

LAWS OF TRINIDAD AND TOBAGO

PETROLEUM TAXES ACT

CHAPTER 75:04

Act
22 of 1974
Amended by
30 of 1974
16 of 1975
46 of 1976

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Note
on
Subsidiary Legislation

This Chapter contains no subsidiary legislation.

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CHAPTER 75:04
PETROLEUM TAXES ACT

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CHAPTER 75:04

PETROLEUM TAXES ACT

An Act respecting taxation of businesses carried on in the course of certain petroleum operations. 22 of 1974.

[1ST JANUARY 1974]

Commencement.

1. This Act may be cited as the Petroleum Taxes Act. Short title.

PRELIMINARY

2. (1) In this Act—

“accounting period” means a period established by section 7 of the Income Tax Act as applied for the purposes of this Act, as the case may require; Interpretation. [5 of 1981]. Ch. 75:01.

“assessment” includes a re-assessment;

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

“branch or agency” means any factorship, agency, receivership, branch or management;

“company” means any body corporate or unincorporated association, but does not include a partnership;

“corporation tax” means the tax charged under the Corporation Tax Act by section 3 thereof; Ch. 75:02.

“crude oil” or “oil” means petroleum in the liquid state, including condensates and natural gasolene physically separated from a natural gas stream;

“financial year” means the period of twelve months commencing on the 1st January in each year;

“licensed area” has the same meaning as in section 2 of the Petroleum Act; Ch. 62:01.

“marketing business” means, subject to section 3(5), the business of dealing in petroleum and petroleum products by way of an acquisition and a disposal to a marketing

licensee or to a consumer in Trinidad and Tobago or to a person in any other prescribed country, and includes bunkering of ships and aircrafts by a marketing licensee, but does not include—

- (a) disposal of petroleum by a person carrying on a production business where the petroleum disposed of is produced by such person; or
- (b) disposal by a person carrying on refining business of—
 - (i) petroleum products refined by such person;
 - (ii) petroleum products acquired and blended with petroleum products refined by such person,

where any such disposal is made to a marketing licensee, or to the refining business of another; or

- (c) bunkering of ships ex-refinery wharf in international trade by a person carrying on refining business;

“marketing licensee” means a person carrying on marketing business to whom a marketing licence, within the meaning of regulation 3(1)(h) of the Petroleum Regulations is issued or is to be issued under and in accordance with the Petroleum Act, and those Regulations;

“natural gas” means petroleum in the gaseous state;

“natural gas processing” means the recovery from natural gas of ethane, propane, butane and other natural gas products or any of them by a process of absorption, compression, refrigeration, recycling or any combination of such processes;

“non-resident company” means a company not controlled in Trinidad and Tobago, whether or not such company is—

- (a) incorporated in Trinidad and Tobago;
- or

(b) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;

“penalty” means any amount or other sum (other than interest) imposed or charged on a person in addition to any tax payable on an assessment made under this Act, and includes a fine recoverable on summary conviction;

“person” includes a company;

“petrochemical” has the same meaning as in the Petroleum Act;

Ch. 62:01.

“petroleum” means any mixture of naturally occurring hydrocarbons and hydrocarbon compounds;

“petroleum operations” means the operations related to the various phases of the petroleum industry, and includes exploring for, producing, refining, transporting and marketing petroleum or petroleum products or both, and manufacturing and marketing of petrochemicals; but does not include mining operations involving the extraction of petroleum from bituminous shales, tar sands, asphalt or other like deposits;

“petroleum product” means any partly finished or finished product derived from petroleum by any refining process;

“production business” means the business of exploration for, and the winning of, petroleum in its natural state from the underground reservoir, and includes—

(a) the physical separation of liquids from a natural gas stream; and

(b) natural gas processing from a natural gas stream,

produced by the production business of a person engaged in the separation or processing, but does not include the liquefaction of natural gas;

“refining business” means the business of the manufacture from petroleum or petroleum

products of partly finished or finished petroleum products and petrochemicals by a refining process but not including—

- (a) petrochemicals manufactured by a petrochemical plant operated separately from any such business;
- (b) the liquefaction of natural gas;
- (c) the physical separation of liquids from a natural gas stream and natural gas processing from a natural gas stream by the production business of a person engaged in such separation or processing;

“resident company” means a company that is controlled in Trinidad and Tobago, whether or not such company is—

- (a) incorporated in Trinidad and Tobago;
or
- (b) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;

“submarine area” means land underlying the sea waters surrounding the coast of Trinidad and Tobago below the high water mark of the sea at ordinary spring tides, including the sea-bed and subsoil situated beneath the territorial waters and the continental shelf of Trinidad and Tobago (“continental shelf” here having the same meaning as in the Continental Shelf Act);

“supplemental petroleum tax” means the tax on petroleum operations imposed by Part 2;

“supplemental refining tax” means the tax on refining operations imposed by Part 2A.

“taxable profits” means the aggregate amount of the profits or gains of any person from production business, refining business or marketing business, as the case may be, remaining after allowing the appropriate deductions and exemptions under this Act;

“Trinidad and Tobago” includes the submarine area;

“withholding tax” means the tax so referred to in section 50 of the Income Tax Act;

Ch. 75:01.

