his life or the life of his wife made after the 1st January, 1963, there shall be allowed a deduction of an amount equal to 40 per cent. of the premium paid by him for such insurance subject to a maximum amount of \$800.00;
- (c) has made a contribution under such enactments or to such approved fund or scheme as is mentioned in paragraph (c) of subsection (1) of section 16, there shall be allowed a deduction of the contribution made to an amount not exceeding one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this subsection and in subsection (7) and in sections 14 and 15.

(2) Subject to subsection (7) paragraph (c) of subsection (1) and subsection (3), where an individual is entitled to any one or more of the following deductions, namely:

- (a) to deductions either under paragraph (a) or (b) of subsection (1), or under both of those paragraphs, and deductions with respect to contributions under such enactments as are mentioned in paragraph (c) of subsection (1),
- (b) to deductions either under paragraph (a) or (b) of subsection (1) or under both of those paragraphs and deductions with respect to such an approved

fund or scheme as is mentioned in paragraph (c) of subsection (1) of section 16, or

- (c) to deductions either under paragraph (a) or (b) of subsection (1) or under both of those paragraphs and to deductions with respect to an approved pension fund plan or to an approved deferred annuity plan under subsection (7)

the aggregate of the contributions and premiums in respect of which relief is given to that individual shall not exceed an amount equal to one-third part of the chargeable income of such individual estimated in accordance with the provisions of the Ordinance before making the deductions specified in subsections (1) and (7) and in sections 14 and 15.

(3) Where an individual is entitled to deductions under paragraphs (a) and (b) of subsection (1) the aggregate of the premiums in respect of which relief is given to that individual under the said paragraphs shall not exceed an amount equal to one-sixth part of the chargeable income of such individual estimated in accordance with the provisions of this Ordinance before making the deductions specified in subsections (1) and (7) and in sections 14 and 15.

(4) Notwithstanding sections 16 to 16E an individual is not entitled to a deduction of any amount in respect of more than one of the following :

(a) a deduction either—

(i) in respect of contributions under such enactments, or

(ii) with respect to such approved fund or scheme,

as is mentioned in paragraph (c) of subsection (1) of section 16; and

(b) a deduction under subsection (7) 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) Notwithstanding paragraph (a) of subsection (1), where an individual has made insurance on his life or on the life of his wife or has contracted for any deferred annuity on his life or on the life of his wife, as is mentioned in paragraph (a) or (b) of subsection (1) of section 16 before the 1st January, 1963, there shall in ascertaining the chargeable income of such individual be allowed a deduction of the premium paid by him for such insurance or contract for such annuity, but so that such deduction does not exceed one-sixth part of the chargeable income of such individual estimated in accordance with the provision of this Ordinance before making the deductions specified in subsections (1) and (7) and in sections 14 and 15, if such person

- (a) is not a contributor under such enactments or to such approved fund or scheme as is mentioned in paragraph (c) of subsection (1) of section 16,
- (b) is not a contributor to an approved pension fund plan or to an approved deferred annuity plan to which sections 16A to 16E apply, and
- (c) is not eligible for a pension on retirement under a non-contributory plan or non-contributory pension fund or scheme.

(6) For the purposes of paragraph (c) of subsection (5), an individual shall be taken to be eligible for a pension if such individual is, but for a requirement under the terms of such plan or such fund or scheme of a period of qualifying service, so eligible.

(7) 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 an amount not exceeding one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in subsection (1) and in sections 14 and 15.

Regulations 16E. (1) The Governor-General may make regulations generally for the purpose of carrying out the provisions of sections 16A to 16D 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 Governor-General 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 the Senate and the House of Representatives."

16. (1) Subsection (1) of section 19 of the Ordinance is amended by deleting the words "in the case of an insurance company (other than a life insurance company)" and substituting therefor the words "in the case of an assurance company (other than the life assurance business of an assurance company)." Section 19 of
Ordinance
amended

(2) Subsection (2) of section 19 of the Ordinance is repealed and subsection (3) is re-numbered subsection (2).

(3) The Ordinance is amended by adding the following sections after section 19 :

Separation of different classes of business carried on by insurance companies "19A. (1) Where an assurance company carries on life assurance business in conjunction with assurance business of any other class, the life assurance business of the company shall for purposes of this Ordinance be treated as a separate business from any other class of business carried on by the company.

(2) Where an assurance company carries on ordinary life assurance business, general annuity business, industrial life assurance business and approved pension annuity business, ordinary life assurance business and general annuity business shall be treated as one business separate from the industrial life assurance business and

approved pension annuity business which shall each be treated as though it were a separate business.

Tax to be
charged on
investment
income

19B. (1) The profits and gains on which tax is to be charged under this Ordinance shall be the profits and gains of the assurance company from the investments of its life assurance funds less any expenses that are allowed under this Ordinance for the purposes of ascertaining the chargeable income in respect of the life assurance business of an assurance company.

(2) Notwithstanding subsection (1), the profits and gains on which tax is to be charged under this Ordinance may be taken to be such amount of the profits and gains that is transferred to the shareholders' accounts, where the profits and gains so transferred are in excess of the investment income.

(3) For the purposes of ascertaining the chargeable income of the life assurance business of an assurance company there shall be allowed all outgoing and expenses wholly and exclusively incurred during the year of income by such assurance company in the production of the income, including such proportion of the expenses specified in the Third Schedule as the Commissioner may, in any case, determine.

Third
Schedule

(4) Deductions shall not be allowed for expenses directly related to premium income including medical examination of policy holders, stamp duties payable on policies and other such expenses directly related to the inclusion of a policy on the books of the company; but shall be allowed in respect of agents' commissions at the rate of twenty per cent. of the premium in the first year of the life of the policy and thereafter at the rate of two per cent. per annum

(5) The profits and gains from approved pension annuity business shall not be chargeable to tax except to the extent that such profits and gains are transferred to the shareholders' accounts.

Taxation of investment income of life assurance companies with head offices outside Trinidad and Tobago

19C. (1) Where an assurance company not having its head office in Trinidad and Tobago carries on life assurance business through any branch or agency in Trinidad and Tobago, any income of the company from the investment of its life assurance funds (excluding approved pension annuity funds, if any) wherever received, shall, to the extent provided in this section, be deemed to be the investment income of the company.

(2) Such portion only of the income from the investments of the life assurance funds shall be charged to tax as bears the same proportion to the total income from those investments as the amount of premiums received from policy holders resident in Trinidad and Tobago and from policy holders resident abroad whose proposals were made to the company at or through its office or agency in Trinidad and Tobago after the 1st January, 1963 bears to the total amount of the premiums received by the company.

(3) The Governor-General may make regulations substituting some basis other than that prescribed in this section for the purpose of ascertaining the portion of the income from investments to be charged as being income derived from business carried on in Trinidad and Tobago.

(4) Regulations made under subsection (3) shall be subject to affirmative resolution of the Senate and the House of Representatives.

Interpretation

19D. In sections 19 and 19A to 19C—

“annuity fund” means, where an annuity fund is not separate from the life assurance fund of an assurance company, such part of the life assurance fund as represents the liability of the company under its annuity contracts as stated in the return made under the Assurance Companies Ordinance.

