

LAWS OF TRINIDAD AND TOBAGO

UNEMPLOYMENT LEVY ACT

CHAPTER 75:03

Act
16 of 1970
Amended by
22 of 1974

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-10	1/1980

**Note
on
Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

**Note
on
Adaptation**

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by L.N. 52/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

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CHAPTER 75:03

Act
16 of 1970
Amended by
22 of 1974
1 of 1979
47 of 1980
2 of 1982

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1-3	1/1990
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Subsidiary Legislation

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Note

on

Act 47 of 1980

Note: Section 32(3) of the Petroleum Taxes Act 1974 (22 of 1974) amending the Unemployment Levy Act was defective and the defects were corrected in the course of the original revision of this Chapter. Though within the powers of the Law Revision Commission, these corrections were, out of abundant caution, formally enacted by Act 47 of 1980, Schedule A (*see* the amendment to the Petroleum Taxes Act). Act 47 of 1980 was enacted late in 1980 and does not appear as a marginal reference to the amendments in question. The provisions of the Unemployment Levy Act Ch. 75:03 affected by Act 47 of 1980 are sections 2(3), 6, 8(4), 9(1), 9(2)(a), 9(2)(b) and 11.

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CHAPTER 75:03

UNEMPLOYMENT LEVY ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
 2. Interpretation.
 3. Administration of Act.
 4. Application of Act to certain exempt profits or gains.
 5. Charge of unemployment levy.
 6. Basis of charge of levy.
 7. Rates of levy.
 8. Due date, interest and administration.
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 10. Deductions on payment of emoluments.
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 13. Application of certain provisions of the Income Tax Act.
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 18. General penalty.
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UNEMPLOYMENT LEVY ACT

CHAPTER 75:03

An Act to provide for the imposition of an unemployment levy upon the chargeable income or profits of persons. 16 of 1970.

[4TH JUNE 1970]

Commence-
ment.

1. This Act may be cited as the Unemployment Levy Act. Short title.

2. (1) In this Act—

Interpretation.
[22 of 1974].

“assessment” means an assessment to income tax or corporation tax, or petroleum profits tax as the case may be;

“chargeable income” or “chargeable profits” or “chargeable income or profits” or “taxable profits” means, subject to this section the chargeable income or profits or taxable profits ascertained under the provisions of the Income Tax Act or of the Corporation Tax Acts, or of the Petroleum Taxes Act as the case may be;

Ch. 75:01.
Ch. 75:02.
Ch. 75:04.

“financial year” means the period of twelve months commencing on 1st January, in each year for which the levy is raised;

“profits or gains” means the income of an individual or a company that is charged to income tax or corporation tax, or petroleum profits tax, respectively;

“unemployment levy” or “levy” means the levy imposed by this Act as from time to time amended, for the purpose of the relief of unemployment and the training of unemployed persons.

(2) Except as otherwise expressly provided expressions used in this Act have the same meanings as in the Income Tax Act or the Corporation Tax Acts, or the Petroleum Taxes Act as the case may be.

(3) For the purposes of this Act the chargeable income or profits or taxable profits shall be increased by the amount of any loss that was allowed to be carried forward and set off under section 16 of the Income Tax Act in computing the chargeable income or profits or petroleum profits tax for income tax or corporation tax purposes in the year of income or financial year (within the meaning of the Petroleum Taxes Act).

(4) Section 4(1) shall be read and construed so as to include within the charge to the levy the income of a person that is exempt from income tax by virtue of section 42 of the Income Tax Act as well as the profits of approved mortgage and other companies exempt from corporation tax under Schedule V of the Finance Act 1966.

Ch. 75:02.

Administration
of Act.

3. (1) The Board of Inland Revenue shall be responsible for the due administration of this Act and for the computation, collection and recovery of the levy.

(2) Any function conferred by this Act on the Board shall 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.

Application of
Act to certain
exempt profits
or gains.
[22 of 1974].
Ch. 75:01.
Ch. 75:04.

4. (1) Notwithstanding any rule of law to the contrary, the profits or gains of a person that would, but for the provisions of any written law (other than the Income Tax Act or the Corporation Tax Acts or the Petroleum Taxes Act) conferring exemptions from income tax or corporation tax, or petroleum profits tax be charged to income tax or corporation tax, or petroleum profits tax shall be within the charge to the levy imposed by this Act.

(2) The Board of Inland Revenue shall, for the purposes of computing the levy, ascertain the chargeable income or profits or taxable profits of a person referred to in subsection (1) in accordance with the provisions of the Income Tax Act or the Corporation Tax Acts, or the Petroleum Taxes Act as if the profits or gains of such person were charged to income tax or corporation tax or petroleum profits tax, respectively.