(2) Without prejudice to any other case in which a person is engaged in or carrying on trade or business in Trinidad and Tobago, a person shall be deemed to be engaged in or carrying on trade or business in Trinidad and Tobago if he has an office or a place of business in Trinidad and Tobago or has a branch or agency therein.

(3) Except as otherwise provided by this Act and except in so far as the context otherwise requires, expressions used in the Income Tax Act have the same meaning in this Act as in that Act; but no provision of this Act as to the interpretation of any expression, other than a provision expressed to extend to the use of that expression in the Income Tax Act, shall be taken to affect its meaning in that Act as it applies for the purposes of any of the taxes imposed by this Act.

Ch. 75:01.

(4) Except as otherwise provided by this Act any apportionment to different periods which falls to be made thereunder shall be made on a time basis according to the respective lengths of those periods.

(5) In the case of a resident company and non-resident company, the place where such a company is to be regarded as controlled is the place where the central control or management of the company is ordinarily situated.

CONSTRUCTION AND APPLICATION OF ACTS

3. (1) For the purpose of ascertaining the taxable profits of any person and the tax thereon for any year of income prior to the financial year from which this Act comes into operation, the provisions of the Corporation Tax Act 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 is otherwise expressly provided by this Act.

Construction of Part I.

Ch. 75:02.

(2) For years of income after the year of income 1973, the provisions of the Income Tax Act, other than section 50 thereof, and the provisions of the Corporation Tax Act

Ch. 75:01.

Ch. 75:02.

relating to the charge of income tax and corporation tax, respectively, shall not apply to the profits or gains accruing or arising to any person if, but only if, the profits or gains of such person are within the charge to any of the taxes imposed by this Act.

Ch. 75:02.

(3) Accordingly, in particular where, owing to the accounting period of a person not coinciding with a financial year, a portion only of the profits or gains of such person for the accounting period is charged to any of the taxes imposed by Part I for the financial year 1974, the remainder of the profits of the accounting period shall remain charged to corporation tax, and the provisions of the Corporation Tax Act shall apply accordingly with the necessary modifications, and after making such apportionments as are appropriate to the proportion of the profits so charged. All instalments and other amounts of tax already paid in respect of the year of income 1974 shall be apportioned in the manner provided by section 11(2).

(4) For the purposes of this Act "a source of income" is within the charge to corporation tax or income tax or the taxes imposed by this Act, as the case may be, if any of those taxes are chargeable on the income arising from it or would be so chargeable if there were any such income, and references to a person or to income being within the charge to tax, shall be similarly construed in each case accordingly.

(5) For the purposes of the definition of "marketing business" a person carrying on marketing business shall be deemed to have acquired at such prices as are prescribed under or by virtue of this Act any petroleum or petroleum products received directly or indirectly by him from any production business or refining business carried on by that person and a disposal shall be regarded as having taken place accordingly.

Application
of the Act.
[5 of 1981].

3A. For the purpose of ascertaining the taxable profits of any person and the tax thereon for any financial year from 1st January, 1974 to 31st December, 1979, the provisions of the Act that are replaced or amended by this Act shall continue to apply 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 is otherwise expressly provided by this Act.

4. Except as otherwise expressly provided in Part I, the Income Tax Act, the Corporation Tax Act or any other written law, the provisions of the Income Tax Act, the Corporation Tax Act or such other written law shall not apply for the purposes of the taxes imposed by Part I, and the provisions of Part I shall not, subject to this section, affect the operation of the Income Tax Act or the Corporation Tax Act as it relates to individuals or companies.

Application
of Acts.
Ch. 75:02.
Ch. 75:01.

ADMINISTRATION AND GENERAL PRINCIPLES OF TAXATION

5. (1) The Board of Inland Revenue is responsible for the due administration of this Act and for the collection and recovery of the taxes imposed by this Act, and sections 3 and 4 of the Income Tax Act shall apply for such purposes as they apply for the purpose of income tax charged under that Act, but subject to any necessary modifications and adaptations.

Board to be
responsible for
administration
of Act.
Ch. 75:01.

(2) Any function conferred by this Act on the Board may be exercised as may be necessary by any officer authorised by it according as the Board may direct, and references in this Act to the Board shall be construed accordingly.

6. (1) For the purposes of this Act the following petroleum operations are classified as separate businesses in accordance with this Act, namely—

- (a) exploration and production operations;
- (b) refining operations;
- (c) marketing operations,

General
separation of
certain
petroleum
operations.
[5 of 1981].

even though the same person carries on more than one such business; and those businesses are in this Act referred to as production business, refining business and marketing business, respectively.

(2) Where the same person carries on more than one of the businesses classified under subsection (1) the income tax principles applied for the purpose of Part I shall have effect

in relation to the charge to tax on the profits or gains of that person, but subject to this Act as to the computation, assessment, collection and recovery of the taxes imposed by Part I.

Taxes payable quarterly. [5 of 1981].

7. (1) Taxes imposed by this Act though computed and assessed annually shall be paid by quarterly instalments.

(2) In paying his quarterly instalments of tax, a person shall furnish the Board with such information as the Board may require including in particular—

(a) in respect of his producing business for that quarter—

(i) the quantity of oil produced and disposed of from land operations and the quantity from marine operations;

(ii) the prices at which the oil was disposed of;

(b) in respect of refining business for that quarter—

(i) the volume of crude oil and petroleum products received;

(ii) the processing fees charged.