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“approved pension annuity business” includes any annuity business undertaken for the purpose of establishing and conducting a deferred annuity or

approved fund or scheme under section 16 and an approved deferred annuity plan under section 16A to 16E.

“life assurance business” means ordinary life assurance business, general annuity business, industrial life assurance business and approved pension annuity business;

“life assurance fund” includes an annuity fund, other than a fund or scheme or plan established and conducted under approved pension annuity business.”

Section 22
of Ordinance
amended

17. Section 22 of the Ordinance is repealed and replaced as follows:

Rates as
per First
Schedule

“22. There shall be levied and paid on the chargeable income of every person tax at the rates set forth in the First Schedule.”

Ordinance
amended by
insertion of new
sections 23A and
23B

18. The Ordinance is amended by inserting immediately after section 23 the following new sections numbered 23A and 23B respectively:

Computa-
tions of
gross in-
come repre-
sented by
dividends

“23A. A dividend paid by a company shall be deemed, for all the purposes of this Ordinance, to represent income of such an amount as would, after such deduction of tax as is authorised by subsection (1) of section 23, be equal to the net amount received.

Dividends
paid with-
out deduc-
tion of tax

“23B. (1) Where any dividend from which deduction of tax is authorised by subsection (1) of section 23 is paid without deduction of tax, the amount received in respect thereof shall, for the purposes of this Ordinance, be deemed to be a net amount received in respect of a dividend from the gross amount of which such deduction as is authorised by the said subsection (1) has been made, and the provisions of section 23A shall apply accordingly.

(2) The provisions of this section shall apply where, though a deduction is made from a dividend, that deduction is less than the full amount authorised as it applies where no deduction is made.”

19. The Ordinance is amended by inserting immediately after section 24, the following new section 24A:

No set-off
of tax

“24A. (1) Notwithstanding section 24,

Ordinance
amended
by insertion
of new
section 24A

(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 Ordinance is paid to that person,

out of the income of a company or other body of persons that has been discharged of tax by section 76A, such shareholder or person is not entitled when such dividend or share is included in the chargeable income of such shareholder or person to set off for the purposes of collection against the tax charged on that chargeable income or to be refunded by the Commissioner, any tax which the company has deducted or is entitled to deduct under section 23 from such dividend and any tax applicable to the share to which such person is entitled as aforesaid.

(2) When a company has paid a dividend to any shareholder before the commencement of the Income Tax (Amendment) Act, 1963 out of income that is discharged of tax by section 76A, a refund of any amount to that shareholder in respect of tax that the company has deducted under section 23 from a dividend out of the income discharged as aforesaid shall be deemed to be a payment of a dividend, or where a company instead of making a refund pays the said amount as a dividend or part thereof in any year of income to that shareholder, then the provisions of subsection (1) shall apply accordingly.”

20. (1) Section 33 of the Ordinance is amended—

(a) by deleting the word “When” where it occurs in the first line of section 33 and by substituting therefor the words “Subject to the provisions of subsections (2) and (3) of section 45, when”; and

(b) by deleting the word “two” and by substituting therefor the word “six”.

Section 33 of
Ordinance
amended

(2) The amendments made by subsection (1) have effect for the former years of assessment 1961 and 1962 and subsequent years of income but do not render invalid any assessment, objection or appeal made or pending under the Ordinance before the commencement of this Act.

Section 34 of
Ordinance
amended

21. (1) Section 34 of the Ordinance is amended—

- (a) by inserting in subsection (1) thereof after the word “disposition” wherever it occurs therein, the words “or settlement, within the meaning of section 34E”;
- (b) by deleting all the words from “such disporor shall” occurring in line 15 of subsection (2) to the words “as if such disposition had not been made” in lines 20 and 21 thereof and substituting therefor the words “such income shall be deemed to be the income of the disporor during the period of minority of such minor and not the income of any other person”;
- (c) by adding at the end of subsection (7) thereof the following words “and ‘minor’ means a person under the age of twenty-one years.”

(2) Paragraph (a) of subsection (1) has effect from the 5th December, 1962.

22. The Ordinance is amended by inserting after section 34 thereof the following sections:

Settlements “34A. Any income which, by virtue of any settlement made directly or indirectly by any person, may accrue to or may be received by, any other person for a period which cannot exceed six years, shall be deemed for all the purposes of this Ordinance to be the income of the settlor, if living, and not to be the income of any other person.

Revocable settlements 34B. (1) All income which in any year of income accrued to or was received by any person under a revocable settlement shall be deemed to be income of the settlor for such year of income and not income of any other person.

(2) Where in any year of income the settlor, or any relative of the settlor, or any person under the direct or indirect control of the settlor or of any of his relatives, by agreement with the trustees of a settlement in any way, whether by borrowing or otherwise, makes use of any income

arising, or of any accumulated income which has arisen under such settlement to which he is not entitled thereunder, then the amount of such income or accumulated income so made use of shall be deemed to be income of such settlor for such year of income and not income of any other person.

(3) For the purposes of this section, a settlement shall be deemed to be revocable if under its terms the settlor—

- (a) has a right to re-assume control, directly or indirectly, over the whole or any part of the income arising under the settlement or of the assets comprised therein; or
- (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:

Provided that 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

34C. 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, or

- (b) a charitable body or a non-proprietary sporting club or association or a public institution,
- (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.

Income under settlement of two years

34D. Notwithstanding the provisions of sections 34 and 34A, income which—

- (a) by virtue of any settlement made after the 1st January, 1963 for a period of not less than two years, accrues to or is received by a minor who is of or above the age of eighteen years and is—

- (i) receiving full-time instruction at any university, university college, trade or technical school or similar educational establishment; and

- (ii) serving whole time under articles or indentures with a view to qualifying in a trade or profession,

shall be deemed to be the income of the minor and not the income of any other person, if the Commissioner is satisfied that the income has accrued to or been received by the minor for the purpose of his education as aforesaid;

- (b) by virtue of any settlement made for a period of not less than two years, accrues to or is received by

- (i) a charitable body or a non-proprietary sporting club or association or a public institution, or

- (ii) a trustee for such body, club, 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 34A to 34D

34E. In sections 34A to 34D—

“relative”, has the same meaning as in section 35;

“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.

Commence-
ment of
sections
34A to 34E

34F. Sections 34A to 34E other than paragraph (a) of section 34D have effect from the 5th December, 1962.

23. Subsection (1) of section 35 of the Ordinance is repealed and replaced as follows : Section 35 (1)
of Ordinance
repealed and
replaced

Power to
direct that
income of
company
is to be
deemed to
be income
of its
members

“35. (1) With a view to preventing the avoidance of the payment of tax through the withholding from distribution of the profits of a company which would otherwise be distributed, it is hereby enacted that where it appears to the Commissioner that a company to which this section applies has not distributed to its members, as dividend, profits made in any period ending after the 1st day of January, 1941, which could be distributed without detriment to the company's existing business, the Commissioner, by notice in writing to the company, may direct that, for the purpose of assessment to tax, such profits shall for the period specified in the notice be deemed to be the income of the members, and the amount thereof shall be apportioned among the members, and tax shall be assessed and charged in respect of the sum so apportioned:

Provided that in determining whether any company has or has not distributed a reasonable part of its income as aforesaid, the Commissioner shall have regard not only to the current requirements of the company's business, but also to such other requirement as may be necessary or advisable for the maintenance and development of that business.

