
3rd Session Third Parliament Trinidad and Tobago
23 Elizabeth II



TRINIDAD AND TOBAGO

Act No. 22 of 1974

[L.S.]

AN ACT respecting taxation of businesses carried on in the
course of certain petroleum operations.

[Assented to 29th June, 1974]

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

1. This Act may be cited as the Petroleum Taxes Act, Short title
1974.

PRELIMINARY

Interpretation

2. (1) In this Act—

“accounting period” means a period established by section 7 of the Ordinance as applied for the purposes of this Act, as the case may require;

“assessment” includes a re-assessment;

“Board of Inland Revenue” or “Board” means the Board of Inland Revenue established by section 3 of the Ordinance;

“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 Acts by section 43 thereof;

“crude oil” or “oil” means petroleum in the liquid state, including condensates and natural gasoline 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, 1969;

“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 aircraft 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) ^{G.N. No. 5 of 1970} (h) of the Petroleum Regulations, 1970, is issued or is to be issued under and in accordance with the Petroleum Act, 1969, and those Regulations;

“Minister” means the member of the Cabinet to whom responsibility for Finance is assigned;

“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, adsorption, 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 the provisions of this Act and includes a fine recoverable on summary conviction;

“person” includes a company;

“petrochemical” has the same meaning as in the Petroleum Act, 1969;

“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 such 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;

“regulations” means regulations made under this Act;

“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, 1969);

Act No. 43
of 1969

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

“the Ordinance” means the Income Tax Ordinance; Ch. 33. No. 1

“refinery through-put tax” means the tax on the refining business imposed by Part 2;

“Trinidad and Tobago” includes the submarine area;

“withholding tax” means the tax so referred to in section 23A of the Ordinance.

(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 Ordinance have the same meaning in this Act as in the Ordinance; 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 Ordinance, shall be taken to affect its meaning in the Ordinance as it applies for the purposes of any of the taxes imposed by this Act.

(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

Construction
of Part 1

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 Acts 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.

(2) For years of income after the year of income 1973, the provisions of the Ordinance, other than section 23A thereof, and the provisions of the Corporation Tax Acts 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.

(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 1 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 Acts 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.

4. Except as otherwise expressly provided in Part 1, Application of Acts and Ordinances the Ordinance, the Corporation Tax Acts or any other enactment, the provisions of the Ordinance or those Acts shall not apply for the purposes of the taxes imposed by Part 1, and the provisions of Part 1 shall not, subject to this section, affect the operation of the Ordinance or the Corporation Tax Acts as it relates to individuals or companies.

ADMINISTRATION AND GENERAL PRINCIPLES OF TAXATION

Board to be
responsible
for administration
of Act

5. (1) The Board of Inland Revenue shall be 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 Ordinance shall apply for such purposes as they apply for the purpose of income tax charged under the Ordinance, but subject to any necessary modifications and adaptations.

(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.

General
separation of
certain
petroleum
operations

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

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

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 production business and marketing business are carried on by the same person the income tax principles applied for the purpose of Part 1 shall have effect in relation to the charge to tax on the profits or gains of that person, but subject to the provisions of this Act as to the computation, assessment, collection and recovery of the taxes imposed by Part 1.

(3) Where, however, the same person carries on production business or marketing business or both together with refining business, the refining business shall be treated as a separate tax entity, and nothing in the Corporation Tax Acts or the income tax principles therein or in Part 1 applicable shall have effect in relation to the charge to refinery through-put tax.

7. In addition to the several separate businesses classified by section 6, any Exploration and Production (Public Petroleum Rights) Licence, other than—

Licenses to be treated as separate production business

- (a) an Exploration and Production (Public Petroleum Rights) Licence issued as supplemental to an Exploration and Production (Public Petroleum Rights) Licence granted between the 1st day of January, 1970 and 31st December, 1970; and
- (b) an Exploration and Production (Public Petroleum Rights) Licence issued pursuant to the terms of any Exploration Licence granted after 31st December, 1960 but before 31st December, 1970

issued during the period 1st January, 1973 to 31st December, 1973, shall be treated as constituting a separate production business from any other production business carried on by a person who is a party to such a licence and the provisions of Schedule 2 shall have effect accordingly, so however that any such person may, in accordance with the terms of such a licence, require the Board to treat any production business carried on by him under such a licence as one with any other production business carried on by him.