PART I

TAXATION OF PETROLEUM OPERATIONS

Application of Part I to individuals and companies.

8. Nothing in this Part shall apply to—

(a) an individual who carries on marketing business only; or

(b) a company carrying on marketing business that does not acquire petroleum or petroleum products or both from a person carrying on production business or refining business, as the case may be,

and is not otherwise connected with production business or refining business carried on by any other person.

9. Subject to the provisions of this Part, tax (to be called "petroleum profits tax") shall be payable separately, at the rate specified in Schedule 1, for each financial year upon the profits or gains or amounts deemed to be profits or gains of any person accruing in or derived from Trinidad and Tobago or elsewhere and whether received in Trinidad and Tobago or not in respect of—

Charge of petroleum profits tax. [15 of 1981].

- (a) production business;
- (b) refining business;
- (c) marketing business.

10. (1) Subject to any exceptions provided for by this Part, a person who is resident in Trinidad and Tobago shall be chargeable to petroleum profits tax on all his profits or gains wherever arising.

General scheme of petroleum profits tax.

(2) Where a person who is not resident in Trinidad and Tobago is carrying on a trade or business in Trinidad and Tobago, the profits or gains thereof that are chargeable to petroleum profits tax shall be any income directly or indirectly accruing in or derived from Trinidad and Tobago.

(3) A company shall be chargeable to petroleum profits tax on profits or gains accruing for its benefit under any trust or arising under any partnership in any case in which it would be so chargeable if the profits or gains accrue to it directly, and a company shall be chargeable to petroleum profits tax on profits or gains arising in the winding up of the company.

11. (1) Petroleum profits tax shall be charged for each financial year upon the taxable profits of a person arising in that year; and the provisions of this Part shall be read and construed as imposing the charge to tax on the profits or gains of a person for the financial year 1974 and subsequent years in respect of the profits or gains of the accounting period ending within that year and so for subsequent financial years, but subject to this section and section 3(3).

Basis of assessment.

(2) Where, however, for the financial year 1974, the accounting period of any person does not coincide with the financial year, so much of the profits of that accounting

period as are attributable to the time-period beginning 1st January, 1974 and ending with the end of the accounting period shall be charged to petroleum profits tax for that year.

(3) Except as otherwise provided by this Part, petroleum profits tax shall be assessed upon the full amount of the profits or gains accruing or arising, whether or not received in Trinidad and Tobago, in the financial year without any other deduction than is authorised by this Part.

COMPUTATION OF PROFITS

General rules
for computation
of profits.
Ch. 75:01.

12. (1) Except as otherwise provided by this Part, the taxable profits of a person shall be computed in accordance with the income tax principles relating to the provisions of the Income Tax Act applied by section 16 and all questions as to the amounts which are or are not to be taken into account as profits or gains or in computing profits or gains or charge to tax as a person's profits or gains, or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law as applied by section 16 and practice.

(2) For the purpose of this section, "income tax law" means, in relation to any financial year, the law applying for the year of income to the charge on individuals of income tax.

Application and
adaptation of
Income Tax
Act as
to capital
allowance and
other matters.
Second
Schedule.
Ch. 85:04.
Ch. 75:01.

13. (1) Except in so far as this Part otherwise provides including in particular paragraph 7 of the Second Schedule, the Income Tax (In Aid of Industry) Act and any provisions of the Income Tax Act relating to the making of allowances or charges under or in accordance with the said Income Tax (In Aid of Industry) Act shall apply for the purposes of the taxes imposed by Part I.

(2) For the purposes of the taxes imposed by Part I, the right to an allowance or liability to a charge for a financial year and the rate or amount of any such allowance

or charge shall be determined under the provisions referred to in subsection (1) by applying the law in force for the financial year.

14. (1) This section and section 15 shall have effect for the purpose of the capitalisation of expenditure referred to in subsection (3) and of the allowance to be granted in respect of such capitalised expenditure and of other capital expenditure incurred by a person carrying on production business.

Computation and application of capital expenditure in the production business. [46 of 1976 5 of 1981 26 of 1984].

For the purpose of this and section 15, a reference to the capitalisation of expenditure referred to in subsection (3) shall be construed as including as capital expenditure any expenditure whether of a capital nature or otherwise.

(2) After the date of the commencement of this Act—

- (a) the residue of expenditure referred to in subsection (3), if any, incurred before that date shall be apportioned between the production business of a person carried on on land and any production business carried on by him in a submarine area;
- (b) subject to section 15, all expenditure referred to in subsection (3) incurred after that date by any such person shall be aggregated therewith, respectively; and
- (c) allowances in respect thereof shall be computed and allowed separately with respect to his production business on land from any production business carried on by him in a submarine area.

(3) In ascertaining the taxable profits of any person carrying on production business for a financial year, all expenditure incurred in exploration operations and intangible drilling and development costs must be capitalised separately with respect to his production business on land from any production business carried on by him in a submarine area. Any allowances in respect of such expenditure must be allowed in accordance with Part III, IV or V of the Income Tax (In Aid of Industry) Act, but subject always to this section.

Ch. 85:04.

(4) All expenditure of a tangible nature incurred in respect of the production business carried on by any person must be capitalised and allowances granted in accordance with Parts I, II and IV (where applicable) of the Income Tax (In Aid of Industry) Act.

