

PETROLEUM TAXES ACT

CHAPTER 75:04

**Act
22 of 1974**

Amended by

30 of 1974	27 of 1988
16 of 1975	6 of 1989
46 of 1976	15 of 1992
47 of 1980	8 of 1996
5 of 1981	9 of 1997
28 of 1984	5 of 2004
26 of 1985	21 of 2005
14 of 1987	2 of 2006
16/1987	30 of 2007
11 of 1988	

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-43	.. 1/2009

L.R.O. 1/2009

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

2

Chap. 75:04

Petroleum Taxes

Index of Subsidiary Legislation

	<i>Page</i>
Supplemental Refining Tax (Variation of Rates) Order (LN 143/1982) ...	42
Supplemental Petroleum Tax (Variation of Rate) Order (LN 119/1983) ...	42
Supplemental Petroleum Tax (Variation of Rate) Order (LN 152/1984) ...	43

Note on Omissions

Petroleum Profits Tax (Posted Prices) Orders made under paragraph 5 of the Second Schedule have been omitted (*see the Current Edition of the Consolidated Index of Acts and Subsidiary Legislation for references to these Orders*).

Note on Section 18A

By Act No. 21 of 2005, section 10I of the Corporation Tax Act is to take effect from 1st January 2003.

CHAPTER 75:04

PETROLEUM TAXES ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

PRELIMINARY

2. Interpretation.

CONSTRUCTION AND APPLICATION OF ACTS

3. Construction of Part I.
- 3A. Application of the Act.
4. Application of Acts.

**ADMINISTRATION AND GENERAL PRINCIPLES
OF TAXATION**

5. Board to be responsible for administration of Act.
6. General separation of certain petroleum operations.
7. Payment of petroleum profits tax.
- 7A. Payment of supplemental petroleum tax.

PART I

TAXATION OF PETROLEUM OPERATIONS

8. Application of Part I to individuals and companies.
9. Charge of petroleum profits tax.
- 9A. Charge and computation of national recovery impost.
10. General scheme of petroleum profits tax.
11. Basis of assessment.
- 11A. }
to } (*Repealed by Act No. 8 of 1996*).
- 11C. }

COMPUTATION OF PROFITS

12. General rules for computation of profits.
- 12A. Anti-avoidance.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 12B. Workover deductions.
- 12C. Heavy oil allowance.
- 13. Application and adaptation of Income Tax Act as to capital allowance and other matters.
- 14. Computation and application of capital expenditure in the production business.
- 14A. Signature bonuses and production bonuses.
- 15. Licences and contracts.
- 15A. Consolidation of production business.
- 16. Application of certain provisions of the Income Tax Act.
- 17. Modifications of the Income Tax Act.
- 17A. Management Charges.
- 18. Application of Second Schedule.
- 18A. Corporation Tax Act to apply.

TRANSITIONAL PROVISIONS

- 19. Payment of tax for 1974.
- 19A. Payment of tax for 1980.
- 19B. Gross income of production business for 1980.
- 19C. Refining stocks as at 31st December 1979.

PART II

SUPPLEMENTAL PETROLEUM TAX

- 20. Interpretation.
- 21. Charge to supplemental petroleum tax.
- 22. Computation of supplemental petroleum tax.
- 22A. *(Repealed by Act No. 2 of 2006).*
- 23. } *(Repealed by Act No. 15 of 1992).*
- 24. }
- 25. *(Repealed by Act No. 21 of 2005).*
- 25A. Royalty allowance.
- 25B. }
- to } *(Repealed by Act No. 21 of 2005).*
- 26D. }

SECTION

PART III

MISCELLANEOUS AND GENERAL

- 26E. Claim for decommissioning.
- 26F. *(Not included in the original Act).*
- 26G. Application of certain provisions of the Act.
- 27. Allocation of expenses to separate business.
- 28. Provisions as to accounting.
- 29. Powers of inspection of records.
- 30. Consultation.
- 31. Offences and penalties.
- 32. Regulations.

FIRST SCHEDULE.

SECOND SCHEDULE.

THIRD SCHEDULE.

FOURTH SCHEDULE.

CHAPTER 75:04

PETROLEUM TAXES ACT

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

Commencement. [1ST JANUARY 1974]

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

PRELIMINARY

Interpretation.
[5 of 1981
8 of 1996
2 of 2006
30 of 2007].
Ch. 75:01.