PART 1

TAXATION OF PRODUCTION BUSINESS AND MARKETING BUSINESS

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,

Application of Part 1 to individuals and companies

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

Charge of
petroleum
profits tax
Schedule 1

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—

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

General
scheme of
petroleum
profits tax

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.

(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.

Basis of
assessment

11. (1) Petroleum profits tax shall be charged for each financial year upon the taxable profits of a person arising in that year; so, however, that 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).

(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

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 Ordinance 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.

General rules
for computa-
tion of profits

(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.

13. (1) Except in so far as this Part otherwise provides including in particular paragraph 7 of Schedule 2, the Income Tax (In Aid of Industry) Ordinance and any provisions of the Ordinance relating to the making of allowances or charges under or in accordance with the said Income Tax (In Aid of Industry) Ordinance shall apply for the purposes of the taxes imposed by Part 1.

Application
and adaptation
of Ordinance
as to capital
allowance and
other matters

(2) For the purposes of the taxes imposed by Part 1 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) The provisions of this and the next following section shall have effect for the purpose of the capitalization of expenditure referred to in subsection (3) and of the allowance to be granted in respect of such capitalized expenditure and of other capital expenditure incurred by a person carrying on production business.

Computation and
application of
capital expendi-
ture in the
production
business

For the purpose of this and the next following section 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 capitalized 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 or IIIA of the Income Tax (In Aid of Industry) Ordinance, but subject always to this section.

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

(5) For purposes of this and the next following section 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 of Petroleum and Mines). 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) Ordinance.

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

- (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 in preparation 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.

15. (1) In the case of production business carried on by New licences any person under an Exploration and Production Licence issued after the commencement of this Act, all expenditure referred to in section 14(3) incurred therein must be capitalized and allowances in respect thereof computed separately with respect to each such licence. Any allowances in respect thereof must be allowed only after commercial production commences.

(2) Allowances in respect of any such expenditure may, however, be allowed in ascertaining the taxable profits of any person carrying on production business under such a licence as is referred to in subsection (1) in respect of any other production business carried on by him, whether on land or in a submarine area, in accordance with section 23(2) of the Income Tax (In Aid of Industry)

Ordinance, if at any time the Minister of Petroleum and Mines certifies that there is no commercial production.

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

Application
of certain
provisions of
the Ordinance

16. Subject to sections 3 and 4, the provisions of the Ordinance 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 Ordinance but subject to any necessary modifications and adaptations, including any modifications made by this Part:

TABLE

INCOME TAX PROVISIONS APPLIED TO PART 1
TAXES

Section 7 (Chargeable income of certain persons)
 Sections 10, 11, 12 and 13 (Deductions and Allowances)
 Section 16(1)(c) (Approved Fund or scheme with respect to deductions allowed at section 11(1)(f), (g) and (h))
 Sections 16A to 16F (Approved Pension Fund Plans)
 Sections 25 to 31 (Trustees, agents, etc.)
 Sections 36, 36A, 37 (Returns)
 Sections 38 (Partnerships)
 Sections 38A to 38D (Payment of tax by instalments)
 Sections 39 and 40 (Assessments)
 Sections 41 and 41A (Assessments lists, etc.)
 Section 42 (Notices of Assessments)
 Sections 43 to 43H (Appeals)
 Sections 44 and 45 (Errors in Assessments and additional Assessments)
 Section 46(1) and (2) (Repayment of Tax)
 Section 47 (Relief from Double Taxation)
 Section 47A (Certain income deemed to be income for the purposes of Ordinance)
 Section 53 (Power of Board to require Schedule of particulars)
 Section 55A (Interest for non-payment of Tax)
 Sections 56, 57, 58, 59, 62 (Collection)
 Sections 63, 64, 64A and 64B (Recovery)
 Sections 65 and 66 (Notices)
 Section 67 (Imprisonment of Defaulters)
 Sections 68, 68A, 68B, 69, 72 to 74 (General provisions)
 Section 75 (Regulations)
 Sections 77 and 78 (Miscellaneous powers of the Board)
 Sections 79 to 87 (Expenses allowance to Directors and others)
 The Third and Fourth Schedules.