(1a) For the purposes of ascertaining tax on the undistributed income of a company to which this section applies the undistributed profits of such company for any accounting period ending within any year of income shall be deemed to be income for such year of income.”

Section 36 of
Ordinance
amended

24. Section 36 of the Ordinance is amended—

(a) by repealing and replacing subsection (1) as follows :

Returns
of personal
income

“36. (1) Every person chargeable with tax for a year of income shall deliver to the Commissioner a return of the whole of his income from whatever source for that year of income in the prescribed form and containing the prescribed information on or before the 30th day of April in the next year and shall, if absent from Trinidad and Tobago, give the name and address of an agent residing in Trinidad and Tobago.”

(b) by inserting immediately after subsection (3) thereof the following subsection numbered “(3a)” :—

“(3a) References in subsection (2) to payment and allowances made to persons in respect of their employment and to the remuneration of persons in their employment shall be deemed to include references—

- (a) to any payments made to employed persons in respect of expenses; and
- (b) to any payments made on behalf of employed persons and not repaid; and
- (c) to any payments made to the employees in a trade or business for services rendered in connection with the trade or business, whether the services were rendered in the course of their employment or not.”;

(c) by adding immediately after subsection (5) thereof the following subsection :

“(6) In this section, “director” has the meaning assigned to it in section 82.”

Ordinance
amended

25. The Ordinance is amended by inserting immediately after section 36 thereof, the following section—

Persons to
estimate
tax

“36A. Every person required by section 36 to deliver a return of income shall in the return estimate the amount of tax payable.”

26. Subsection (1) of section 38 of the Ordinance is repealed and replaced as follows :—

Section 38 (1) of
Ordinance repealed
and replaced

Partnerships “(1) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the income of any partner from the partnership for the year of income shall be deemed to be the share to which he is entitled in the income of the partnership for that year (such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.”

27. The Ordinance is amended by inserting after section 38 thereof the following heading and sections:

“PAYMENT OF TAX

Payment of tax by instalments 38A. (1) Subject to this section, every person shall pay to the Commissioner on or before the 31st March, the 30th June, the 30th September and the 31st December respectively, in each year of income, an amount equal to one-quarter of the tax as estimated by him at the rates in the First Schedule on his estimated chargeable income for the year, and, on or before the 30th April in the next year, the remainder of the tax, as estimated by him under section 36A.

(2) For the purposes of subsection (1), the estimated chargeable income of any person for a year of income shall be taken to be the chargeable income as disclosed in his return, if any, of total income for the preceding year of income.

(3) Where the estimated chargeable income of any person for the year of income as provided for by subsection (2) is, in the opinion of such person, likely to be less than the chargeable income of the preceding year, on an application by such person for the purpose, the

Commissioner may revise the estimated chargeable income of that person and the amount of tax chargeable thereon, and the provisions of subsection (1) shall apply accordingly.

(4) The Commissioner may estimate the amount of tax payable by any person where,

(a) that person fails to make the return required by subsection (1) of section 36,

(b) no tax was payable in the immediately preceding year of income,

and upon making demand therefor in writing, of such person, subsection (1) of section 38A, shall apply accordingly, as if the Commissioner's estimate was the estimate of such person.

(5) Where an individual is in receipt of emoluments, within the meaning of section 53C, in a year of income, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in the year of income, but the instalment of tax payable under subsection (1) shall be at the highest rates, as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(6) Where amounts have been deducted or withheld under subsection (1) of section 53B from the emoluments received by an individual in a year of income, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year, are equal to or greater than three-quarters of his total income for the year, he shall, on or before the 30th April in the next year, pay to the Commissioner the remainder of his tax for the year as estimated under section 36A.

Payment of
tax for
1963

38B. (1) Notwithstanding section 38A, but subject to this section, every person shall for the year of income 1963, pay to the Commissioner on or before the 30th June, an amount equal to one-half

and on or before the 30th September and the 31st December respectively, an amount equal to one-quarter of the tax at the rates in the First Schedule on his estimated chargeable income for 1963, and on or before the 30th April in the next year the remainder of the tax, if any.

(2) For the purposes of subsection (1), the estimated chargeable income of any person for the year of income 1963 shall be taken to be the chargeable income as disclosed in his return, if any, of total income for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act, 1963, not been passed.

(3) Where an individual is in receipt of emoluments, within the meaning of section 53C, in the year of income 1963, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in that year of income, but the instalment of tax payable under subsection (1) shall be at the highest rates, as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(4) For the purposes of subsection (1), where—

- (a) any person has failed to make the return referred to in subsection (2),
- (b) no tax was payable for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act, 1963 not been passed,

the Commissioner may estimate the amount of tax payable by such person, and upon making demand therefor in writing, of such person, the provisions of subsection (1) shall apply accordingly, and tax shall be paid on such estimate.

(5) Where amounts have been deducted or withheld under subsection (1) of section 53B

from the emoluments received by an individual in the year of income 1963, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year, are equal to or greater than three-quarters of his total income for the year, he shall, on or before the 30th April, 1964, pay to the Commissioner the remainder of tax, if any.

Payment
of assessed
tax

38C. (1) Every person shall, within thirty days from the day of the service on that person of the notice of assessment, pay to the Commissioner any part of the tax stated in the notice to be payable by him, any interest and any penalties then remaining unpaid in respect of the remainder whether or not an objection to or appeal from the assessment is outstanding.

(2) Where in the opinion of the Commissioner any person is attempting to avoid payment of tax the Commissioner may direct that all taxes, penalties and interest be paid forthwith upon assessment.

Payments
on behalf
of others

38D. (1) Every person required by this Ordinance to deliver a return of the income of any other person for a year of income shall within thirty days from the date of service on such person of the notice of assessment, pay all taxes penalties and interest payable by or in respect of that person to the extent that he has or had, at any time since the year of income, in his possession or control property belonging to that person or his estate and shall thereupon be deemed to have made that payment on behalf of that person.

Certificate
before
distribution

(2) Every assignee, liquidator, administrator, executor and other like person, other than a trustee in bankruptcy, before distributing any property under his control, shall obtain a certificate from the Commissioner certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Ordinance and are chargeable against or payable out of the property.

Liability

(3) Distribution of property without a certificate required by subsection (2) shall render the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties."

28. (1) Subsections (4) and (5) of section 39 of the Ordinance are repealed and replaced as follows :

Section 39 of Ordinance amended

Additional tax on increased chargeable income

"(4) Subject to subsections (2) and (3) of section 45, if at any time within the year of income or within six years after the expiration thereof, the Commissioner 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 Commissioner may (unless the person assessed proves to the Commissioner's satisfaction that the omission or incorrectness of the return did not amount to fraud, covin, art of 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 Ordinance, the Commissioner may (unless such person proves to the Commissioner'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."

(2) Subsection (4) has effect for the former years of assessment 1961 and 1962 and for subsequent years of income but does not render invalid any assessment, objection or appeal made or pending under the Ordinance before the commencement of this Act.

