

GOVERNMENT NOTICE No. 177

TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33. No. 1
REGULATIONS

MADE BY THE GOVERNOR IN COUNCIL UNDER SECTION 75 OF THE
INCOME TAX ORDINANCE

THE INCOME TAX (EMPLOYMENTS) REGULATIONS, 1957

1. (1) These Regulations may be cited as the Income Tax (Employments) Regulations, 1957.

(2) These Regulations other than regulations 2, 3, 6, 9, 10, 22, 23, 24, 27, 29, and 30 thereof shall come into force on the 1st day of January, 1958, and regulations 2, 3, 6, 9, 10, 22, 23, 24, 27, 29 and 30 thereof shall come into force on the date of publication of these Regulations in the *Royal Gazette*.

2. (1) In these Regulations

"appropriate form" means a form approved by the Commissioner for use in any particular case pursuant to these Regulations;

"declaration" means the declaration referred to in section 53A of the Ordinance;

"emoluments" means all salary, wages, overtime, bonus, remuneration, perquisites, including the value of board and lodging, stipend, commission or other amounts for services, directors' fees, retiring allowances or pension, arising or accruing in or derived from or received in the Colony and which are assessable to income tax, but shall not include any salary or share of profits arising from a trade, profession or vocation carried on by any person either by himself or in partnership with any other person;

"employee" means any person, not being the holder of an office, in receipt of emoluments;

"employer" means any person paying emoluments whether on his own account or on behalf of another person to an employee, and shall be deemed to include any person paying emoluments, whether on his own account or on behalf of another person, to the holder of an office;

"office" means a position, not being an employment, or place entitling the holder thereof to a fixed or ascertainable stipend or remuneration, and includes the office of a Minister of the Crown, the office of a member of the Legislative Council of the Colony, a member of a municipal or county council and any other office the holder of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a company director;

"the Ordinance" means the Income Tax Ordinance;

"tax tables" means the tax tables referred to in section 53D of the Ordinance prepared by the Commissioner in accordance with regulation 23 of these Regulations;

"total allowances" in relation to an individual means the aggregate of the allowances specified in the Schedule to these Regulations to which such individual is entitled.

(2) Unless the context otherwise requires, references in these Regulations to "employer" or a "person paying emoluments" shall be deemed to include references to Her Majesty in respect of the Colony and to the Government of the Colony.

(3) (a) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to hereafter in this regulation as the "principal employer") shall be deemed (in relation to such employee) to be the employer for the purpose of these Regulations, and the immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

(b) If the employee's emoluments are actually paid to him by the immediate employer—

(i) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted when the emoluments are paid to the employee and shall deduct the amount so notified to him accordingly; and

(ii) the principal employer shall make a corresponding deduction on making to the immediate employer the payment out of which the said emoluments will be paid.

REGISTRATION

3. (1) Subject as hereinafter provided every person who carries on or is about to carry on any trade, business, profession or vocation in respect of which he is or will be an employer shall, on or before the 15th day of January, 1958, or within 30 days of the commencement of such trade, business, profession or vocation register with the Commissioner—

(a) his name and address;

(b) the names and addresses of his partners and associates, if any;

(c) the trade or business name where the trade, business, profession or vocation is carried on under a name or style other than his own name;

(d) the place and address, if any, where he carries on or intends to carry on his trade, business, profession or vocation;

(e) the number of employees employed or to be employed :

Provided that this regulation shall be deemed to have been complied with if, in the case of a partnership, the precedent partner as defined in subsection (2) (a) of section 38 of the Ordinance and in the case of a body of persons the manager or other principal officer, carry out the provisions of this regulation;

(2) The provisions of paragraph (1) of this regulation shall not apply in respect of any person who has filed a return of the income of his trade, business, profession or vocation for the year of assessment and such person shall be exempt from the provisions of this regulation.