(3) Notwithstanding any rule of law to the contrary, the profits or gains of a company that are brought within the charge to the levy by subsection (1) shall, for the

purpose of the distribution thereof as income or profits that is exempt in the hands of the members of the company, be taken to be reduced by the amount of the levy borne by the company, and accordingly no exemption from income tax or corporation tax, or petroleum profits tax, shall be allowed to such members of the company in respect of any part of a distribution representing the levy.

5. Subject to this Act for the financial year 1970 and for each subsequent financial year there shall be charged, levied and collected on the profits or gains of a person an unemployment levy at the rate or rates hereinafter specified.

Charge of unemployment levy.

6. Subject to this Act, the levy shall be charged in accordance with section 7 on the chargeable income or profits or taxable profits of every person for the financial year coinciding with the year of income or financial year (within the meaning of the Petroleum Taxes Act), in respect of which the chargeable income or profits or taxable profits for income tax or corporation tax or petroleum profits tax purposes are ascertained.

Basis of charge of levy.
[22 of 1974].

Ch. 75:04.

7. The levy shall be at such rate or rates as are prescribed, save that until any other rate is provided for the following rates shall have effect:

Rates of levy.
[22 of 1974
1 of 1979
2 of 1982].

(a) in the case of a company, on the full amount of the chargeable profits or taxable profits
...5 per cent;

(b) in the case of an individual—

(i) on the first \$35,000 of chargeable income...Nil;

(ii) on the remainder of chargeable income...5 per cent.

8. (1) Subject to this Act, the levy shall be made upon the assessment of a person, and shall be payable by that person.

Due date, interest and administration.
[22 of 1974].

(2) Subject to sections 9 and 10, the levy shall be payable on or before 30th April in the next year, or, within thirty days next following the service of the assessment, whichever is the later.

(3) If all or any part of the levy is not paid by 30th April, in the next year whether an assessment is already made or not, it shall carry interest at the rate of fifteen per cent a year from that date to the date of payment.

(4) Every person who has income or profits that is within the charge to the levy for the financial year shall deliver to the Board together with his return of income for the year of income required by section 76 of the Income Tax Act [or financial year (within the meaning of the Petroleum Taxes Act)] a statement of the full amount of the chargeable income or profits or taxable profits, for the purposes of this Act in a form approved by the Board and shall, if absent from Trinidad and Tobago, give the name and address of an agent residing therein.

Ch. 75:01.

Ch. 75:04.

Payment in
advance by
instalments.
[22 of 1974].

9. (1) Subject to this section and in the case of an individual to section 7(b), every person shall pay to the Board on or before 31st March, 30th June, 30th September, and 31st December respectively, in each financial year an amount equal to one-quarter of the levy upon the chargeable income or profits or taxable profits as disclosed in his statement if any, of income for the preceding year of income, or financial year (within the meaning of the Petroleum Taxes Act), and the remainder of the levy as disclosed in his statement for the year, of income on or before 30th April, in the next year.

Ch. 75:04.

(2) The Board may estimate the amount of the levy payable by any person where—

(a) that person fails to make the statement or the return for the immediately preceding year of income required by section 76 of the Income Tax Act [or financial year (within the meaning of the Petroleum Taxes Act)] or both;

Ch. 75:01.

Ch. 75:04.

(b) no income tax or corporation tax or petroleum profits tax was payable in the immediately preceding year of income, or financial year (within the meaning of the Petroleum Taxes Act),

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

(3) For the financial year, 1970, the instalments required by subsection (1) to be paid in advance shall be paid upon the chargeable income or profits determined for the purposes of the levy from the return of income for the year of income 1969 required by section 76 of the Income Tax Act and shall be made as follows:

(a) on or before 30th June ... one-third;

(b) on or before 30th September ... one-third;

(c) on or before 31st December ... one-third;

and the remainder of the levy as disclosed in this statement for the year of income on or before 30th April in the next year.

(4) Where an individual is in receipt of emoluments, within the meaning of section 100 of the Income Tax Act in a year of income, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in the year of income if but only if, section 10 applies in respect of the emoluments paid to the individual.

(5) In addition to the interest payable under section 8(3), where any person, being required by this Act to pay a part or instalment of the levy, has failed to pay all or any part thereof as required; he shall, on payment of the amount he failed to pay, pay interest at twelve per cent a year from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under section 8(3), whichever is earlier, unless the Board, on being satisfied that the failure to pay did not result from the taxpayer's own default, directs a reduction in the rate of interest payable.