29. The Ordinance is amended by inserting immediately after section 41 thereof the following section :

Section 43 of Ordinance repealed and replaced

Liability not affected

"41A. (1) Liability for tax under this Ordinance shall not be affected by an incorrect or incomplete assessment or by the fact that no assessment has been made."

(2) The Commissioner 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”.

APPEALS

30. Section 43 of the Ordinance is repealed and the following section substituted therefor :—

Establish-
ment of
Appeal
Board

“43. (1) An Appeal Board is hereby established for the purposes of hearing and determining appeals from the decisions of the Commissioner upon objections to assessments under the provisions of this Ordinance, and upon such other matters as may be prescribed by or under this Ordinance or any other enactment.

(2) The Governor-General shall appoint such number of persons as he thinks fit with experience or qualifications in law, commerce, industry or accountancy to be members of the Appeal Board.

(3) There shall be a chairman of the Appeal Board who shall be a barrister or solicitor of the Supreme Court in either case of not less than five years standing.

(4) The office of the chairman of the Board shall be a public office and is an office to which section 84 of the constitution set out in the Second Schedule to the Trinidad and Tobago (Constitution) Order in Council, 1962, applies.

(5) No defect in the qualification or appointment of any person acting as a member or as chairman of the Appeal Board shall vitiate any proceedings thereof.

(6) The Governor-General shall appoint an officer of the public service not being an officer in the department of Inland Revenue to be the clerk to the Appeal Board.

(7) The chairman, members of and the clerk of the Appeal Board shall receive such remuneration and travelling allowances as the Governor-General may determine.

Constitution
of Board

43A. The Chairman and two members of the Appeal Board shall constitute the Board for the transaction of the business of the Board.

Appeals to
Appeal
Board

43B. Any person (in this section and in sections 43C to 43G referred to as "the appellant") who has disputed his assessment by notice of objection under this Ordinance, and who is dissatisfied with the decision of the Commissioner therein, may give to the clerk to the Appeal Board written notice of his intention to appeal to the Appeal Board within twenty-eight days of the date of the service on him of the decision of the Commissioner, and shall also serve a copy of such notice of appeal upon the Commissioner.

Procedure
on hearing
of appeal

43C. (1) Upon the hearing of an appeal, the Appeal Board, after hearing the appellant and the Commissioner, and any evidence the appellant and the Commissioner, or either of them, may adduce, may affirm, reverse, or vary the decision appealed against in such manner as they may think just, and may in their discretion make such order as to the costs of the appeal, as they may think just.

(2) The decision of the Appeal Board upon any appeal before them shall be that of the majority of the members present.

(3) The appellant or the Commissioner may appear before the Appeal Board in person or by counsel or solicitor.

(4) Evidence shall be given on oath and the proceedings of the Appeal Board shall be deemed to be judicial proceedings for the purposes of the Perjury Ordinance.

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Power of
Appeal
Board to
summon
and
examine
witnesses

43D. (1) The Appeal Board may summon any person whom they think able to give evidence respecting an assessment made on another person, to appear before them to be examined, and may examine such person on oath (except the clerk, agent, servant or other person confidentially employed in the affairs of a person to be charged who shall be respectively examined in the same manner, and subject to the same restrictions, as in the case of a person to be charged who tenders himself to be examined orally).

(2) A person who after being duly summoned—

- (a) neglects or refuses to appear before the Board at the time and place appointed for that purpose; or
- (b) appears, but refuses to be sworn or to subscribe the oath; or
- (c) refuses to answer any lawful question touching the matters under consideration,

is guilty of an offence.

(3) Paragraph (b) and paragraph (c) of subsection (2) shall not apply to any clerk, agent, servant or other person as is mentioned in subsection (1).

Rules
governing
appeals

43E. On appeal to the Appeal Board the following provisions shall have effect—

- (a) fourteen clear days notice shall unless rules made hereunder otherwise provide, be given to the appellant and respondent of the date fixed for the hearing of the appeal;
- (b) the onus of proving that the assessment complained of is excessive shall be on the appellant;
- (c) if the Appeal Board is satisfied that the assessment is excessive the Appeal Board may reduce the amount of the assessment by the amount of the over-charge, and if the Appeal Board is satisfied that the assessment is insufficient the Appeal Board may increase the amount of the assessment by the amount of the under-charge. Any tax overpaid as a result of the decision of the Appeal Board shall be dealt with by repayment;
- (d) all appeals shall be heard *in camera*, unless the Appeal Board, on the application of the appellant, otherwise directs;
- (e) the decision of the Appeal Board shall be final on any question of fact, but an appeal shall lie on any question of law to the Court of Appeal;

- (f) any revision of the charge to tax as a result of an appeal to the Appeal Board shall be dealt with by increase in the assessment, repayment or discharge as may be necessary.

Settling of
appeals by
agreement

43F. (1) Subject to the provisions of this section, where a person gives notice of appeal to the clerk to the Appeal Board, against an assessment to or a decision of any kind with respect to tax, and, before the appeal is determined by the Appeal Board, the Commissioner and the appellant come to an agreement, whether in writing or otherwise, that the assessment or decision should be treated as upheld without variation, or as varied in a particular manner or as discharged or cancelled, the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, the Appeal Board had determined the appeal and had upheld the assessment or decision without variation, had varied it in that manner or had discharged or cancelled it, as the case may be.

(2) Subsection (1) shall not apply where, within twenty-one days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioner that he desires to repudiate or resile from the agreement.

(3) Where an agreement is not in writing :—

- (a) subsections (1) and (2) shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Commissioner to the appellant or by the appellant to the Commissioner; and
- (b) the references in the said subsections (1) and (2) to the time when the agreement was come to shall be construed as references to the time of the giving of the said notice of confirmation.

(4) Where—

- (a) a person who has given such a notice of appeal as is mentioned in subsection (1) notifies the Commissioner, whether orally or in writing, that he desires not to proceed with the appeal; and
- (b) twenty-one days have elapsed since the giving of the notification without the Commissioner giving to the appellant notice in writing indicating that he is unwilling that the appeal should be treated as withdrawn,

the preceding provisions of this section shall have effect as if, at the date of the appellant's notification, the appellant and the Commissioner had come to an agreement, orally or in writing, as the case may be, that the assessment or decision should be upheld without variation.

(5) The references in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal.

Statement
of case for
opinion of
Court of
Appeal

43G. (1) Immediately after the determination of an appeal by the Appeal Board, the appellant or the Commissioner, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the Appeal Board.

(2) The appellant or Commissioner, as the case may be, having declared his dissatisfaction, may, within twenty-one days after the determination, by notice in writing addressed to the clerk to the Appeal Board, require the Board to state and sign a case for the opinion of the Court of Appeal thereon.

(3) The party requiring the case shall pay to the clerk to the Appeal Board a fee of five dollars for and in respect of the same, before he is entitled to have the case stated.

(4) The case shall set forth the facts and the determination of the Appeal Board and the party requiring it shall transmit the case, when stated and signed, to the Court of Appeal within twenty-one days after receiving the same.

