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**Second Session Eighth Parliament Republic of
Trinidad and Tobago**



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 5 of 2004

[L.S.]

**AN ACT to amend the Central Tenders Board Ordinance,
the Income Tax Act, the Corporation Tax Act, the
Petroleum Taxes Act, the Customs Act, the Finance
Act, 1987, the Miscellaneous Taxes Act, the Stamp
Duty Act, the Value Added Tax Act and for matters
incidental thereto.**

[Assented to 30th January, 2004]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

Short title **1.** This Act may be cited as the Finance Act, 2004.

Commencement **2.** (1) Sections 4(e)(i) and 6 are deemed to have come into operation on 1st January, 2003.

(2) Sections 4(b)(i), (c), (d), (e)(ii), (f) and (g) and 5 are deemed to have come into operation on 1st January, 2004.

(3) The remaining provisions of this Act shall come into operation upon the commencement of this Act.

PART I

CENTRAL TENDERS BOARD

Ordinance No. 22 of
1961 amended

3. The Central Tenders Board Ordinance is amended—

(a) in section 19(1), by deleting the words “one hundred thousand” and substituting the words “five hundred thousand”;

(b) by deleting section 24 and substituting the following new section:

“Board to
accept best
offers

24. (1) After the offers have been opened, the Board or a committee, shall at such time or times as may be deemed necessary or expedient, consider the offers so received and except for good reason, the sufficiency whereof is in the discretion of the Board or the Committee, shall accept the lowest offer which represents the best value.

(2) The Board is not bound to accept the lowest or any offer.”;

(c) in section 27B(2)—

- (i) in paragraph (a), by deleting the words “five thousand dollars” and substituting the words “two hundred thousand dollars”; and
- (ii) in paragraph (b), by deleting the words “twenty-five thousand dollars” and substituting the words “one million dollars”.

PART II

INCOME TAX

4. The Income Tax Act is amended—

Chap. 75:01

(a) in section 2, by inserting in alphabetical sequence, the following definition:

“total income” means the aggregate amount of income of a person from the sources specified in section 5, before making any deductions allowed by—

(a) any provision of this Act other than sections 10, 11 and 16;

Chap. 85:04 (b) the Income Tax (In Aid of Industry) Act, Chap. 85:04”;

(b) in section 8—

(i) in subsection (1)—

(A) by deleting the word “twelve” occurring in paragraph (k) and substituting the word “twenty-five”; and

(B) by deleting paragraph (p) and substituting the following paragraphs:

“(p) interest whether or not denominated in local currency, paid or credited to a resident individual—

(i) on all classes of savings or other accounts with banks or other financial institutions in Trinidad and Tobago;

(ii) on savings or other accounts with a person carrying on a trade or business in Trinidad and Tobago who, in the ordinary course of operations of such trade or business, receives and retains money in such circumstances that interest becomes payable; or

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- (iii) on bonds or other similar investment instruments issued in Trinidad and Tobago;
- (pa) that portion of a dividend comprising interest which is payable to a resident individual who is a beneficiary under a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, No. 18 of 1993, where the profits of such trust are exempt from corporation tax;
- (pb) that portion of the amount or value of a distribution comprising interest which is paid or credited to a resident individual by the Trinidad and Tobago Unit Trust Corporation;”;
- and
- (ii) in subsection (3), by deleting the definition of “total income”;

(ba) by inserting after section 8, the following section:

Chap. 75:01

8A. Where on or after 1st January, 2004, but before the commencement of the Financial Act, 2004 a bank, financial institution or other person—

(a) pays or credits a resident individual with the interest referred to in section 8(1)(p), (pa) or (pb); and

(b) deducts a tax at the rate of five per cent thereon,

such bank, financial institution or other person shall pay or credit the resident individual with an amount equal to the tax deducted instead or remitting the tax to the Board.”;

(c) in section 11(7), by deleting the words “in that year of income” and substituting the words “for the year of income to which the claim relates”; and

(d) by renumbering section 18 as section 18(1), deleting the word “thirty” occurring in paragraph (b) substituting the word “forty” and adding the following subsection:

“ (2) An individual who is not resident in Trinidad and Tobago who is in receipt of income accruing in or derived from Trinidad and Tobago and has attained the age of sixty years, shall be entitled to a personal allowance of forty thousand dollars.”;

(e) in section 28—

(i) in subsection (10)(a), by inserting after the words “deducted or withheld”, the words “and the remainder when received by the employee or annuitant, shall be deemed not to be the income of that person for the purposes of this Act”; and

(ii) in subsection (15), by inserting after the words “section 27(1)(c), (d) or (e)”, the words “, section 31(1)”;

(f) by repealing section 34A;

(g) in section 92(2), by inserting after the words “payment under this Act”, the words “or any other written law administered by the Board”;

(h) in section 99—

(i) in subsection (1)—

(A) in paragraph (a), by deleting the word “or”;

(B) in paragraph (b), by deleting the comma and substituting the word “;”

(C) by inserting after paragraph (b), the following paragraphs:

“(c) the quantum of the emolument is in dispute; or

(d) the tax deducted or withheld from the emoluments of an employee is in accordance with the provisions of this Act or any regulations made under section 125;” and

- (D) by deleting the words “subject to the provisions of this Act relating to appeals” and substituting the words “in writing subject to the provisions of this section relating to objections and appeals against the determination of the Board”; and
- (ii) by inserting after subsection (1A), the following subsections:
- “ (1B) Where the Board is of the opinion that an amount is an emolument and that the correct taxes have not been deducted or withheld, it shall—
- (a) cause to be served on the person providing the emolument, notice of its determination under subsection (1A), demanding the amount of tax to be deducted or withheld by that person; and
- (b) inform the person of his right to object.
- (1C) Where a person providing an emolument under this section disputes the determination of the Board, he may apply to the Board by notice of objection in writing delivered to the Board, to

review its determination and such application shall—

(a) state precisely the grounds of his objection; and

(b) be made within fifteen days from the date of service of the notice of determination.

(1D) The provisions of section 86(3), (4), (5), (5A), (6), (7), (8) and (11) and section 87 of this Act relating to objections and appeals shall apply *mutatis mutandis* to this section, except in relation to the period of twenty-four months stated in section 86(8), which shall for the purposes of this section be read as twelve months.”;

(i) in section 119(2), by deleting the words “within twelve months from the date of the commission of the offence or within six months” and substituting the words “within three years from the date of the commission of the offence or within twelve months”;

(j) in section 134(6B)(a)—

(i) in subparagraph (i), by inserting before the word “employee”, the words “director or”; and

(ii) in subparagraph (ii), by inserting before the word “employee”, the words “director or”; and

(ja) in section 134(6B)(d), by deleting the words “death or”;

(k) by inserting after section 134, the following section:

“Tax on
refund of
premiums

134A. (1) Where an amount is payable by a company in respect of a fund or contract approved by the Board under section 134(6B) upon the death of a director or employee by way of refund of premiums, there shall be deducted or withheld, a tax equal to ten per cent of the amount payable and the remainder of the amount, when received by the beneficiary of the director or employee, shall be deemed not to be the income of the beneficiary for the purposes of this Act.

(2) The tax referred to in subsection (1) shall be paid by the company to the Board by the fifteenth day of the month following that in which the refund of premiums was paid.

(3) There shall be payable by the company a penalty of one hundred per cent of the tax owed for failure to pay the tax within the time specified in subsection (2).

(4) There shall be payable from the due date, interest at the rate of twenty per cent a year on the amount of tax remaining unpaid.

(5) In this section and in section 134, “refund of premiums” has the meaning assigned to it in section 28(1)(M).”.

PART III
CORPORATION TAX

5. The Corporation Tax Act is amended—

Chap. 75:02

(a) in sections 10G, 10I, 10J, 10K and 10L, by deleting the words “four hundred and fifty thousand dollars” wherever they occur and substituting in each place the words “one million dollars”; and

(b) by repealing section 10N and substituting the following section:

“Certifica-
tion by the
Minister

10N. For the purposes of sections 10J and 10K—

(a) the Minister with responsibility for education shall issue a certificate, in respect of a production for educational purposes referred to therein, to the effect that the production is for educational purposes;

(b) the Minister with responsibility for culture shall issue a certificate in respect of a production to promote or reflect local entertainment or culture referred to therein, in the manner prescribed to the effect that the production is to promote or reflect local entertainment or culture,

and a deduction shall not be allowed by the Board in the absence of such certificate.”.