17. For the purposes of this Part, the Ordinance as applied for the purposes of this Act is modified as follows: — Modifications of the Ordinance

(a) in section 38A(4), by inserting immediately after paragraph (b) thereof the following new paragraph—

“(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 68 of the Ordinance 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, but subject always to section 28(2) of this Act.

(c) in section 23A, by substituting the following for subsection (8) thereof:—

“(8) In subsections (6) and (7) “profits” means profits computed by applying ordinary accounting practices in accordance with section 28(2) of the Petroleum Taxes Act, 1974, after deducting however any petroleum profits tax and any refinery through-put tax paid in respect of such profit 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) Ordinance 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, 1974, shall have effect for the purpose of the definition of such of the expressions occurring in this subsection as are defined therein”.

- (d) In section 11 by adding the following new subsections immediately after subsection (2) thereof:—

“(3) Notwithstanding the provisions of section 10, where a person carrying on any of the separate businesses makes any payment in respect of management charges to a person not resident in Trinidad and Tobago, there shall be allowed to that person, a deduction of an amount equal to the sum of such payments for the financial year or to one per cent of the other expenses (exclusive of all management charges) of that business, whichever is the lesser of the two amounts.

- (4) In subsection (3)—

“management charges” means charges made for the provision of management services and includes charges made for the provision of personal services and technical and managerial skills.”

Application
of Schedule

18. Notwithstanding any rule of law or provision in any licence or agreement to the contrary, the provisions contained in Schedule 2 shall have effect for the purpose of ascertaining the taxable profits and the tax chargeable thereon of a person in respect of production business and marketing business.

TRANSITORY PROVISIONS

Payment of
tax for 1974

19. (1) Notwithstanding section 38A of the Ordinance but subject to this section, every person shall for the financial year 1974, pay to the Board on or before the 30th June an amount equal to one-half and on or before the 30th September, and the 31st December, respectively, an amount equal to one-quarter of the petroleum profits tax

at the rates in Schedule 1 on his estimated taxable profits for 1974, and on or before the 30th April, in the next year the remainder of the tax, if any.

(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 or the Minister of Petroleum and Mines 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.

PART 2

TAXATION OF REFINING BUSINESS

Refinery Through-put Tax

20. The refinery through-put tax is a tax imposed on the refining business of a person in the manner provided by this Part in lieu of the imposition of a tax on the profits of such a business including the unemployment levy imposed by the Unemployment Levy Act, 1970 and the tax shall be deemed for all the purposes of the law, practice and treaties relating to the taxation of incomes and of profits and to taxes of a similar nature, itself to be a tax on profits.

Nature of
refinery
through-put
tax

No. 16 of 1970

21. (1) There shall be levied and paid refinery through-put tax on each standard unit of volume of crude oil and on any petroleum products received by the refining business of any person at such rate or rates as are prescribed by Order made by the Minister.

Refinery
through-put
tax imposed

(2) In computing the amount of the refinery through-put tax for any period prescribed under section 24 there shall be left out of account stocks of crude oil or petroleum products so received on hand in the refinery storage area at the end of that period so however that any stocks of crude oil or petroleum products so received on hand at the commencement of this Act or any such stocks so left out of account shall be brought into account in computing the refinery through-put tax for the next following period prescribed under section 24.

Power of
Governor-
General to
exempt and
grant relief
from tax

22. (1) The Governor-General may, if he thinks fit, authorise the grant of any exemption or other relief from the refinery through-put tax to any person in respect of any refining business or part thereof carried on by him or in respect of any specified refining process carried on thereby.

(2) An authorisation of a grant of any exemption or relief under subsection (1) shall be in writing addressed to the person so concerned and to the Minister.