(6) In this section "statement" means the statement referred to in section 8(4).

10. (1) On the making of any payment on or after 31st May 1970, to any employee or the holder of any office of, or on account of, any emoluments during the financial year 1970 or any other financial year thereafter, the levy shall, subject to section 7(b) and subject to and in accordance with any Regulations made hereunder, be deducted or withheld by the person making the payment; and the

Deductions on
payment of
emoluments.

Ch. 75:01.

provisions of sections 98, 99(2) to (12) and 100 of the Income Tax Act and any Regulations made under that Act for the purpose shall, with such adaptations or modifications as are necessary or expedient, have effect for the purpose of this Act.

(2) For the financial year, 1970, the employer shall deduct or withhold under subsection (1) the annual amount of the levy in seven equal (as far as possible) monthly instalments commencing in the month of June.

(3) An individual in receipt of income that includes emoluments (within the meaning of section 99 of the Income Tax Act) shall compute the amount of the levy payable for the financial year and submit notice of the proportionate part of the levy attributable to the emoluments to his employer and to the Board; and the provisions of subsection (1) shall apply to such part thereof accordingly, save that the Board may revise the computation of the levy and upon giving notice of the revision, and making demand therefor to, and upon, the individual and his employer, subsection (1) shall apply as if the revision was the computation of the employee. In this subsection "proportionate part of the levy" means that part of the levy that bears to the full amount thereof the same proportion as the income from emoluments bears to the full amount of the income of the individual before making any deductions and allowances under the Income Tax Act other than deductions authorised by section 10 thereof.

(4) Nothing in this section shall apply to an employee or the holder of an office who by notice signed by him and sent to the Board and the employer elects to pay the levy in accordance with section 9(1).

Small
adjustments.
[22 of 1974].

Ch. 75:04.

11. Where on the assessment of a person it appears that the levy computed upon his chargeable income or profits or taxable profits for the year of income or financial year (within the meaning of the Petroleum Taxes Act) falls short of or exceeds the amounts paid during the financial year in respect of the levy, and the shortfall or excess is less than three dollars, no adjustment thereof shall be made and the Board shall not demand payment or make refund in any such case.

12. For the removal of doubts it is hereby declared that in ascertaining the chargeable income or profits or taxable profits of a person for the purposes of income tax or corporation tax or petroleum profits tax no deduction or allowance shall be made of, or on account of, the levy imposed by this Act.

Saving for income tax and corporation tax or petroleum profits tax. [22 of 1974].

13. Subject to the provisions of this Act, the provisions of the Income Tax Act in the table below shall apply in relation to the levy as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modifications and adaptations—

Application of certain provisions of the Income Tax Act. Ch. 75:01.

TABLE

Income Tax Provisions applied to Levy

Sections 59 to 65 (Trustees, agents, etc.).
 Sections 43 to 43H (Appeals). Transferred to Ch. 4:50.
 Section 90 (Repayment of Tax).
 Sections 104–108 (Collection).
 Sections 109, 110, 111, 112 (Recovery).
 Sections 113–114 (Notices).
 Section 115 (Imprisonment of defaulters).
 Sections 116–118, 119–124 (General provisions).

14. (1) In this section “Minister” means the Minister of Finance.

Unemployment fund.

(2) There is hereby established for the purposes of this Act an unemployment fund which shall be administered by the Minister.

(3) Subject to this Act and to any Regulations made thereunder the Minister is authorised to make advances from the fund for any of the purposes thereby provided.

15. All accounts relating to the fund shall be kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament.

Accounts.

16. The Accounts shall be audited annually by the Auditor General in accordance with Part V of the Exchequer and Audit Act as if the fund was established under section 43 of that Act.

Audit.
Ch. 69:01.

Levy to be
paid into fund.

17. All moneys collected pursuant to this Act shall be paid into the unemployment fund.

General
penalty.

18. A person who contravenes any of the provisions of this Act or of any Regulations made hereunder is liable on summary conviction to a fine of five thousand dollars and in the case of a continuing offence to a further fine of one hundred dollars for every day on which any default continues after conviction thereunder.

Regulations.

19. The Minister may make Regulations generally for giving effect to this Act, and in particular—

- (a) for the management and control of the fund;
 - (b) for prescribing the accounts, books and forms to be used;
 - (c) as to the projects and other matters concerning which advances from the fund may be made;
 - (d) for prescribing anything by this Act required to be prescribed.
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