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;

“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;

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

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

“deep horizons onshore/nearshore area” is an area so classified by the Minister with responsibility for petroleum;

“deep marine area” is an area so classified by the Minister with the responsibility for petroleum;

“deepwater” means that part of the submarine area which has a water depth greater than one thousand metres;

“deepwater block” means fifty per cent or more of a licensed area or contract area which lies in deepwater;

“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 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)(h) of the Petroleum Regulations is issued or is to be issued under and in accordance with the Petroleum Act, and those Regulations;

(Sub. Leg.)
Ch. 62:01.

“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;

L.R.O. 1/2009

“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;

Ch. 62:01.

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

“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 natural gas processing, 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;

Ch. 62:01.

“production sharing contract” means an agreement entered into in accordance with the Petroleum Act;

“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 where the operation is carried

out by a natural gas plant operated separately from any such business;

“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;

“shallow marine area” is an area so classified by the Minister with responsibility for petroleum;

“shallow horizons onshore/nearshore area” is an area so classified by the Minister with responsibility for petroleum;

“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);

Ch. 1:52.

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

“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

Ch. 75:01. 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.

(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 I.

Ch. 75:02.

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.

Ch. 75:01.

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 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 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). Ch. 75:02.

(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.

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. Application of
the Act.
[5 of 1981].

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

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.

ADMINISTRATION AND GENERAL PRINCIPLES OF TAXATION

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

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.

(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. [5 of 1981].

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,

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.

Payment of petroleum profits tax. [2 of 2006].

7. (1) Petroleum profits tax shall be computed and assessed on the taxable profits of a person for a current financial year and there shall be paid by that person to the Board on or before 31st March, 30th June, 30th September and 31st December, respectively, in each

year, an amount equal to one-quarter of the tax estimated on its taxable profits for that current year.

(2) If all or any part of the tax payable under this section is not paid by the end of a quarter, the outstanding tax in respect of each quarter shall bear interest at the rate of twenty per cent a year from the date on which the quarterly instalments were due to the date of payment.

(3) 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 crude oil and natural gas produced and disposed of from land operations and the quantity from marine operations;

(ii) the prices at which the crude oil and natural gas 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.

(4) Notwithstanding subsection (2)—

(a) every person shall pay to the Board on or before 30th April 2006, any outstanding tax due for any of the quarters for the year ending 31st December 2005, as a result of the coming into operation of the Finance Act, 2005, and no interest shall accrue on such outstanding tax up to 30th April 2006; and

(b) if all or any part of the outstanding tax referred to in paragraph (a), is not paid by 30th April 2006, the outstanding tax shall bear interest at the rate of twenty per cent a year from 1st May 2006, up to the date of payment.

Act. No. 21 of
2005.

(5) A person to whom Part I applies, who fails, neglects or refuses to furnish a return of income for the years of income commencing 2005 after six months from the time required to file the

return, shall thereafter in addition to any other penalty provided in any Act and unless the Board otherwise directs, be liable to a penalty of one thousand dollars for every six months or part thereof during which such failure, neglect or refusal continues.

Payment of supplemental petroleum tax. [2 of 2006].

7A. (1) Supplemental petroleum tax shall be computed and assessed on a quarterly basis upon the gross income of a person for the quarters ending 31st March, 30th June, 30th September and 31st December, respectively, and shall be paid by that person to the Board by the fifteenth day of the month following the end of each quarter.

(2) Every person shall furnish to the Board a return relating to the tax payable under this Part, in the form approved by the Board and signed by a duly authorised signatory of that person—

- (a) in respect of each of the quarters for the year ending 31st December 2005, on or before 30th April 2006; and
- (b) in respect of every quarter thereafter, within fifteen days after the end of the respective quarter; or
- (c) where the person ceases to carry on business, within fifteen days after ceasing to carry on such business.

(3) Subject to subsection (4), if all or any part of the tax payable under this Part is not paid by the fifteenth day of the month following the end of a quarter, the outstanding tax shall bear interest at the rate of twenty per cent a year from the day after the date on which the quarterly instalment was due up to the date of payment.

(4) Notwithstanding subsection (3)—

- (a) every person shall pay to the Board on or before 30th April 2006, any outstanding tax owing for any of the quarters for the year ending 31st December 2005, as a result of the coming into operation of the Finance Act, 2005, and no interest shall accrue on such outstanding tax up to 30th April 2006; and
- (b) if all or any part of the outstanding tax referred to in paragraph (a), is not paid by 30th April 2006, the outstanding tax shall bear interest at the rate of twenty per cent a year from 1st May 2006, up to the date of payment.

Act. No.21 of 2005.

(5) A person who fails, neglects or refuses to furnish a return by the date on which the return is required to be furnished under this section shall, in addition to any other penalty provided in this Act and unless the Board otherwise directs, be liable to a penalty of one thousand dollars in respect of any such return for every quarter or part thereof during which such failure, neglect or refusal continues.