PART IV
PETROLEUM TAXES

Chap. 75:04
amended

6. The Petroleum Taxes Act is amended by inserting after section 18, the following section:

“Corporation
Tax Act to
apply 18A. Sections 10G, 10J, 10K, 10L, 10M
and 10N of the Corporation Tax Act, apply
to this Act, with any necessary modifica-
tions, for the purpose of determining the
chargeable profits of companies charged to
tax under this Act.”.

PART V
STAMP DUTY

Chap. 76:01
amended

7. The Stamp Duty Act is amended—

(a) by deleting sections 28, 29 and 67; and

(b) in the Schedule—

- (i) by deleting the item commencing with the words “Agreement or any Memorandum of an Agreement” and ending with the words “made by a public officer officially” and all the exemptions following under this item;
- (ii) by deleting the words “and see sections 28 and 29”;
- (iii) by deleting the item commencing with the words “Letter of Power of Attorney” and ending with the words “In any other case” and by deleting the heading “Exemptions” and items (1) to (6) set out thereunder, immediately following the item; and
- (iv) by deleting the words “and see section 66”.

PART VI
MISCELLANEOUS TAXES

8. The Miscellaneous Taxes Act is amended—

Chap. 77:01
amended

- (a) in section 43(1)(b), by inserting after the word “Limited”, the words “, United Independent Petroleum Marketing Company Limited and any other wholesale marketing company designated by the Minister by Order to collect the tax”;
- (b) by repealing Part XIV and substituting the following Part:

“PART XIV

GREEN FUND LEVY

Interpretation **61. In this Part—**

“Board” means the Board of Inland Revenue established by section 3 of the Income Tax Act;

“business levy” means the tax levied and paid by a company to the Board under section 3A of the Corporation Tax Act;

“company” means a body corporate or an unincorporated association and includes a partnership;

“financial year” has the meaning assigned to it in section 3 of the Constitution;

“Fund” means the Green Fund established under section 65 of this Part;

“gross sales or receipts” means the gross revenue, sales or receipts of a company;

“levy” means the green fund levy imposed by section 62 of this Part;

“Minister” means the Minister with responsibility for finance.

Green Levy
Fund

62. (1) With effect from 1st January, 2001, there shall be levied and paid to the Board a tax at the rate of 0.1 per cent to be known as a Green Fund Levy, on the gross sales or receipts of a company carrying on business in Trinidad and Tobago, whether or not such company is exempt from the business levy.

(2) The levy shall be payable by a company in each quarter ending on 31st March, 30th June, 30th September and 31st December in each year of income and the provisions of section 79 of the Income Tax Act shall apply *mutatis mutandis* to this subsection.

Chap. 75:02

(3) The provisions of section 3A(6), (7), (8), (9) and (10) of the Corporation Tax Act shall apply *mutatis mutandis* in relation to the levy but with the necessary modifications and adaptations.

(4) The Board shall, in respect of the collection and recovery of the levy, have all the powers as it has in relation to income tax under the Income Tax Act.

Refunds

63. (1) Where it is proved to the satisfaction of the Board that a company has, in any quarter paid levy in excess of the amount in respect of which the company is properly

chargeable, that company shall be entitled to have the levy so paid in excess, refunded to it.

(2) Every claim for refund shall be made within one year from the end of the quarter to which the claim relates.

(3) Instead of making a refund that might otherwise be made under this section, the Board may, where the company is liable to make a payment to the Board under this Act or any other written law administered by the Board, apply the amount to be refunded against the other liability and shall notify the company accordingly.

Purposes of Fund

64. The purpose of the fund is to financially assist Organizations and community groups that are primarily engaged in activities related to the remediation, reforestation and conservation of the environment.

Establishment and Management of Green Fund

65. (1) There is hereby established a fund to be known as the Green Fund.