DEDUCTION OF TAX

4. (1) Subject to the provisions of regulations 5, 6, and 8 of these Regulations, every person paying emoluments to an employee or the holder of an office shall deduct or withhold therefrom on account of the tax payable by the employee or office holder such amount as appears in the appropriate column of the table of the tax tables to be used opposite to that amount appearing in

the first column of the said table which is the same as or the nearest to the amount of the emoluments due to the employee or office holder :

Provided that where—

- (a) the pay period for which the emoluments are to be paid is not provided for in the tax tables; or
- (b) the emoluments paid per year are greater than any amount provided for in the first column of the tax table to be used.

the amount to be deducted shall be determined by the Commissioner.

(2) In the event of the amount of the emoluments due to the employee or office holder being an amount exactly between two amounts appearing in the first column of the tax table to be used, the tax to be deducted shall be the amount appearing in the appropriate column of the said table opposite to the larger of the two amounts appearing in the first column.

(3) For the purposes of this regulation, the table of the tax tables to be used shall be that table of the tax tables which takes into account total allowances and relates to a pay period corresponding to that for which the emoluments are to be paid; and the appropriate column shall be the column of the said table appearing under that range of total allowances specified in the table within which the total allowances or the greater part thereof of the employee or office holder from whom tax is to be deducted is included :

Provided that in the case of an employee or office holder from whom no declaration has been received by the person paying emoluments to such employee or office holder or who is not entitled in accordance with the provisions contained in the second proviso to subsection (1) of section 53A of the Ordinance to file a declaration, the table of the tax tables to be used shall be the table which does not take into account total allowances and which relates to a pay period corresponding to that for which the emoluments are to be paid; and the appropriate column shall in such cases be the second column of that table.

5. (1) Where a payment in respect of bonus is made to an employee at a time when the employee is in receipt of emoluments from the employer paying the bonus, the amount of tax to be deducted shall be, subject to the provisions of regulations 6 and 8 of these Regulations :—

- (a) the amount determined according to the appropriate table of the tax tables in respect of assumed emoluments equal to—
 - (i) the regular emoluments, plus
 - (ii) an amount equal to the bonus payment divided by the number of pay periods in the year, minus

(b) the amount determined according to the appropriate table of the tax tables in respect of the regular emoluments,
multiplied by

- (c) the number of pay periods in the year.

(2) Where a payment in respect of bonus is made to an employee at a time when the employee is no longer in receipt of emoluments from the employer paying the bonus, the amount of tax to be deducted shall be the tax for the year in which the bonus is paid shown to be deductible in the appropriate table of the tax tables (which is a table prepared without taking into account any amount of total allowances).

(3) Where a payment in respect of a retroactive increase in emoluments is made to an employee or to the holder of an office, the amount to be deducted shall be—

(a) the amount determined according to the appropriate table of the tax tables in respect of the new rate of emoluments,
minus

(b) the amount determined according to the appropriate table of the tax tables in respect of the previous rate of emoluments,
multiplied by

(c) the number of pay periods in respect of which the increase in emoluments is retroactive.

(4) Where a payment in respect of overtime services is made to an employee and such payment is made at the same time as the payment of his regular emoluments is made, the aggregate of such amounts shall be deemed to be the emoluments and tax shall be deducted accordingly under paragraph (1) of regulation 4 of these Regulations.

(5) Where a payment in respect of overtime services is made to an employee and such payment is not made at the same time as the payment of his regular emoluments is made, tax shall be deducted in accordance with the appropriate table of the tax tables (which is a table prepared without taking into account total allowances).

(6) Every person making a payment in respect of services rendered in the Colony by a non-resident person, otherwise than in the course of regular and continuous employment, shall deduct tax in accordance with the appropriate table of the tax tables (which is a table prepared without taking into account total allowances).

6. (1) The Commissioner may direct employers as to the amount of tax, if any, to be deducted from—

(a) the emoluments of employees engaged in casual or seasonal employment; and

(b) the emoluments of any other class of case which in the opinion of the Commissioner is a class of case of such a nature that deduction of tax by reference to the tax tables would be impracticable, or would constitute undue hardship.

(2) Where the Commissioner is satisfied that the deduction of the amount otherwise to be deducted would constitute an undue hardship, he may determine the amount, if any, to be deducted.