(5) At or before the time when he transmits the case to the Court of Appeal, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.

(6) The Court of Appeal shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Appeal Board with the opinion of the Court thereon, or may make such other order in relation to the matters as to the Court may seem fit.

(7) The Court of Appeal may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

(8) Notwithstanding that a case has been required to be stated or is pending before the Court of Appeal, tax shall be paid within thirty days of the determination of the Appeal Board in accordance with the assessment of the Appeal Board, and if the amount of the assessment is altered by the order or judgment of the Court of Appeal, then—

(a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal may allow; or

(b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

Rules of
Court

43H. The Rules Committee under the Supreme Court of Judicature Act, 1962, may subject to the provisions of this Ordinance make rules governing appeals to the Court of Appeal.”

Section 45 of
Ordinance
repealed and
replaced

31. (1) Section 45 of the Ordinance is repealed and replaced as follows :

Assess-
ments,
additional
assess-
ments, &c.

“45. (1) Subject to the provisions of this section, where it appears to the Commissioner 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 Commissioner 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 his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

(2) Where any fraud or any gross or wilful neglect has been committed by or on behalf of any person in connection with or in relation to—

- (a) any tax for the former years of assessment or for any subsequent year of income, or
- (b) any claim, deduction, relief, exemption or other matter having or that might have had a direct or indirect effect upon the amount of tax for the former years of assessment or for any subsequent year of income,

an assessment or additional assessment, as the case may be, may, for any such former year of assessment, or year of income be made at any time on that person, under section 39 or subsection (1) or, subject, to the provision of subsection (3), on the personal representative of that person under section 33 and section 39 or subsection (1).

(3) In the case of an assessment or an additional assessment made upon the personal representative of a deceased person in respect of any income of that deceased person that would but for his death have been assessed and charged

to tax on him, the time allowed pursuant to sections 33, 39 and subsection (1) for the making of the assessment or additional assessment, as the case may be, shall not extend beyond the expiration of a period of three years after the former year of assessment or the year of income in which the deceased person died.

(4) Subsections (1) and (3) have effect for the former years of assessment 1961 and 1962 and subsequent years of income but do not render invalid any assessment, objection or appeal made or pending under this Ordinance before the commencement of the Income Tax (Amendment) Act, 1963."

32. Section 46 of the Ordinance is amended— Section 46 of

(a) by deleting the word "two" in subsection (1) Ordinance

and by substituting therefor the word "six"; amended

(b) by inserting immediately after subsection (1) the following subsection (1a);

"(1a) The extension of the time within which such claim for repayment shall be made has effect for the former years of assessment 1961 and 1962, and subsequent years of income".

33. The Ordinance is amended by inserting immediately Ordinance
after section 46A thereof the following section: amended

Refunds

"46B. (1) For the purposes of sections 38A to 38D, but subject to section 46, if any person shall deliver a return of his income for a year of income within two years from the end of the year, the Commissioner

(a) may, upon serving the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax, and

(b) shall make such a refund after serving the notice of assessment if application therefor has been made in writing by that person within 12 months from the day on which the overpayment was made or the day on which the notice of assessment was served.

(2) Instead of making a refund that Application
might otherwise be made under this section, the to other
taxes

Commissioner may, where the person is liable or about to become liable to make another payment under this Ordinance, apply the amount of the overpayment to that other liability and notify such person of that action.

(3) For the purpose of this section "overpayment" means the aggregate of all amounts paid on account of tax less all amounts payable under this Ordinance or an amount so paid where no amount is so payable.

(4) Where an amount in respect of an overpayment is refunded, or applied under this section to other liability, interest at the rate of 4 per cent. per annum shall be paid or applied thereon for the period commencing with the latest of

- (a) the day when the overpayment arose,
- (b) the day on or before which the return of the income in respect of which the tax was paid was required to be filed, or
- (c) the day when the return of income was actually filed,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1.00, in which event no interest shall be paid or applied under this subsection."

Sections 49 of Ordinance repealed and replaced

34. Section 49 of the Ordinance is repealed and replaced as follows :

Period within which a claim may be made for relief from double taxation

"49. (1) A claim for relief under sections 47 and 48 shall be made within six years from the end of the former years of assessment or the year of income to which it relates.

(2) This section has effect for the former years of assessment 1961 and 1962 and subsequent years of income, but does not render invalid any claim made under the Ordinance before the commencement of the Income Tax (Amendment) Act, 1963."

Section 51 of Ordinance amended

35. (1) Section 51 of the Ordinance is amended—

- (a) by deleting the word "appear" occurring in subsection (10) thereof and substituting therefor the word "appeal";

(b) by deleting the word "two" where it occurs in subsections (10) and (11) thereof and substituting therefor the word "six".

(2) The amendments made by paragraph (b) of subsection (1) have effect for the former years of assessment 1961 and 1962 and subsequent years of income.

36. Section 53B of the Ordinance is amended by deleting the words from "notwithstanding" occurring in line 10 thereof to the words "payment is made" occurring in line 14 thereof. Section 53B
of Ordinance
amended

37. Section 54 of the Ordinance is repealed. Section 54 of
Ordinance
repealed

38. Section 55 of the Ordinance is amended by inserting immediately after subsection (3) thereof, the following subsection (3a) : Section 55
of Ordinance
amended

"(3a) The provisions of subsection (3) shall apply only in respect of tax payable for the former years of assessment of 1958 to 1962.

39. The Ordinance is amended by inserting immediately after section 55 thereof, the following section : Ordinance
amended

Interest "55A. (1) Where the amount paid on account of tax payable by any person, to whom subsection (1) of section 38A or subsection (1) of section 38B apply, for a year of income 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) 12 per cent. per annum 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) 15 per cent. per annum for the remainder, if any, of the period.

(2) In addition to the interest payable under subsection (1) where any person, being required by subsection (1) of section 38A or subsection (1) of section 38B, section 38C and section 38D 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 12 per cent. per annum 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.

Sections 56
to 61 of
Ordinance
amended

40. Sections 56 to 61 of the Ordinance are repealed and replaced as follows :

Distrain
by Commis-
sioner.

Second
schedule

“56. (1) If upon demand made by the Commissioner a person neglects or refuses to pay any tax or any portion thereof that has become payable, the Commissioner by warrant under his hand, in the form given in the Second 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.

(3) A distress levied by the authorised person shall be kept for seven days, at the costs and charges of the person neglecting or refusing to pay.

(4) If the person aforesaid does not pay the sum due, together with the costs and charges, within the said seven days, the distress shall be sold by public auction by the authorised person or any person deputed by him for payment of the

sum due and all costs and charges. The costs and charges of taking, keeping, and selling the distress shall be retained by the authorised person or any person deputed by him, and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

(5) In this section "constable" includes any member of the police force and any member of supplemental bodies of police established by the Supplemental Police Ordinance or the Special Reserve Police Ordinance.