(5) For purposes of this and section 15, any expenditure incurred after commencement of this Act in respect of a development dry hole in the licensed area of any production business shall be allowed as a deduction in the financial year in which it was plugged and abandoned ("development dry hole" here being such as is so classified by the Minister). Such deduction shall be limited to the difference between the amount of expenditure so incurred and the amount of any capital allowances already computed and allowed in respect of the development dry hole under the Income Tax (In Aid of Industry) Act.

(6) In subsection (3) "intangible drilling and development costs" includes—

- (a) the cost to a person of any drilling or development work done for him by contractors under any form of contract;
- (b) all amounts paid for labour, fuel, repairs, hauling and supplies, or any of them, that are used—
 - (i) in the drilling, shooting and cleaning of wells;
 - (ii) in such clearing of ground, draining, road making, surveying, and geological works as are necessary for the drilling of wells; and
 - (iii) in the construction of such derricks, tanks, pipelines and other physical structures as are necessary for the drilling of wells and the preparation of wells for the production of oil or gas,

but does not include costs arising from maintenance or repair works on producing wells.

14A. For the purpose of ascertaining the taxable profits of any person carrying on production business—

- (a) signature bonuses payable on the award of a Production Sharing Contract or on the issue

of an Exploration and Production Licence may be capitalised and amortised on a straight line basis over a period of five years; and

- (b) production bonuses whenever payable are deductible.

15. (1) Subject to subsection (4) in the case of production business carried on by any person under an Exploration and Production Licence issued, or a Production Sharing Contract entered into, after 1st January, 1974, all expenditure referred to in section 14(3) incurred in such business shall be capitalised separately in respect of each such licence or contract.

Licences and contracts.
[5 of 1981].

(1A) Allowances on the capitalised expenditure referred to in subsection (1) are deductible only after the commencement of commercial production.

(2) Allowances in respect of any expenditure incurred in respect of an Exploration and Production Licence referred to in subsection (1) may however be allowed in ascertaining the taxable profits of any person carrying on production business whether on land or in a submarine area in accordance with section 24(2) of the Income Tax (In Aid of Industry) Act if at any time the member of the Cabinet responsible for petroleum certifies that there is no commercial production in the area to which that licence refers.

Ch. 85:04.

(3) For the purposes of this section the Minister shall determine what rate of production shall be taken to be commercial production.

(4) All production business carried on by any person on 1st January, 1980 or thereafter whether under an Exploration and Production Licence or under a Production Sharing Contract or both may be consolidated.

(5) Expenditure referred to in section 14 incurred on or after 1st January, 1980 in respect of production business may be capitalised and amortised.

16. Subject to sections 3 and 4, the provisions of the Income Tax Act in the table below shall apply in relation to the taxes imposed by this Part as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modifications and adaptations, including any modifications made by this Part:

Application of certain provisions of the Income Tax Act.

Ch. 75:01.

TABLE

INCOME TAX PROVISIONS APPLIED TO PART I

Taxes

- Section 7 (Chargeable income of certain persons).
- Sections 10, 11, 12 and 16 (Deductions and Allowances).
- Section 27 [Approved Fund or scheme with respect to deductions allowed at section 11(1)(f), (g) and (h)].
- Sections 28 to 33 (Approved Pension Fund Plans).
- Sections 59 to 65 (Trustees, agents, etc.).
- Sections 76 and 77 (Returns).
- Section 78 (Partnerships).
- Sections 79 to 82 (Payment of tax by instalments).
- Sections 83 and 84 (Assessments).
- Sections 85 and 88 (Assessments Lists, etc.).
- Section 86 (Notices of Assessments).
- Sections 43 to 43H (Appeals). Transferred to Ch. 4:50.
- Sections 88 and 89 (Errors in Assessments and additional Assessments).
- Section 90(1) and (2) (Repayment of Tax).
- Section 93 (Relief from Double Taxation).
- Section 94 (Certain income deemed to be income for the purposes of Act).
- Section 97 (Power of Board to require Schedule of particulars).
- Section 103 (Interest for non-payment of Tax).
- Sections 104–108 (Collection).
- Sections 109 and 112 (Recovery).
- Sections 113 and 114 (Notices).
- Section 115 (Imprisonment of defaulters).
- Sections 116–119, 122–124 (General provisions).
- Section 125 (Regulations).
- Sections 130 and 131 (Miscellaneous powers of the Board).
- Sections 133 to 141 (Expenses allowance to Directors and others).
- The 5th and 6th Schedules.

17. For the purposes of this Part, the Income Tax Act as applied for the purposes of this Act is modified as follows:

Modifications of
the Income Tax
Act.
[30 of 1974
16 of 1975
5 of 1981
26 of 1985].

(a) in section 79(4), by inserting immediately after paragraph (b) thereof the following new paragraphs:

“(c) tax for a full financial year was not payable in the immediately preceding year or financial year, as the case may be;

(d) notwithstanding subsection (2), in the opinion of the Board the taxable profits for the financial year are likely to be more than the taxable profits for the immediately preceding financial year.”;

(b) section 116 of the Income Tax Act shall be read and construed as requiring books of account and other records of a person carrying on any of the several separate businesses specified in this Act to keep those accounts and other records separately as far as possible with respect to each separate business and in accordance with any directions given by the Board.