(2) The Minister shall disburse monies from the Fund to finance activities certified by the Minister with responsibility for the environment as being for the purposes referred to in section 64.

(3) The Minister with responsibility for the environment shall manage the activities financed by the Green Fund.

Payment to Fund

66. (1) Notwithstanding section 29(2), the Board shall, within fourteen days from the end of each quarter, pay into the Green Fund the levy received by it in accordance with this Part.

(2) The resources of the Fund shall comprise of the levy paid by the Board under this section.

Accounts and
audit

67. (1) All accounts relating to the Green Fund shall be—

- (a) kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament; and
- (b) audited annually by the Auditor General in accordance with the Exchequer and Audit Act as if the Fund were established under section 43 of that Act.

Report of
Minister

68. The Minister with responsibility for the environment shall, within four months from the end of a financial year, submit to Parliament a report on the management, of the activities financed by the Green Fund.

Regulations

69. The Minister may make Regulations for—

- (a) the management and control of the Green Fund;
- (b) the accounts, books and forms to be used in the management of the Green Fund;
- (c) the projects and other activities concerning which advances are made from the Fund; and
- (d) the general operations of the Green Fund.”.

PART VII
CUSTOMS DUTY

9. Section 45 of the Customs Act is amended—

Chap. 78:01

(a) in subsection (1)—

- (i) in paragraph *(u)*, by deleting the full stop and substituting a semi-colon; and
- (ii) by inserting after paragraph *(u)*, the following paragraph:

“*(v)* armoured, armour-plated, or armoured combat vehicles, except with the written permission of the Minister to whom responsibility for national security is assigned.”;

(b) in subsection (2), by deleting paragraph *(h)* and substituting the following paragraph:

“*(h)* a returning national who has attained eighteen years of age and—

- (i) is or was a citizen of Trinidad and Tobago;
- (ii) has citizenship of two countries, one of which is Trinidad and Tobago; or
- (iii) is the spouse of the person referred to in subparagraph (i) or (ii),

and obtains from the Minister to whom responsibility for trade is assigned, a licence to import such vehicle in accordance with the

No. 19 of 1958 Trade Ordinance.”;

(c) in subsection (4), by deleting paragraph *(a)*.

PART VIII

HEALTH SURCHARGE

Act No. 4 of 1987
amended

10. Section 4(2) of the Finance Act, is amended by—

- (a) deleting the words “fifteen per cent” and substituting the words “twenty per cent”; and
- (b) inserting after the words “date of payment”, the words “, unless the Board otherwise directs”.

PART IX

VALUE ADDED TAX

Act No. 37 of 1989
amended

11. The Value Added Tax Act, is amended—

- (a) in subsection (2)(b), by inserting after the word “Act”, the words “or any other Act administered by the Board”; and
- (b) by inserting after subsection (3), the following subsection:
 - “ (3A) For the avoidance of doubt, a return referred to in subsection (3) shall be accurate in all particulars and satisfy the requirements of sections 31 to 34.”;
- (c) in section 44(a), by inserting after the word “20”, the words “, 27”; and
- (d) in section 55(2), by deleting the words “104 to 115, section 118 and sections” and substituting the words “88, 104 to 115, 118,”.

PART X

VALIDATION

12. (1) The collection by United Independent Petroleum Marketing Company Limited before the commencement of this section, of the tax charged under section 43 of the Miscellaneous Taxes Act and paid to the Comptroller of Accounts in accordance with the said section 43, is deemed to be valid. Validation
Chap. 77:01

(2) No legal proceedings or other action of any kind shall be entertained in respect of or in consequence of the collection by United Independent Petroleum Marketing Company Limited of the tax referred to in subsection (1).

13. The approval by the Board of Inland Revenue before the commencement of this Act, of a contract referred to in section 134(6a) of the Income Tax Act which provides for a full refund of premiums upon the death of an employee or director, is deemed to be valid. Validation
Chap. 75:01

Passed in the House of Representatives this 23rd day of January, 2004.

D. DOLLY
Acting Clerk of the House

Passed in the Senate this 29th day of January, 2004.

N. JAGGASSAR
Acting Clerk of the Senate