Ch. 11. No. 2

Ch. 11. No. 3

Priority
of claim
for tax

57. (1) No goods or chattels whatever, belonging to any person at the time any tax becomes in arrear, shall be liable to be taken by virtue of any execution or other process, warrant, or authority whatever, or by virtue of any agreement or assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the person at whose suit the execution of seizure is made, or to whom the assignment was made, pays or causes to be paid to the Commissioner before the sale or removal of the goods or chattels, all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made; but where tax is claimed for more than one year, the person at whose instance the seizure has been made, may, on paying to the Commissioner the tax which is due for one whole year, proceed in his seizure in like manner as if no tax had been claimed.

(2) In case of neglect or refusal to pay the tax so claimed or the tax for one whole year, as the case may be, the authorised person shall distrain the goods and chattels notwithstanding the seizure or assignment, and shall proceed to the sale thereof, as prescribed by this Ordinance, for the purpose of obtaining payment of the whole of the tax charged and claimed, and the reasonable costs and charges attending such distress and sale, and the authorised person so doing shall be indemnified by virtue of this Ordinance.

Execution of warrants 58. (1) Warrants shall be executed by the respective persons to whom they are directed in any part of Trinidad and Tobago.

(2) Constables shall aid in the execution of this Ordinance.

Obstruction of officers 59. If any person, by himself or by any person in his employ, obstructs, molests or hinders—

(a) an authorised person or any person employed in relation to any duty of tax in the execution of his duty, or of any of the powers or authorities by law given to the authorised person or any other person; or

(b) any person acting in the aid of an authorised person or any person so employed,

he shall be guilty of an offence.

Section 63 of Ordinance repealed and replaced

41. Section 63 of the Ordinance is repealed and replaced as follows :

Persons leaving Trinidad and Tobago or defaulting "63. (1) Where the Commissioner has reason to believe that a person may leave Trinidad and Tobago, he may before the day otherwise fixed for payment, serve a notice of assessment upon such person, demanding payment of all taxes, interest and penalties for which the person is liable or would be liable if the time for payment had arrived, and the same shall be paid forthwith notwithstanding any other provision of this Ordinance.

(2) A person upon whom a demand has been made under subsection (1) may give security to the satisfaction of the Commissioner for the payment of the tax assessed.

(3) Any person who has paid the tax in accordance with the demand made by the Commissioner or who has given security for such payment under subsection (2) shall have the right of objection and appeal conferred by sections 42 and 43B and the amount paid by him shall be adjusted in accordance with the results of any objection or appeal.

(4) The provisions of this section shall not affect the powers conferred on the Commissioner by section 45."

42. Section 72 of the Ordinance is repealed and replaced as follows: Section 72 of Ordinance repealed and replaced

Time limit for proceedings to recover fines and penalties "72. (1) Proceedings for the recovery of any fine or penalty incurred under this Ordinance 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, whether by the Commissioner on appeal 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."

43. Paragraph (f) of subsection (1A) of section 75 of the Ordinance is repealed and replaced as follows: Section 75 of Ordinance amended

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

44. The Ordinance is amended by inserting immediately after section 76 the following section: Ordinance amended

Discharge of tax for 1962 "76A. (1) Notwithstanding anything contained in this Ordinance, other than the provisions of section 76, but subject to this section, income tax on all income (other than income tax on all emoluments within the meaning of section 53C),

that would have been chargeable to tax for what would have been the year of assessment, 1963, had the Income Tax (Amendment) Act, 1963 not been passed, is hereby discharged.

(2) Where the tax payable by any person for the year of income 1963 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 amount of tax to be discharged shall not exceed the amount of tax assessed and paid for the year of income 1963, if

- (a) such person was in receipt of income for part only of the year of income 1963; or
- (b) such person was in receipt of income for part or the whole of the year of income 1963, but the income
 - (i) did not include income from such of the sources from which the total income for what would have been the year of assessment 1963, had the said Act not been passed, was derived, as the Commissioner may in any case determine; or
 - (ii) was income arising, accruing in, derived from or received in Trinidad and Tobago in respect of a business, trade, profession or vocation that, in the opinion of the Commissioner, has been voluntarily curtailed or reduced by such person.

(3) For the purpose of determining the amount of income tax to be discharged where the total income of an individual includes emoluments within the meaning of section 53C, the tax to be discharged shall be an amount that bears to the full amount of income tax assessed in accordance with this Ordinance the same proportion that the income from sources other than emoluments bears to the total income without any deductions allowable under sections 14, 15 or 16D but allowing deductions under section 10 other than an allowance in respect of an annual payment under paragraph (f) of section 10.

(4) Notwithstanding the provisions of this Ordinance, no loss that may have been allowed to be set off in computing the chargeable income of any person (who carried on any trade, business, profession or vocation either solely or in partnership) for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act, 1963 not been passed, may be set off in computing the chargeable income of that person for any year of income.

(5) Nothing in subsection (4) shall prevent any loss incurred during a former year of assessment that is permitted under this Ordinance 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.

Assessments
deemed to
be those of
previous
years

76B. (1) Notwithstanding the provisions of this Ordinance assessments on all emoluments as defined in section 53C 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 53C 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 deducted on account of tax for the former year of assessment, 1962 at the rates then prevailing.

(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

76C. 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 Ordinance shall have effect in relation to that income and the Commissioner may refund the amount paid, if any, in respect of the tax discharged by this Ordinance, or instead of making a refund, may, where the person is liable or about to become liable to make a payment under this Ordinance 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."

Ordinance amended by adding new sections

45. The Ordinance is amended by adding the headings, and following sections thereto :—

"MISCELLANEOUS POWERS OF COMMISSIONER"

Power to obtain information as to interest paid or credited without deduction of tax

"77. (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 Commissioner, make and deliver to the Commissioner 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 seventy-five 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.

(6) Subsection (3) shall have effect notwithstanding anything in section 15 of the Post Office Savings Bank Ordinance, but save as Ch. 35. No. 5 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 the 31st day of December, 1962.

(8) This section shall apply only to money received or retained in Trinidad and Tobago, and if a person to whom any interest is paid or credited in respect of any money received or retained in Trinidad and Tobago by notice in writing served on the person paying or crediting the interest

(a) declares that the person who was beneficially entitled to that interest when it was paid or credited was not then ordinarily resident in Trinidad and Tobago; and

(b) requests that the interest shall not be included in any return under this section, the person paying or crediting the interest shall not be required to include that interest in any such return.

Delegation
by Com-
missioner

78. (1) The Commissioner may, in relation to any particular matters or class of matters by writing under his hand delegate to a Deputy Commissioner or other person all or any of his powers or functions under the Ordinance, except this power of delegation, so that the delegated powers or functions may be exercised by the Deputy Commissioner or other person with respect to the matters or class of matters specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Commissioner.

(3) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Commissioner of any act done in pursuance of the delegation and the decision given upon such review or alteration shall be deemed to be that of the Commissioner.

EXPENSES ALLOWANCES TO DIRECTORS AND OTHERS

Expenses
allowances,
&c.

79. (1) Subject to sections 80 to 87, any sum paid in respect of expenses by a company to any of its directors or to any person employed by it in an employment to which these sections apply

shall, be treated as a perquisite of the office or employment of that director or employee and included in the emoluments as defined in section 53C, of such director or employee; but nothing in this subsection shall prevent a claim for deduction being made under this Ordinance in respect of any money expended wholly, exclusively and necessarily in performing the duties of the office or employment.