(c) in section 50 by substituting the following for subsection (8):

“(8) In subsections (6) and (7) “profits” means profits after the payment of income tax, corporation tax and petroleum profits tax and any unemployment levy paid in respect of such profits so however that any such profit shall be deemed to include any amount authorised to be deducted as submarine well allowance by the Income Tax (In Aid of Industry) Act in ascertaining the taxable profits of any company for the purposes of the petroleum profits tax and all such amounts shall be included accordingly. The Petroleum Taxes Act, as amended shall have effect for the purpose

of the definition of such of the expressions occurring in this subsection as are defined in that Act”.

Application of
Second
Schedule.
[5 of 1981].

18. Notwithstanding any rule of law or provision in any licence or agreement to the contrary, the provisions contained in the Second Schedule, shall have effect for the purpose of ascertaining the taxable profits and the tax chargeable thereon of a person in respect of production business, refining business and marketing business.

TRANSITIONAL PROVISIONS

Payment of tax
for 1974.
Ch. 75:01.

19. (1) Notwithstanding section 79 of the Income Tax Act but subject to this section, every person shall for the financial year 1974 pay to the Board on or before 30th June an amount equal to one-half and on or before 30th September and 31st December, respectively, an amount equal to one-quarter of the petroleum profits tax at the rates in the First Schedule on his estimated taxable profits for 1974 and, on or before 30th April in the next year, the remainder of the tax, if any.

First Schedule.

(2) Where, owing to the accounting period of a person not coinciding with a financial year, a person is charged to tax for the financial year 1974 in accordance with section 11(2), any instalments of income tax or corporation tax paid by that person, in respect of what would have been his liability to such tax for the year of income 1974 had this Act not been passed, shall be deemed to have been paid, firstly, in respect of any such liability as remains outstanding by virtue of section 3(3) and the remainder, if any, shall be applied towards the satisfaction of any liability for instalments under this section.

(3) For the purposes of subsection (1), the estimated taxable profits of any person for the financial year 1974 shall be taken to be the taxable profit calculated on the basis of the continued application of the prices for the time being in force determined by the Minister of Finance or the Minister, as the case may be, under this Part for the purpose of ascertaining the taxable profits of the production business and the marketing business, if any, and generally in accordance with this Act.

19A. (1) Taxable profits of any person for the financial year 1980 shall be taken to be the taxable profits calculated on realised prices or fair market value as determined in accordance with Schedule 2.

Payment of
tax for 1980.
[5 of 1981].

(2) Where owing to the accounting period of a person not coinciding with a financial year, so much of the profits of that accounting period as are attributable to the period beginning 1st January, 1980, and ending with the end of the accounting period shall be charged to petroleum profits tax as imposed for the financial year 1980, and the profits for the remainder of that accounting period prior to 1st January, 1980 shall be charged to petroleum profits tax as imposed for the financial year 1979 and shall be included in that person's return for 1980.

(3) Notwithstanding section 79 of the Income Tax Act but subject to this section every person shall pay to the Board any balance of tax owing for the financial year 1980 on or before the 30th June, 1981 and no interest shall accrue on such balance up to 30th June, 1981.

19B. In computing gross income for the financial year 1980 for the purposes of this Act, of any person engaged in production business, there shall be left out of account an amount equal to the actual prices received from or the fair market value determined for the disposal of crude oil on hand in that business as at 31st December, 1979.

Gross income
of production
business
for 1980.
[5 of 1981].

19C. (1) In computing the taxable profits or supplementary refining tax for the financial year 1980 of any person engaged in refining business, there shall be taken into account stocks of crude oil and petroleum products received and on hand in refinery storage as at 31st December, 1979.

Refining
stocks as at
31st December,
1979.
[5 of 1981].

(2) In computing the taxable profits for the financial year 1980 of any person engaged in refining business, there shall be left out of account an amount equal to the actual prices received from or the fair market value determined for the disposal of stocks of petroleum products and petrochemicals refined by such person and on hand in refinery storage as at 31st December, 1979.

PART II

SUPPLEMENTAL PETROLEUM TAX

Interpretation.
[5 of 1981]

20. In this Part "gross income" means gross income derived from disposals of crude oil.

Charge to
supplemental
petroleum tax.
[5 of 1981].

21. (1) There shall be a tax known as supplemental petroleum tax charged on gross income.

(2) Supplemental petroleum tax is deductible in arriving at the taxable profits for the purpose of petroleum profits tax of persons engaged in production business.

Computation of
Supplemental
petroleum tax
[5 of 1981].

22. (1) Supplemental petroleum tax shall be computed separately in respect of land operations and marine operations and shall be paid at the following rates:

- (a) 35 per cent for land operations;
- (b) 60 per cent for marine operations.

(2) The Minister may by Order and in consultation with the member of the Cabinet responsible for petroleum vary the rates of supplemental petroleum tax.

(3) An Order made by the Minister under this section may have effect retroactively from any date in the financial year in which the Order was made.

Production
allowance
on marine
operations.
[5 of 1981]
26 of 1965].

23. (1) A production allowance of 30 per cent of gross income is deductible from gross income in computing supplemental petroleum tax chargeable in respect of marine operations.

(2) For the purpose of calculating production allowance, the gross income for each field shall be considered separately and production allowance shall be in respect of the annual production of each field up to the first two million barrels of crude oil produced from each field in any year.

Fields to be
determined.
[5 of 1981].