Power of
Minister to
fix refinery
through-put tax

23. (1) For the purposes of this Act and in accordance with the provisions of this Part including in particular section 20, the Minister is hereby authorised and required by Order from time to time to determine and fix the rate or rates of refinery through-put tax applicable to the refining business of any person.

(2) Where the Governor-General authorises any exemption or relief from the refinery through-put tax under section 22, the Minister shall in any Order made under this section prescribe the rate or rates of relief from the refinery through-put tax applicable to a person to whom the exemption or relief is granted.

Payment of
refinery through-
put tax

24. (1) Every person liable for the payment of refinery through-put tax under this Part shall account for and pay over the tax to the Board in such manner and at such intervals not exceeding three monthly periods as are prescribed by regulations made by the Board.

(2) Subject to section 23(2) the full amount of the refinery through-put tax shall be paid upon the full amount of crude oil and petroleum products received by

the refining business of a person without any other deduction or allowance than is authorised by this Part or by any other enactment.

(3) Subject to subsection (1), the refinery through-put tax shall be accounted for and paid for all the purposes of this Act as if it was charged for a financial year.

(4) A person liable under this Part to account for and pay over refinery through-put tax to the Board who fails so to do is guilty of an offence; and in addition to his liability for such amount he shall pay interest at the rate of twelve per centum per annum on such amount and on such additional sum from the day on which he was required to make the payment to the day of payment if made within three months and thereafter at the rate of fifteen per centum per annum, as if the same was tax payable by such person on the date when such amount was required to be paid, and the provisions of the Ordinance as apply for the purposes of this Act relating to the collection and recovery of tax shall apply to the collection and the recovery of any such sum or amount.

(5) If any person fails to furnish such a return as is required by any regulations made by the Board under subsection (1) or furnishes an incomplete or incorrect return the Board may, without prejudice to any penalties which may be incurred by that person, determine the amount of tax appearing to it to be due from such person and demand payment thereof, and such amount, which shall be deemed the proper tax payable, shall be paid within such time as the Board may prescribe unless it is shown to the satisfaction of the Board that some other amount is the proper tax due, which other amount shall be paid immediately to the Board.

25. Subject to sections 3 and 4, the provisions of the Ordinance 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 Ordinance but subject to any necessary modifications and adaptations, including any modifications made by this Part:

Application
of certain
provisions of
the Ordinance

TABLE
INCOME TAX PROVISIONS APPLIED TO PART 2
TAXES

Section 47 (Relief from Double Taxation)
Section 53 (Power of Board to require Schedule of particulars)
Sections 56, 57, 58, 59, 62 (Collection)

Sections 63, 64, 64A and 64B (Recovery)
Sections 65 and 66 (Notices)
Sections 68, 68A, 68B, 69, 72 to 74 (General Provisions)
Section 78 (Miscellaneous powers of the Board)
The Third and Fourth Schedules.

Transitory
provisions

26. Where, before the commencement of this Act any exemption or relief was granted or is to be granted to any person carrying on refining business and charged to refinery through-put tax under this Part the exemption or relief shall be deemed to have been allowed if an Order made by the Minister under section 23 so declares and nothing in section 23(2) shall apply in any such case.

PART 3

MISCELLANEOUS AND GENERAL

Allocation
of expenses
to separate
businesses

27. (1) Notwithstanding any rule of law to the contrary but subject to this Act, the provisions of sections 10 and 11 of the Ordinance 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 the next following subsection.

(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.

(3) Such portion of the out-goings and expenses referred to in subsection (1) as are allocable to refining business carried on by a person in common with any other business shall not be available for set-off or deduction in any way by such person.

28. (1) 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 68 of the Ordinance 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

(2) Notwithstanding the provisions of subsection (1), a person carrying on any of the several separate businesses specified in this Act shall also keep books of account and other records according to ordinary accounting practices relating to the conduct of those businesses in so far as they are not in fact separately carried on and accountable, disregarding where it is necessary so to do computations based on the prices of petroleum fixed by the Minister under paragraph 6 of Schedule 2 and the refinery through-put tax determined and fixed by the Minister under section 23, that subject always to such directions as may be given by the Board for the purpose.