(2) In this section, and, in relation to any director or person employed in an employment to which sections 79 to 87 apply, in so much of section 36 as requires employers in certain cases to give particulars of payments to directors and employees in respect of expenses, any reference to a sum paid in respect of expenses includes a reference to any sum put by a company at the disposal of a director or employee and paid away by him.

Benefits in kind to be taken into account

80. (1) Subject to sections 81 to 87, where a company incurs expense in or in connection with the provision, for any of its directors or for any person employed by it in an employment to which sections 79 to 87 apply, of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatsoever nature, and, apart from this section, the expense would not be chargeable to tax as income of the director or employee, section 36 shall have effect in relation to so much of the said expense as is not made good to the company by the director or employee as if the expense had been incurred by the director or employee and the amount thereof had been refunded to him by the company by means of a payment in respect of expenses.

(2) The provisions of subsection (1) shall not apply to expense incurred by the company in or in connection with the provision for a director or employee in any of its business premises, of any accommodation, supplies or services provided for

the director or employee himself and used by him solely in performing the duties of his office or employment.

(3) The provisions of subsection (1) shall not apply to expense incurred by the company in or in connection with the provisions of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purposes of enabling him properly to perform his duties, required by the terms of his employment to reside in the accommodation and either—

- (a) the accommodation is provided in accordance with a practice which commonly prevails in trades of the class in question as respects employees of the class in question; or
- (b) it is necessary, in the case of trades of the class in question, that employees of the class in question should reside on premises of the class in question:

Provided that this subsection shall not apply where the employee is a director of the company in question or of any other company over which that company has control or which has control over that company or which is under the control of a person who also has control over that company.

(4) The provisions of subsection (1) shall not apply to expense incurred by the company in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally.

(5) The provisions of subsection (1) shall not apply to expense incurred by the company in or in connection with the provision for a director or employee himself or for his spouse, children or dependants, of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement.

(6) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter.

Valuation
of benefits
in kind

81. (1) Any expense incurred by a company in the acquisition or production of an asset which remains its own property shall be left out of account for the purposes of section 80.

(2) Where the making of any such provision as is mentioned in subsection (1) of section 80 takes the form of a transfer of the property in any asset of the company, and, since the acquisition or production thereof by the company, the asset has been used or has depreciated, the company shall be deemed to have incurred in the making of the said provision expense equal to the value of the asset at the time of the transfer.

(3) Where a company is assessable in respect of any premises the whole or any part of which is made available by it as living or other accommodation for any of its directors or employees, and either the company pays no rent in respect of the premises or the annual amount of the rent paid by it is less than the annual value of the premises as reduced for the purposes of collection, the provisions of section 79 shall have effect as if the company paid in respect of the premises an annual rent equal to the amount of the assessment.

(4) Where an asset which continues to belong to the company is used wholly or partly in the making of any such provision as is mentioned in subsection (1) of section 80, and the asset is not premises in respect of which the company is assessable under this Ordinance, the company shall be deemed for the purposes of section 80 to incur in addition to any other expense incurred by it in connection with the asset, not being expense to which subsection (1) applies, annual expense in connection therewith of an amount equal to the annual value of the use

of the asset; but where any sum by way of rent or hire is payable by the company in respect of the asset—

- (a) if the annual amount of the rent or hire is equal to or greater than the annual value of the use of the asset, this subsection shall not apply; and
- (b) if the annual amount of the rent or hire is less than the annual value of the use of the asset, the rent or hire shall be left out of account for the purposes of section 80.

(5) Any reference in this section to a company which is assessable under this Ordinance in respect of any premises shall be deemed to include a reference to a company which would be so assessable if a state of affairs which subsists during any part of the year had subsisted for the whole of the year.

Meaning of
"director",
"employ-
ment" and
"employ"

82. (1) In this section and in sections 79 to 87 "director" means—

- (a) in relation to a company the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a company the affairs whereof are managed by a single director or similar person, that director or person;
- (c) in relation to a company the affairs whereof are managed by the members themselves, a member of the company,

and includes any person in accordance with whose directions or instructions the directors of a company, defined in accordance with the preceding provisions of this subsection, are accustomed to act; but a person shall not, within the meaning of this subsection, be deemed to be a person in accordance with whose directions or instructions the directors of a company are accustomed to act by reason only that the said directors act on advice given by him in a professional capacity.

(2) In this section "employment" means an employment such that any emoluments thereof would fall to be assessed under this Ordinance, and references to persons employed by, or employees of, a company include any person who takes part in the management of the affairs of the company and is not a director thereof.

(3) Subject to the provisions of this subsection and subsections (4) and (5), the employments to which sections 79 to 87 apply are employments the emoluments of which, calculated on the basis that they are employments to which those sections apply, and without any deduction being made in respect of money expended in performing the duties thereof, are at the rate of nine thousand six hundred dollars a year or more :

Provided that—

- (a) where a person is employed in several employments by the same company, and the total of the emoluments of those employments, calculated as aforesaid, is at the rate of nine thousand six hundred dollars a year or more, all those employments shall be treated as employments to which sections 79 to 87 apply; and
- (b) where a person is director of a company, all employments in which he is employed by the company shall be treated as employments to which the sections 79 to 87 apply.

(4) All the directors of, and persons employed by a company over which another company has control shall be treated for the purposes of the proviso to subsection (3), but not for any other purpose, as if they were directors of, or, as the case may be, as if the employment were an employment by, that other company.

(5) Notwithstanding anything in the preceding provisions of this section, no employment of a person by a company at a school or other educational establishment carried on by that company shall be an employment to which sec-

tions 79 to 87 apply or be taken into account in determining whether any other employment is an employment to which those sections apply.

Saving for
certain pay-
ments and
expenses

83. (1) If a company furnishes to the Commissioner a statement of the cases and the circumstances in which payments of a particular nature are made or things of a particular nature are provided for any of its directors or employees and the Commissioner is satisfied that no additional tax would fall to be paid if sections 79 to 87 were to apply in relation to payments made or things provided by the company in accordance with the statement, he shall notify the company accordingly and, where such a notification is given, those sections shall not apply in relation to payments made or things provided by the company in accordance with the statement.

(2) Notwithstanding subsection (1), the Commissioner may, if in his opinion there is reason so to do, by notice in writing served on the company, revoke any such notification, either as from the date of the making of the notification or as from such later date as may be specified in the notice, and thereupon all such tax shall become chargeable, and all such returns shall be made by the company and by the directors or employees in question, as would have been chargeable or would have had to have been made in the first instance if the notification had never been given, or, as the case may be, if it had ceased to have effect on the specified date.

Additional
provisions
as to in-
formation

84. (1) Where, for the purposes of a return under section 36, a company apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters, the return shall contain a statement that the sum included in the return is the result of such an apportionment and the company, if required so to do by notice from the Commissioner, shall prepare and deliver to the Commissioner, within the time limited by the notice which shall be not less than fourteen days from the receipt of such notice, a return containing

full particulars as to the amount apportioned and the manner in which and the grounds on which the apportionment has been made.

(2) The provisions of this Ordinance relating to returns under section 36 shall apply in relation to any return required under subsection (1).