(3) Without prejudice to the foregoing provisions of this regulation, any directions given pursuant to the provisions of this regulation may, in particular, include directions as to the manner in which the tax, if any, shall be deducted, the period over which such deduction shall be made and such other matters as the Commissioner may think fit; and any employer to whom any such directions may be given shall comply with the directions so given.

7. If any emoluments are paid by an employer at any time after the date of death of an employee or of the holder of an office, the employer by whom the emoluments are paid shall, subject to the provisions of regulation 8 of these Regulations, on making any such payment, deduct in accordance with the provisions of these Regulations the tax on those emoluments as if the deceased employee or office holder was still alive at the date of the payment.

8. Tax shall not be deducted by any employer from—

- (a) the emoluments of an employee or the holder of an office who will not receive in the calendar year total emoluments in excess of total allowances where the employee or office holder has filed a declaration as to his total allowances; or
- (b) the emoluments of an employee or the holder of an office who is exempt from the payment of income tax; or
- (c) emoluments paid outside of the Colony to an employee outside of the Colony; or
- (d) a pension benefit or retiring allowance arising out of an employment which was wholly carried on outside of the Colony, or
- (e) any payment made in respect of domestic services performed in or in connection with any dwelling house, apartment or other similar place of residence in which place the employer as a general rule sleeps or eats when in the Colony;

unless the Commissioner, in any particular case, directs the employer to deduct tax in accordance with these Regulations.

9. The amount of tax to be deducted as required by any direction given by the Commissioner in any particular case shall in no event exceed the amount of tax which is deductible or would be deductible by reference to the tax tables.

10. If any question shall arise as to—

- (a) the amount of tax to be deducted on payment of any emoluments; or
 - (b) whether or not any emoluments are of any class of case specified in regulation 6 of these Regulations; or
 - (c) whether or not any payment of emoluments is a payment of a bonus or of a retroactive increase in emoluments,
- such question shall be determined by the Commissioner.

PAYMENT OF TAX DEDUCTED

11. Every employer shall pay to the Commissioner the total amount of tax deducted or withheld by him in compliance or intended compliance with the provisions of these Regulations on or before the fifteenth day of the month next succeeding the month in which the employer paid the emoluments :

Provided that where an employer ceases to carry on business all amounts of tax deducted by him as required by these Regulations and not paid to the Commissioner shall be paid by him to the Commissioner within seven days of the day on which the employer ceased to carry on business.

ACCOUNTING FOR TAX DEDUCTED

12. Every payment of tax made as required by regulation 11 of these Regulations shall be accompanied by a return made out on the appropriate form by or on behalf of the employer.

13. Where the payment of a bonus or of any sum to meet any retroactive increase of emoluments granted to an employee or the holder of an office is made at any time in any year and the whole or any part of such payment relates to any pay periods of any calendar year preceding the year in which such payment is made, the employer shall within seven days of such payment being

made deliver or send by post to the Commissioner a separate account of such payment made out on the appropriate form and showing the total of such emoluments paid and the total amount of tax deducted therefrom.

14. (1) On or before the last day of the month of February of each year next following a year in which tax was deducted from the emoluments of an employee or the holder of an office the employer by whom the tax was deducted or withheld shall, unless he has previously delivered or sent to the employee or office holder a certificate provided for by regulations 15, 16 or 17 of these Regulations, deliver personally or send by post to the employee or office holder a certificate made out on the appropriate form and containing the following particulars namely—

- (a) the name and address of the employee or office holder;
- (b) any number used to identify the employee or office holder;
- (c) the total amount of all emoluments paid by him to the employee or office holder during the year immediately preceding that in which the certificate is by this regulation required to be sent or delivered;
- (d) the total amount, if any, deducted by him for or in respect of any amount contributed by the employee or office holder under any Ordinance or enactment, or to any scheme or fund, within the meaning of paragraph (c) of subsection (1) of section 16 of the Ordinance on the making of any payment of those emoluments to the employee or office holder;
- (e) the total amount of tax deducted in accordance with these Regulations from the emoluments of the employee or office holder;
- (f) the appropriate code number of the tax table, if any, used in calculating the deductions of tax; and
- (g) the date when the employment or the holding of the office commenced if such date is a date subsequent to the first day of January in the year to which the certificate relates.