PART I

TAXATION OF PETROLEUM OPERATIONS

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 I to individuals and companies.

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 the First Schedule, 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 9 of 1997]. First Schedule.

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

9A. (1) There shall be charged petroleum profits tax, in this section referred to as national recovery impost, at the rate set out in subsection (2).

Charge and computation of national recovery impost. [16/1987].

(2) The national recovery impost shall be payable on the taxable profits of a person where the taxable profits are—

- (a) less than \$5,000,000—1 per cent;
- (b) \$5,000,000 but do not exceed \$15,000,000—2 per cent;
- (c) in excess of \$15,000,000—3 per cent.

L.R.O. 1/2009

LAWS OF TRINIDAD AND TOBAGO

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; 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).

(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.

11A. }
to } *(Repealed by Act No. 8 of 1996).*
11C. }

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 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.

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

(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.

12A. Where a change in the shareholding of a company has taken place in a year of income, no loss incurred in any year preceding the year of income shall be carried forward and set off, as provided by section 16 of the Income Tax Act, against the profits of the year of income unless—

Anti-avoidance.
[11 of 1988].

Ch. 75:01.

- (a) on the last day of the year of income the shares of the company carrying not less than 51 per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51 per cent of the voting power on the last day of the year or years in which the loss was incurred; or
- (b) the Board is satisfied that the change in the shareholding was not effected with a view to avoiding or reducing any liability to tax.

12B. (1) In computing the taxable profits of a person carrying on production business, there shall be allowed as a deduction, the costs other than tangible cost incurred on workovers, maintenance or repair works on completed wells, and qualifying side tracks.

Workover
deductions.
[15 of 1992].

(2) The costs claimed as a deduction do not fall to be treated under section 14 or 26 in computing taxable profits or the supplemental petroleum tax of the person claiming the deduction.

(3) For the purposes of this section, the maintenance and repair works and qualifying side tracks in respect of which the

deduction may be claimed, shall be certified as such by the Minister to whom responsibility for petroleum is assigned.

- (4) In this section—
- (a) “repair works” includes recompletions;
- (b) “qualifying side track” means a deviated well drilled from a well-bore previously utilised for production or injection purposes, and within one well spacing of any well previously drilled for production or injection purposes.

Heavy oil allowance. [27 of 1988, 6 of 1989, 15 of 1992].

12C. (1) In computing the taxable profits of a person who incurs on or after 1st January 1988, capital expenditure on a heavy oil project on land or in a marine area in respect of his production business, that person may subject to subsection (2) elect to claim an allowance, in this section referred to as “heavy oil allowance” as follows:

- (a) for the financial year in which the expenditure is incurred, 60 per cent of such expenditure;
- (b) for each of the next five years 18 per cent of such expenditure.

(2) Expenditure in respect of which heavy oil allowance is claimed does not fall to be treated under section 14 or 26 in computing the taxable profits or the supplemental petroleum tax of the person claiming the allowance.

(3) For the purposes of this section, heavy oil projects on land or in marine areas shall be certified as such by the member of the Cabinet to whom responsibility for petroleum is assigned.

(4) In this section “heavy oil” means crude oil of 18° API or lower.

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 28 of 1984 15 of 1992].

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) Where a production business incurs expenditure in a licensed area—

- (a) after the commencement of this Act in respect of a development dry-hole; or
- (b) after January 1, 1992 in respect of a dry-hole,

and the development dry-hole or dry-hole as the case may be is certified as such by the Minister to whom responsibility for petroleum is assigned, such expenditure shall be allowed as a deduction in the financial year in which such development dry-hole or dry-hole is plugged and abandoned.

(5A) The deduction to which subsection (5) refers shall be limited to the difference between the amount of expenditure so incurred and the amount of capital allowances already computed and allowed in respect of the development dry-hole or dry-hole under the Income Tax (In Aid of Industry) Act.

Ch. 85:04.

(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—

Signature bonuses and production bonuses. [5 of 1981].

- (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, 21 of 2005, 2 of 2006, 30 of 2007].

(1A) Allowances on the capitalised expenditure referred to in subsection (1) are deductible only after the commencement of commercial production or from the year following the year in which the expenditure was actually incurred, whichever is the earlier.

(1B) Notwithstanding subsection (1A), where the expenditure is in respect of exploration costs, the annual allowance shall commence from the year of expenditure.

(1C) In computing the taxable profits of a person who incurs, on or after 1st January 2006, capital expenditure on the drilling of exploration wells in a deepwater block, that person shall be granted capital allowances on his exploration expenditure calculated by reference to an amount equal to one hundred and forty per cent of such expenditure.