Charities
and non-
trading
bodies

85. Sections 79 to 87 shall not apply in relation to any company established for charitable purposes only, or to any other company unless it carries on a trade or its functions consist wholly or mainly in the holding of investments or other property, or, except in relation to persons employed by it in an employment to which those sections apply wholly or mainly for the purposes of a trade carried on by it, to any municipality or County Council.

Interpre-
tation

86. (1) In sections 79 to 87 "business premises", in relation to a company, includes all premises occupied by that company for the purpose of any trade carried on by it; but where the reference is expressly to premises which include living accommodation, the said expression does not include so much of any such premises as aforesaid as is used wholly or mainly as living accommodation for any of the directors of the company or for any persons employed by the company in any employment to which those sections apply.

(2) Any reference in sections 79 to 87 to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee himself, be construed as including a reference to anything provided for the spouse, family, servants, dependants or guests of that director or employee, and the reference in subsection (1) to living accommodation for directors or employees shall be construed accordingly.

(3) In sections 79 to 87 "control" in relation to a company means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to

that or any other company or by virtue of any powers conferred by the articles of association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than half of the assets, or of more than one-half of the income, of the partnership.

Unincorporated bodies and partnerships

87. (1) Sections 79 to 86 shall apply in relation to a body of persons as they apply in relation to a company, and, in connection with the said sections, the definition of "control" in section 86 shall, with the necessary adaptations, also so apply.

(2) Subject to the provisions of subsection (3), sections 79 to 87 shall apply in relation to any partnership carrying on any trade, profession or vocation as they would apply in relation to a company carrying on a trade if so much thereof as relates to directors of the company or persons taking part in the management of the affairs of the company were omitted.

(3) In subsection (2)—

- (a) "control" has, in relation to a partnership, the meaning assigned to it by section 86 in relation to a partnership;
- (b) where such a partnership as aforesaid has control over a company to which sections 79 to 87 apply—
 - (i) any employment of any director of that company by the partnership shall be an employment to which those sections apply; and
 - (ii) all the employments of any person who is employed both by the partnership and by the company being employments by the partnership or the company,

shall, for the purpose of determining whether those employments or any of them are employments to which those sections apply, be treated as if they were employments by the company. Construction of references in Ordinance

(4) The provisions of subsections (2) and (3) shall apply in relation to individuals as they apply in relation to partnerships; but nothing in subsection (3) shall cause an individual to be treated in any circumstances as under the control of another person."

46. Wherever in the Ordinance a reference is made to—

- (a) section 43, the reference shall be construed as a reference to section 43B; and
- (b) a Judge, or a Judge in Chambers, the reference shall be construed as a reference to the Appeal Board; and
- (c) "net Colonial rate", the reference shall be construed as a reference to the "net Trinidad and Tobago rate".

47. Any reference in the Ordinance or any regulations to "year of assessment" or to "year immediately preceding the year of assessment" or to "year preceding the year of assessment" shall be read and construed as a reference to year of income. Amendment of "year of assessment" in Ordinance

48. The Schedule to the Ordinance is repealed and replaced by the Schedule to this Act, and the Second and Third Schedules referred to in section 56 and in subsection (3) of section 19 of the Ordinance is given in the said Schedule to this Act. Schedule amended

49. This Act shall be deemed to have come into operation on the 1st January, 1963, but sections 30 and 46, other than paragraph (c) thereof and section 50, shall not come into operation until such day as the Governor-General may by proclamation appoint. Commencement

50. Where any appeal against an assessment by the Commissioner to a Judge in Chambers has been given before the coming into operation of sections 30 and 46 of this Act, but proceedings in respect of that appeal are subsequent to that date still pending before such Judge, all such proceedings may be continued before the Appeal Board. Provision regarding pending appeals

[Section 47]

" SCHEDULE

FIRST SCHEDULE

[Section 22]

Scale of Rates of Income Tax Payable on the Net Chargeable Income

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

For every dollar of the first	1,000 dollars	...	5 cents.
For every dollar of the next	1,000 dollars	...	8 cents.
For every dollar of the next	1,000 dollars	...	13 cents.
For every dollar of the next	1,000 dollars	...	20 cents.
For every dollar of the next	1,000 dollars	...	28 cents.
For every dollar of the next	1,000 dollars	...	32 cents.
For every dollar of the next	1,000 dollars	...	35 cents.
For every dollar of the next	3,000 dollars	...	40 cents.
For every dollar of the next	4,000 dollars	...	45 cents.
For every dollar of the next	4,000 dollars	...	50 cents.
For every dollar of the next	4,000 dollars	...	60 cents.
For every dollar of the next	6,000 dollars	...	70 cents.
For every dollar of the next	32,000 dollars	...	80 cents.
For every dollar of the remainder of the chargeable income	90 cents.

(2) In the case of a company including a company registered outside Trinidad and Tobago without a place of business in Trinidad and Tobago other than a partnership and the life assurance business of an assurance company—42½ per centum.

(3) In the case of the life assurance business of an assurance company—15 per centum.

TRINIDAD AND TOBAGO

SECOND SCHEDULE

(Section 56)

THE INCOME TAX ORDINANCE

Distress Warrant

To.....

I,.....

Commissioner of Inland Revenue, by virtue of the power vested in me by section 56 of the Income Tax Ordinance, do hereby authorise you to collect and recover the several amounts—

.....
.....

respectively due for tax, and for the recovery thereof I further authorise you, with the assistance of any constable or constables which assistance he or they are hereby required to give, to forthwith levy by distress the said sums, and also the costs and charges of and incident to the taking and keeping of such distress, on the goods, chattels or other distrainable things ofor of any part thereof charged with such tax.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid, to break open any building in the day-time.

Given under my hand at.....this.....

day of....., 19.....

Commissioner of Inland Revenue

THIRD SCHEDULE

[Section 19B(3)]

General and Investment Expenses

RENT

- 1. Head office rents
- 2. Branch office rents

SALARIES, WAGES AND ALLOWANCES

- 3. Head Office employees salaries and wages
- 4. Branch office employees salaries and wages
- 5. Managers and agents salaries
- 6. Directors fees

EMPLOYEES AND AGENTS WELFARE

7. Contributions to pension and insurance plans for employees
8. Contributions to pension and insurance plans for agents
9. Other employees welfare

PROFESSIONAL AND SERVICE FEES AND EXPENSES

10. Legal fees and expenses
11. Auditors fees

MISCELLANEOUS EXPENSES

12. Advertising
13. Books and periodicals
14. Bureau and Association dues
15. Collection of Bank charges
16. Commissions on mortgages
17. Insurance, except on real estate
18. Postage, telegraph, telephone, express
19. Office furniture
20. Rental of equipment and general office maintenance
21. Travelling expenses, head office
22. Travelling expenses, branch office

REAL ESTATE EXPENSES, EXCLUDING TAXES

23. Real estate expenses. ”

Passed in the House of Representatives this thirteenth day of May, 1963.

G. R. LATOUR
Clerk of the House of Representatives

Passed in the Senate this twenty-first day of May, 1963.

J. P. OTTLEY
Clerk of the Senate