24. For the purposes of section 23, the member of the Cabinet responsible for petroleum shall in writing under his hand determine a field.

Exploration
allowance.
[5 of 1981].

25. (1) In computing supplemental petroleum tax chargeable in respect of petroleum operations carried out under Exploration and Production Licences, an exploration

allowance equal in amount to 150 per cent of the direct cost of drilling exploration wells is deductible from gross income.

(2) An exploration well is a well so classified by the member of the Cabinet responsible for petroleum.

25A. In computing supplemental petroleum tax, an allowance equal in amount to the royalty paid by virtue of a licence granted under the Petroleum Act on the crude oil in respect of which gross income is derived is deductible from gross income.

Royalty allowance.
[26 of 1985].

26. In computing supplemental petroleum tax an allowance equal in amount to—

Investment allowance.
[5 of 1981
26 of 1985].

(a) 43 per cent of direct intangible drilling costs (exclusive of development dry-hole expenditure); and

(b) 43 per cent of tangible costs,

incurred in development activity carried out in marine areas under Exploration and Production Licences is deductible from gross income.

26A. In computing supplemental petroleum tax an allowance of 140 per cent of all capital expenditure incurred in the acquisition of such machinery and plant as is specified in Schedule 3 for use in enhanced recovery on land, is deductible from gross income.

Enhanced recovery allowance.
[5 of 1981].

26B. (1) Where any machinery and plant in respect of which an allowance is granted under section 26 or 26A is disposed of within three years of the financial year in which the allowance was granted, the gross income of the financial year in which the disposal took place shall be increased by the amount of the allowance previously granted.

Recapture of allowances.
[5 of 1981].

(2) For the purposes of subsection (1) machinery and plant is deemed to be disposed of where it is sold, or exchanged or transferred from production business to any other business or from land operations to marine operations or vice versa or where it is not put into use within three years of the financial year in which the allowance was granted.

26C. Allowances under this Part may be claimed only in the accounting period in which the expenditure giving rise to the allowances was incurred.

Allowances to be claimed in financial year.
[5 of 1981].

Deductibility
of allowances.
[5 of 1981].

26D. (1) Subject to this section, in computing supplemental petroleum tax allowances in respect of land operations may only be set off against gross income from land operations and allowances in respect of marine operations against gross income from marine operations.

(2) Where the allowances deductible exceed the gross income in any financial year the amount of such excess shall be carried forward and be set off against the gross income for succeeding years.

(3) In no case shall such set-off be allowed to an extent that would reduce the supplemental petroleum tax payable for any financial year to less than fifty per cent of the amount which would otherwise have been payable had the set-off not been allowed.

PART III

MISCELLANEOUS AND GENERAL

Application
of certain
provisions of
the Act.
[5 of 1981
26 of 1985].

26G. Subject to sections 3 and 4, the provisions of the Income Tax Act in the table below shall apply in relation to the taxes imposed under section 21 as they apply in relation to income tax chargeable under the Income Tax Act:

TABLE

| | | |
|---------------------------|-----|--|
| Sections 43-43H | ... | (Appeals). |
| Section 93 | ... | (Relief from Double Taxation). |
| Section 97 | ... | (Power of Board to require Schedule of particulars). |
| Section 103 | ... | (Interest for non-payment of tax). |
| Sections 104-108 | ... | (Collection). |
| Sections 109 and 112 | ... | (Recovery). |
| Sections 113 and 114 | ... | (Notices). |
| Sections 116-119, 122-124 | ... | (General Provisions). |
| Sections 131 and 132 | ... | (Miscellaneous Powers of the Board). |

Allocation of
expenses to
separate
business.
[5 of 1981].

27. (1) Notwithstanding any rule of law to the contrary but subject to this Act, sections 10 and 11 of the Income Tax Act as applied for the purposes of this Act, shall have effect so as to enable the out-goings and expenses therein mentioned to be allowed in computing the profits or gains of any person for a financial year from each of the several separate businesses carried on by that person under this Act in such manner as is provided in subsection (2).

(2) All out-goings and expenses referred to in subsection (1), including in particular expenses incurred by a person, in respect of matters not directly connected with any of the several separate businesses carried on by him or by an associated person but incurred in common for the purposes of those businesses, that the Board may in its discretion approve, shall be allocated to each business so carried on in relation to which it was so incurred in such manner as the Board may direct. In this subsection "associated person" includes one company that exercises or is entitled to exercise control directly or indirectly over the affairs of another and any company the majority of the shareholding of which is held by more than one other company similarly so controlled.

28. The books of account and other records required to be kept by a person carrying on any of the several separate businesses specified in this Act by virtue of section 116 of the Income Tax Act as applied for the purposes of this Act shall be kept separately as far as possible with respect to each separate business and in accordance with this Act and any directions given by the Board.

Provisions as
to accounting.
[5 of 1981].

Ch. 75:01.

29. The Board may for any purpose related to the administration or enforcement of this Act require any person engaged in petroleum operations to prepare and furnish to it returns, statements of account and data concerning his petroleum operations in such manner and detail and within such time as the Board may, from time to time, require by notice in writing.

Powers of
inspection of
records.

30. (1) In addition to the case where they are required by this Act to do so, the Minister of Finance and the Minister shall wherever it is necessary and expedient to do so consult with each other for the purpose of the performance of any duty or the exercise of any power respecting which they are authorised or required to perform or exercise under or by virtue of this Act.