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. In addition to the case where they are required by this Act so to do, the Minister and the Minister of Petroleum and Mines shall wherever it is necessary and expedient so to do 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

31. (1) A person who contravenes or fails to comply with any of the provisions of 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 twenty-five thousand dollars or to imprisonment for twelve months, and in the case of Offences and penalties

a continuing offence to a further fine of one 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.

Consequential and other amendments to the Ordinance, the Corporation Tax Acts and the Unemployment Levy Act

32. (1) The Ordinance is amended as follows:—

- (a) in section 68(1) by inserting immediately after the words “such information as” occurring in line eleven, the words “in the opinion of the Board”;
- (b) in section 68(1) thereof by inserting immediately after the words “in the English Language” occurring therein the words “and in the currency of Trinidad and Tobago”;
- (c) in section 68A(1) thereof by inserting immediately after the words “to give it information” the words “in such manner and detail and at such time as the Board may from time to time require by notice in writing”.

(2) The Corporation Tax Acts are amended by repealing sections 47A, 47B and 47C of the Finance Act, 1966.

(3) The Unemployment Levy Act, 1970 is amended as follows:—

- (a) by substituting for the definition of “chargeable income” or “chargeable profits” or “chargeable income or profits” occurring in section 2(1) thereof, the following new definition:—

“‘chargeable income’ or ‘chargeable profits’ or ‘chargeable income or profits’ or ‘taxable profits’ means, subject to this section the chargeable

Act No. 29
of 1966

Act No. 16
of 1970

income or profits or taxable profits ascertained under the provisions of the Ordinance or of the Corporation Tax Acts, or of the Petroleum Taxes Act, 1974 as the case may be;”;

Act No. 22
of 1974

- (b) by inserting immediately after the words “the Corporation Tax Acts” the words “or the Petroleum Taxes Act, 1974” wherever those words appear in the Act;
- (c) by inserting immediately after the words “chargeable profits” or “chargeable income or profits” the words “or taxable profits”, wherever those words appear in the Act;
- (d) by inserting immediately after the words “income tax or corporation tax” the words “or petroleum profits tax” wherever those words appear in the Act; and
- (e) by inserting immediately after the words “year of income” the words “financial year (within the meaning of the Petroleum Taxes Act, 1974)”, wherever those words appear in the Act.

33. The Governor-General 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.

34. This Act shall be deemed to have come into operation on the 1st day of January, 1974.

SCHEDULE 1

[Sections 9 and 19]

RATE OF PETROLEUM PROFITS TAX

For every dollar of the taxable profits of a person in respect of—

(a) any production business	47½%
(b) marketing business	45%

SCHEDULE 2

(Section 18)

SUPPLEMENTARY PROVISIONS ABOUT PRODUCTION 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 1 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 68 of the Ordinance as applied for the purposes of this Act shall have effect accordingly.

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 1, section 13 of the Ordinance 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 13 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 of Petroleum and Mines may approve for the purpose, the following provisions 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 first be available for set off against the profits or gains of any marketing business carried on by such person whether directly or through a subsidiary company and then against the profits or gains of any production business carried on by such person whether 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 allowed.

4. In ascertaining the taxable profits of any person for a financial year from any marketing business carried on by him under Part 1, any subsidy received by him under the Petroleum Production Levy and Subsidy Act, 1974, shall be brought into account as trade receipts.

FIXING OF PRICES OF PETROLEUM AND PETROLEUM PRODUCTS

5. (1) The Minister, after consultation with the Minister of Petroleum and Mines, is hereby authorised and required to fix by Order for the purpose of the petroleum profits tax the prices for petroleum won and saved in the production business of any person.

(2) The prices referred to in subparagraph (1) or the actual prices received, whichever is the greater, shall be deemed to be the prices received by the production business for all petroleum produced thereby. All crude oil shall be deemed to have been disposed of by the production business as soon as it is received in the main tank farm in each field storage area. Such areas shall be taken to be any such area as is so determined by the Minister of Petroleum and Mines. Any sales of natural gas that takes place shall be deemed to have been made at the manifold of the sales line.