(2) When an employer is required by this regulation to deliver or send a certificate to an employee or the holder of an office he shall make on the appropriate forms two copies of the said certificate which he shall deliver personally or send by post to the Commissioner on or before the last day of February in each year.

15. (1) If any employer ceases to employ an employee or to pay emoluments to the holder of an office from whose emoluments tax was deducted by him in accordance with these Regulations he shall, not later than the day on which the last payment of emoluments was made, deliver personally or send by post to the employee or office holder a certificate on the appropriate form containing the following particulars namely—

- (a) the name and address of the employee or office holder;
- (b) any number used to identify the employee or office holder;
- (c) the date on which the employment or the holding of the office ceased;
- (d) the total amount of all emoluments paid by him to the employee or office holder from the first day of January of the year in which the employment or the holding of the office ceased up to and including the day on which the last payment of emoluments was made to the employee or office holder;

- (e) the total amount if any deducted by him for or in respect of any amount contributed by the employee or office holder under any Ordinance or enactment, or to any scheme or fund, within the meaning of paragraph (c) of subsection (1) of section 16 of the Ordinance on the making of any payment of those emoluments;
- (f) the total amount of tax deducted in accordance with these Regulations from the emoluments of the employee or office holder; and
- (g) the appropriate code number of the tax table, if any, used in calculating the deductions of tax.

(2) When an employer is required by this regulation to deliver or send a certificate to an employee or the holder of an office he shall make on the appropriate forms two copies of the said certificate which he shall deliver personally or send by post to the Commissioner on the day on which the last payment of emoluments was made.

(3) If an employee retires from the services of an employer and is given a pension, such retirement shall not be treated as a cessation of employment for the purposes of this regulation if the emoluments are paid by or on behalf of the same person both before and after the retirement.

16. (1) If an employer ceases to carry on business he shall, not later than one month after the cessation of the business, personally deliver or send to each employee from whose emoluments any tax was deducted or withheld during the year in which the business ceased a certificate made out on the appropriate form and containing the particulars specified in regulation 14 of these Regulations for or in respect of a period beginning with the first day of the year in which the business ceased to be carried on and ending on the day of cessation of that business :

Provided that, in the case of a business commenced to be carried on in the year in which it ceases on a day other than the first day of January in that year, the date of commencement of the period for or in respect of which the particulars of the certificates shall relate shall be the date on which the business commenced to be carried on in that year.

(2) When an employer is required by this regulation to deliver or send a certificate to an employee or the holder of an office he shall make on the appropriate forms two copies of the said certificate which he shall deliver personally or send by post to the Commissioner within one month of the day of cessation of the business.

17. When an employee or the holder of an office dies the employer shall not later than the fifteenth day of the month next following that in which the death occurred deliver personally or send by post to the legal or personal representative, or to the next of kin of the deceased employee or office holder if known to him, the certificate mentioned in regulation 15 of these Regulations; and the employer shall at the same time deliver personally or send by post to the Commissioner two copies of the said certificate made on the appropriate forms and shall insert thereon the name of the legal or personal representative, or of the next of kin of the deceased employee or office holder if known to him.

18. When an employer makes any payment of emoluments to an employee or the holder of an office from whom tax is deducted as required by these Regulations, he shall furnish to the employee or office holder particulars of

the payment including particulars of the gross emoluments for the pay period and of the amount of tax deducted therefrom, in such form as may be approved by the Commissioner :

Provided that the Commissioner may in his discretion exempt in writing all or any employers from complying with the provisions of this regulation in respect of such classes of employees or office holders as the Commissioner shall think fit, and such exemption may at any time be revoked by the Commissioner.

19. Every employer who makes any payment of emoluments to an employee or to the holder of an office from whose emoluments tax is deducted as required by these Regulations, shall keep to the satisfaction of the Commissioner a record of the emoluments paid to each such employee or office holder and the tax deducted or withheld therefrom on each payment thereof.

MISCELLANEOUS AND PENALTIES

20. If any employer dies, anything which he would have been liable to do under these Regulations shall be done by his personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him, or, if no person succeeds him, the person on whose behalf the emoluments were paid.