Consultation.
[5 of 1981].

(2) For the purpose of assessing the tax liability of any person under this Act, the Minister, the member of the Cabinet responsible for petroleum and the Board may exchange information in respect of the petroleum operations of that person and the Board may require any government department or agency to disclose information which may assist in that assessment.

Offences
and penalties.

31. (1) A person who contravenes this Act is guilty of an offence, and any person guilty of an offence against this Act, except where the provision by or under which the offence is created provides the penalty to be imposed, is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for twelve months, and in the case of a continuing offence to a further fine of two thousand dollars for each day during which the offence continues after conviction therefor.

(2) Where a company is convicted of an offence under subsection (1), nothing therein shall apply to the Directors, General Manager, Secretary or other employee of the company, if it is shown to the satisfaction of the Magistrate that the offence was committed without the consent or connivance of the Directors, or General Manager, Secretary or any other employee of the company and that they exercised all such diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions in that capacity and to all the circumstances.

Regulations.

32. The President may make Regulations generally for the purpose of giving effect to this Act, and in particular for prescribing anything required or authorised to be prescribed.

Sections 9
and 19.
[16 of 1975
5 of 1981].

FIRST SCHEDULE

RATE OF PETROLEUM PROFITS TAX

For every dollar of the taxable profits of a person in respect of—
petroleum operations—45%

Sections 18, 28.
[16 of 1975
5 of 1981].

SECOND SCHEDULE

Supplementary Provisions about Production Business, Refinery Business and Marketing Business.

COMPUTATION OF PROFITS

1. For the purpose of allowing the out-goings and expenses referred to in section 27 of this Act, the Board shall allow the allocated expenses to each respective business carried on by a person in ascertaining the taxable profits of such person for any financial year as if such expenses were wholly and exclusively incurred in the production of the profits or gains of each such separate business.

2. In computing the profits or gains of any person for a financial year from each of the several separate businesses charged to tax under Part I for the purpose of ascertaining the taxable profits of any person for that year, separate accounts as to the several separate businesses shall, as far as possible, respectively be kept to the satisfaction of the Board, and the provisions of section 116 of the Income Tax Act as applied for the purposes of this Act shall have effect accordingly. Ch. 75:01.

3. (1) In ascertaining the taxable profits of any person for a financial year from each of the several separate businesses carried on by him under Part I, section 16 of the Income Tax Act as applied for the purposes of this Act shall have effect so as to enable all losses in so far as they are attributable to each such separate business so carried on to be set-off in accordance with the said section 16 against the profits of each such business, respectively.

(2) In the case of the business of farming and any other business not connected with petroleum operations carried on by a person engaged in any of the several separate businesses specified in this Act that the Minister may approve for the purpose, the following shall have effect:

- (a) any loss incurred in a financial year in any such business that cannot be wholly set off against his profits or gains from other sources for the same year in ascertaining his chargeable income or profits for income tax or corporation tax shall be available for set-off against the profits or gains in the business of any petroleum operations carried on by such person either directly or through a subsidiary company;
- (b) nothing in paragraph (a) shall permit a set-off to be allowed in any case that would reduce the tax payable for any financial year to less than one-half of the amount which would have been payable in respect of any of the several separate businesses therein referred to, had the set-off not been so allowed.

4. In ascertaining the taxable profits of any person for a financial year from any marketing business carried on by him under Part I, any subsidy received by him under the Petroleum Production Levy and Subsidy Act shall be brought into account as trade receipts. Ch. 62:02.

PRICES OF CRUDE OIL, NATURAL GAS, PETROLEUM PRODUCTS AND PETROCHEMICALS.

5. (1) Subject to subparagraph (3) for the purposes of this Act the prices of crude oil, natural gas, petroleum products and petrochemical is the actual realised price in a sale transaction at arms-length.

(2) Where a sale takes place between affiliated or related parties, it will be presumed not to be an arms-length sale.

(3) Where the actual realised price is, in the opinion of the Board, not a realistic price, the sale will be presumed not to be an arms-length sale, unless it is proved to be otherwise by the person liable to tax.

(4) Where a sale transaction is not at arms-length the Board shall substitute for the price reported the fair market value as determined by the Minister.

6. The Minister shall in consultation with the member of the Cabinet responsible for petroleum determine fair market value as follows:

(1) In the case of crude oil—

- (a) widely traded reference crudes similar in quality to the crude to be valued shall be selected and the international market prices of the crudes selected shall be used as the base value for the crude to be valued;
- (b) an appropriate price-setting market where substantial quantities of the reference crudes are traded at arms-length and on an ongoing basis shall be chosen;
- (c) transportation differential shall be taken into account that is to say, the difference between the cost of transporting to the price-setting market the reference crudes and the crude to be valued;
- (d) interest charges on the value of the inventory intransit may be considered in determining transportation costs;
- (e) other relevant considerations.

(2) In the case of natural gas exchanges or transfers between a person carrying on production business and a person carrying on refining business or in the case of transfers between affiliated or related parties, there shall be taken into consideration—

- (a) contemporary prices for sales of natural gas to similar or related industries in Trinidad and Tobago; and
- (b) prices actually realised in arms-length sales in Trinidad and Tobago of natural gas by the person carrying on production business at the time of the transaction under scrutiny.