(3) In computing the income of the production business for the purpose of ascertaining the taxable profits thereof, profits or gains shall be based on such prices as are referred to in subparagraph (2), and there shall be allowed all such out-goings and expenses as are wholly and exclusively incurred during the year in the production of the profits or gains.

(4) The out-goings and expenses to be allowed shall include—

- (a) in the case of the disposal of oil by way of export by a person carrying on production business where the oil disposed of is produced by such person, expenses incurred up to the point of delivery, that is to say, the point where the oil is delivered on board the tanker (the ship's rail);
- (b) in the case of the disposal of natural gas by a person carrying on production business, where the natural gas disposed of is produced by such person, expenses incurred up to the manifold of the sales line;
- (c) in the case of a disposal to a refinery in Trinidad and Tobago expenses incurred up to the refinery manifold, that is to say, the point for entry into the refinery.

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

- (a) the losses resulting from a pipeline rupture or other casualty occurring between the field storage area (as determined by the Minister of Petroleum and Mines under subparagraph (2)) and the refinery manifold or the ship's rail, as the case may be, if such losses are certified as such by the Minister of Petroleum and Mines;
- (b) any levy paid in accordance with the Petroleum Production Levy and Subsidy Act, 1974.

(6) The prices referred to in subparagraph (1) shall be posted from time to time by Order published in the *Gazette*.

6. (1) The Minister of Petroleum and Mines after consultation with the Minister, is hereby authorised and required, by Order published in the *Gazette*, to fix the price or the basis for determining the price of petroleum products disposed of or deemed to have been disposed of by the refinery business of any person to the marketing business of such person or any other person for disposal and use by the marketing business to prescribed countries outside Trinidad and Tobago; and any such Order that is expressed to have retrospective effect from the 1st January, 1974 shall, by virtue of this paragraph, be deemed to have had effect from that date for all the purposes of this Act.

(2) The disposal shall be deemed to have taken place notwithstanding that the same person carried on both the refining business and the marketing business.

(3) Without prejudice to subparagraph (1) above, the prices fixed by any Order made under section 30A of the Petroleum Act, 1969 shall be taken to be the prices of petroleum products disposed of or deemed to have been disposed of—

- (a) to the marketing business of such person or of any other person; or
- (b) to any other person.

(4) Any Order made by the Minister of Petroleum and Mines under section 30A of the Petroleum Act, 1969, that is expressed to have retrospective effect from the 1st February, 1974, shall by virtue of this section be deemed to have had effect from that date for all the purposes of this Act, and accordingly the subsidy and the levy shall be computed upon the prices, and at the gross margin therein specified.

(5) For the month of January, 1974—

- (a) the prices fixed by any Order made under section 3(2)(d) of the Trade Ordinance, 1958, as amended by section 2 of the Trade (Amendment) Act, 1968 shall be taken to be the prices of petroleum products disposed of to any person other than a person carrying on marketing business, but where no prices were fixed by any such Order the actual prices shall prevail; and
- (b) the Minister of Petroleum and Mines after consultation with the Minister is hereby authorised and required, by Order published in the *Gazette*, to fix the prices or the basis for determining the prices of petroleum products disposed of or deemed to have been disposed of by the refinery business of any person to the marketing business of such person or of any other person for disposal and use in Trinidad and Tobago.

MISCELLANEOUS

7. (1) For the purposes of the allowances to be granted in accordance with sections 13, 14 and 15, the Income Tax (In Aid of Industry) Ordinance is hereby modified by the substitution of the words "or up to the fraction of one-eighth" for the words "or the fraction of one-twentieth" occurring at the end of section 23(2) thereof.

(2) In computing the allowances to be granted in accordance with sections 13, 14 and 15, the total proved reserves (both developed and undeveloped) must be taken into account so however that 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 of Petroleum and Mines.

(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 of Petroleum and Mines.

(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 of Petroleum and Mines 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 of Petroleum and Mines.

Passed in the House of Representatives this 21st day of June, 1974.

G. R. LATOUR
Clerk of the House

Passed in the Senate this 25th day of June, 1974.

J. E. CARTER
Clerk of the Senate