21. (1) This regulation shall apply where there has been a change only in the employer from whom an employee or the holder of an office receives emoluments in respect of his employment in any trade, business, profession or vocation or in connection with the working of any property, or from whom an employee or the holder of an office receives any annuity or pension or allowance in respect of past service.

(2) Where this regulation applies the change shall not be treated as a cessation of employment for the purposes of regulation 15 of these Regulations and, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place :

Provided that the employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee or office holder before the change took place.

22. (1) The declaration which a person may file under the provisions of section 53A of the Ordinance, may include particulars of all or any of his total allowances as the person may think fit.

(2) A person entitled and wishing to file a declaration under section 53A of the Ordinance shall do so at the following times—

- (a) on the day on which his employment commences;
- (b) within seven days of the day on which a change occurs in the total allowances to which he is entitled;
- (c) within such time or times as may be specified by notice published by the Commissioner in the *Royal Gazette* and at least one newspaper of the Colony, or in such other manner as the Commissioner may think fit.

Provided that the Commissioner may in his discretion permit any such person to file a declaration at any time other than the aforesaid times.

23. (1) The tax tables shall be constructed by the Commissioner with a view to securing that so far as practicable the tax to be deducted as required by section 53B of the Ordinance and by these Regulations from the emoluments of any employee or the holder of any office may be readily ascertained and with a view to securing that so far as practicable the total tax payable in respect of any emoluments is deducted from the emoluments paid during the year.

(2) Separate tables shall be prepared for weekly, fortnightly, monthly and annual pay periods. Such tables shall make provision for such ranges of total allowances and for such amounts of emoluments as the Commissioner shall think fit.

(3) In addition to the tables required by paragraph (2) of this regulation tables shall be prepared relating to such of the pay periods referred to in that paragraph as the Commissioner shall think fit, and providing for such amounts of emoluments as the Commissioner shall think fit, but without taking into account any total allowances.

(4) For the purposes of this regulation, reference to the total tax payable shall, in relation to the tables referred to in paragraph (2) of this regulation, be construed as references to the total tax estimated to be payable having regard only to the allowances provided for by these Regulations and without aggregating emoluments from two or more sources or emoluments with other income, or the emoluments of a husband (with those of his wife) and in relation to the tables referred to in paragraph (3) of this regulation shall be construed as references to the total tax estimated to be payable without having regard to any allowances whatever and without aggregating emoluments from two or more sources or emoluments with other income or the emoluments of a husband with those of his wife.

24. Every employer, when called upon to do so by the Commissioner or any person authorised in writing by the Commissioner in that behalf, shall produce to the Commissioner or such authorised person for inspection, at the employer's premises, all wages sheets and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees or of the holders of offices to whom he pays emoluments or the deduction of tax therefrom or the accounting of any tax deducted therefrom.

25. If any employee or the holder of any office considers that any tax deducted by his employer is less than or in excess of the amount of tax which ought properly to be deducted from his emoluments in accordance with these Regulations, he may in writing give notice of complaint, stating the grounds of his complaint, to the Commissioner.

26. (1) In the event of the Commissioner being satisfied on the complaint of any employee or the holder of any office made under regulation 25 of these Regulations that any tax in excess of the amount which ought properly to have been deducted in accordance with these Regulations from the emoluments of the employee or office holder was deducted by the employer, he shall as soon as practicable cause the excess to be refunded to the employee or office holder.

(2) In the event of the Commissioner being satisfied on the complaint of any employee or the holder of any office made under regulation 25 of these Regulations that less tax than the amount which ought properly to have been deducted in accordance with these regulations from the emoluments of the employee or office holder was deducted by the employer he shall as soon as practicable cause the amount of the deficiency to be collected from the employee or office holder.

27. Any notice published by the Commissioner pursuant to paragraph (b) of the first proviso to subsection 1 of section 53A of the Ordinance shall be published in the *Royal Gazette* and at least one newspaper in the Colony or in such other manner as the Commissioner may think fit.