(3) In the case of petroleum products, and petrochemicals there shall be taken into account existing market information.

(4) Where processing arrangements for refined products are not at arms-length, the Minister shall in consultation with the member of the Cabinet responsible for petroleum fix processing fees for tax purposes.

6A. (1) For the purpose of advising the Minister in determining fair market value or processing fees there shall be appointed by the Minister, a Permanent Petroleum Pricing Committee consisting of public officers drawn from the Ministry of Finance, the Board of Inland Revenue and the Ministry of Energy and Energy-based Industries.

(2) In formulating advice to the Minister for the purposes of subparagraph (1), the Petroleum Pricing Committee shall have regard to any representations made to it by a person liable to pay tax on the basis of the fair market value or processing fees as the case may be.

6B. (1) A person liable to tax and aggrieved by the Minister's determination of fair market value or processing fees may apply to the Minister for a review and in support of his application shall furnish all relevant information.

(2) The decision of the Minister upon a review shall be binding.

6c. (1) There shall be allowed for the purpose of ascertaining the taxable profits the deduction of all out-goings and expenses as are wholly and exclusively incurred during the year in the production of the profits or gains.

(2) There shall also be allowed as a deduction in ascertaining the taxable profits—

(a) any levy paid in accordance with the Petroleum Production Levy and Subsidy Act; and

Ch. 62:02.

(b) supplemental petroleum tax and supplemental refining tax paid under this Act.

MISCELLANEOUS

6D. For the purpose of determining the volume of sales of crude oil, natural gas, petroleum products or petrochemicals the point of disposal is deemed to be—

(a) in the case of crude oil and natural gas the place at which in the opinion of the Minister the seller or transferor can reasonably be expected to have delivered the crude oil or natural gas;

(b) in the case of petroleum products or petrochemicals ex-refinery even where petroleum products or petrochemicals are disposed of by the refining business of one person to the marketing business of that same person.

7. (1) For the purposes of the allowances to be granted in accordance with sections 13, 14 and 15 of this Act, the Income Tax (In Aid of Industry) Act is hereby modified by the substitution of the words "or up to the fraction of one-eighth" for the words "or the fraction one-twentieth" occurring at the end of section 24(2) thereof.

Ch. 85:04.

(2) In computing the allowances to be granted in accordance with sections 13, 14 and 15 of this Act, the total proved reserves (both developed and undeveloped) must be taken into account, but in the case of natural gas all proved reserves must be included only if the gas production is commercially utilized. For the purposes of this subparagraph the total proved reserves must be taken to be such as are approved by the Minister.

(3) In including the gas reserves in the computation of the depletion to be allowed such reserves must be expressed as a standard volume of oil based on a comparison of the calorific values of natural gas and crude oil by a method approved by the Minister.

(4) In this paragraph—

“total proved reserves” means, for any financial year, the estimated quantities of petroleum that geological and engineering data demonstrate, with reasonable certainty, to be recoverable under existing economic and operating conditions in future years from known reservoirs on land or in a submarine area or in each licensed area of a licence issued after the commencement of this Act of the production business carried on by any person;

“commercially utilized” means with a view to profit but does not include natural gas that is proved to the satisfaction of the Minister to have been used by the licensee within the licensed area for the carrying out of petroleum operations including gas injection and other field operations approved for such purpose by the Minister.

(Section 26A)
[5 of 1981].

THIRD SCHEDULE

MACHINERY AND PLANT FOR ENHANCED RECOVERY ALLOWANCE

Water injection pumps.

Water treating equipment.

Filtration equipment.

Oxygen Scavenging Equipment.

Gas Desorption towers.

Chemical Scavenging units.

Biocide treating units.

Accumulator vessels.

Steam Generators.

Compressors.

Boilers.

Equipment for use in injector wells.

Other machinery and plant as may be specified by the member of the Cabinet responsible for petroleum.

 SUBSIDIARY LEGISLATION

**THE SUPPLEMENTAL PETROLEUM TAX
(VARIATION OF RATE) ORDER**

119/1983.

made under section 22(2)

1. This Order may be cited as the Supplemental Petroleum Tax (Variation of Rate) Order. Citation.
2. The rate of supplemental petroleum tax in respect of land operations is varied to 15 per cent. Rate of Supplemental petroleum tax varied.
3. This Order has effect from 1st January, 1983. Effective date of order.

**THE SUPPLEMENTAL PETROLEUM TAX
(VARIATION OF RATE) ORDER**

152/1984.

made under section 22(2)

1. This Order may be cited as the Supplemental Petroleum Tax (Variation of Rate) Order. Citation.
 2. The rate of supplemental petroleum tax for marine operations is varied to fifty-five per cent. Rate of supplemental petroleum tax varied.
 3. This Order has effect from 1st January, 1984. Effective date of order.
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[Subsidiary]

143/1982.

**THE SUPPLEMENTAL REFINING TAX
(VARIATION OF RATES) ORDER**

made under section 26E(4)

Citation.

1. This Order may be cited as the Supplemental Refining Tax (Variation of Rates) Order.

Rates of tax.

2. Supplemental refining tax shall be levied and paid on each barrel of crude oil or petroleum products received by the refining business of any person at the following rates:

- (a) \$0.01 U.S. for full refining;
- (b) \$0.01 U.S. for light refining.

Commencement.

This Order is deemed to have come into operation on 1st January, 1982.