28. (1) The total amount of tax which an employer is liable under section 53B of the Ordinance to pay to the Commissioner within the time specified in regulation 11 of these Regulations may for the purposes of recovery thereof be treated as a single debt notwithstanding that the employer is liable to pay separate amounts in respect of more than one employee or office holder; but nothing in this regulation shall prevent the bringing of separate actions for the recovery of each of the several amounts which the employer is liable to pay within the first fifteen days of every month in respect of his several employees, or the several office holders to whom he pays emoluments.

(2) A certificate of the Commissioner that any amount of tax mentioned in paragraph (1) of this regulation has not been paid to him, or to the best of his knowledge and belief, to any person acting on his behalf shall be *prima facie* evidence that the sum mentioned in the certificate is due and unpaid; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

29. (1) On a change occurring in the total allowances of any person by whom a declaration has been filed which results in the total allowances of that person being less than the total allowances claimed by him in his declaration, such person shall file a further declaration within the time specified in paragraph (2) of regulation 22 of these Regulations.

(2) If any person wilfully fails to file a further declaration as required by paragraph (1) of this regulation he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred dollars.

30. If any person shall hinder, prevent or obstruct the Commissioner or any person authorised in writing by the Commissioner in that behalf from inspecting any wages sheets or other documents or records mentioned in regulation 24 of these Regulations after being called upon to produce the same, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding four hundred and eighty dollars or to imprisonment for a term not exceeding three months.

31. The definition of "tax paying officer" appearing in regulation 2 of the Income Tax Regulations, 1955, and regulation 7 of the said Regulations, are hereby revoked in so far as they would otherwise relate to any income tax becoming payable on or after the 1st day of January, 1958.

SCHEDULE

Regulation 2(1)

ALLOWANCES CLAIMABLE

THE allowances to which an individual shall be entitled for the purposes of section 53A of the Ordinance shall be as set out below :—

1. Where an individual is a single person, a widower, a widow, or a married person who is separated from his or her spouse, he or she should claim a personal allowance of \$1,200.

2. Where the individual is a married man and has living with and maintained by him a wife—

(a) if she is in receipt of no emoluments or of emoluments less than \$240 per annum he should claim a personal allowance of \$1,680;

(b) if she is in receipt of emoluments of more than \$240 and less than \$960 per annum he should claim a personal allowance of the difference between \$1,920 and the income of his wife from emoluments;

(c) if she is in receipt of emoluments of an amount equal to or more than \$9.60 per annum he should claim a personal allowance of \$960.

3. Where the individual is a married woman living with and maintained by her husband and is in receipt of emoluments of any amount she should claim a personal allowance of \$960.

4. Where an individual has the custody of and maintains any child who was alive at the commencement of the year or who, if over the age of 16 years, attends a university, university college, college, school, trade or other technical school, or serves as an apprentice under articles entered into for a period of not less than two years, he should claim in respect of each child, the sum of \$240. For the purposes of this allowance the word "child" includes a step child, or an adopted child, or an illegitimate child residing with the claimant.

5. Where the individual has a dependent relative, as specified in the Ordinance, maintained by him he should claim the amount contributed annually in respect of the maintenance of such relative or \$200 whichever is the less.

6. Where the individual is a contributor under any Ordinance or enactment, or to any scheme or fund, within the meaning of paragraph (c) of subsection (1) of section 16 of the Ordinance, he should claim the amount of his annual contribution.

7. Where an individual has made insurance on his life or the life of his wife or has contracted for any deferred annuity on his life or the life of his wife, he should claim that amount of the premium or premiums payable in each year in respect of a policy or policies of insurance or contracts of a kind specified in paragraphs (a) and (b) of subsection (1) of section 16 of the Ordinance which, together with any sum to be deducted from his emoluments by his employer for or in respect of any amount to be contributed under any Ordinance or enactment, or to any scheme or fund, within the meaning of paragraph (c) of subsection (1) of section 16 of the Ordinance, on the making of any payment of emoluments to him, does not exceed one-sixth of his emolument income.

Made by the Governor in Council this 10th day of December, 1957.

E. MURRAY
Clerk, Executive Council