(1D) For the purposes of this section, a “deepwater block” and an “exploration well” is a block or well, as the case may be, so classified by the Minister to whom responsibility for petroleum is assigned.

(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

Ch. 85:04. 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.

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

(4) Subject to subsection (4A) and section 15A, 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.

(4A) Notwithstanding subsection (4), a person carrying on any production business under a production sharing contract entered into before the coming into operation of the Finance (No. 2) Act, 2007, shall not consolidate that business with any other production business where the contract so provides.

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

Consolidation of
production
business.
[30 of 2007].

15A. (1) Subject to subsection (3), all production business carried on by a person in any deep marine area under a production sharing contract entered into on or after the coming into operation of the Finance (No. 2) Act, 2007, may be consolidated only with other production business carried on in other deep marine areas under a production sharing contract entered into on or after the coming into operation of the said Act.

(2) Subject to subsection (3), all production business carried on in—

- (a) a shallow horizon onshore/nearshore area;
- (b) a deep horizon onshore/nearshore area;
- (c) a shallow marine area,

by a person under a production sharing contract entered into on or after the coming into operation of the Finance (No.2) Act, 2007, may be consolidated only with other production business carried on in any of the areas specified in paragraphs (a) to (c) under a production sharing contract entered on or after the coming into operation of the said Act.

(3) Notwithstanding subsections (1) and (2), a person carrying on any production business under a production sharing contract entered into on or after the coming into operation of the Finance (No. 2) Act, 2007, shall not consolidate such business with other production business carried on—

- (i) under an exploration and production licence, whether entered into on, before or after the coming into operation of the Finance (No. 2) Act, 2007; or
- (ii) under the production sharing contract entered into before the coming into operation of the Finance (No.2) Act, 2007.

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. [8 of 1996 2 of 2006 30 of 2007]. 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 (1) to (5) and 77(Returns).

Section 78 (Partnerships).

Sections 80 to 82 (Payment of tax by instalments).

Section 82A (Relief from payment of tax).

Sections 83 and 84 (Assessments).

Sections 85 and 88 (Assessments Lists, etc.).

L.R.O. 1/2009

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 to 108 (Collection).
 Sections 109 and 112 (Recovery).
 Sections 113 and 114 (Notices).
 Section 115 (Imprisonment of defaulters).
 Sections 116 to 119, 122 to 124 (General Provisions).
 Section 121A (Prosecution of offences).
 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.

Modifications of
 the Income
 Tax Act.
 [30 of 1974
 16 of 1975
 5 of 1981
 26 of 1985
 2 of 2006].
 Ch. 75:01.

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

- (a) ***Repealed by Act No. 2 of 2006***;
- (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.”.

Ch. 85:04.

17A. (1) Notwithstanding the provisions of section 10 of the Income Tax Act, 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 two per cent of outgoings and expenses allowed under that section (exclusive of all management charges and special allowances) of that business, whichever is the lesser of the two amounts.

Management
Charges.
[21 of 2005].

(2) In subsection (1), “management charges” means charges made for the provision of management services and charges made for the provision of personal services and technical and managerial skills, head office charges, foreign research and development fees and other shared costs charged by head office.

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.

Application of
Second
Schedule.
[5 of 1981].

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

Corporation
Tax Act to
apply.
[5 of 2004
*21 of 2005
2 of 2006].
Ch. 75:02.

*See Note on page 2.

TRANSITIONAL PROVISIONS

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

First Schedule.

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.

(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.

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

Second
Schedule.

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 the Second Schedule.

(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. Ch. 75:01.

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

20. In this Part—
“gross income” means gross income derived from disposals of crude oil;
“sub-licensee” means a person who not being a licensee, is issued a sub-licence by a licensee under the Petroleum Act, to undertake production business on land within a licensed area. Interpretation. [15 of 1992].
Ch. 62:01.

21. (1) There shall be a tax known as supplemental petroleum tax charged on gross income. Charge to supplemental petroleum tax. [5 of 1981 15 of 1992 21 of 2005 2 of 2006].

L.R.O. 1/2009

(1A) *(Repealed by Act No. 2 of 2006).*

(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. [15 of 1992].
Third Schedule.

22. (1) Supplemental petroleum tax shall be computed separately in respect of land operations and marine operations, and is charged separately in the manner and at the rates fixed in the Third Schedule.

- (2) The Minister may by Order—
- (a) subject to affirmative resolution of Parliament, amend Part A of the Third Schedule;
 - (b) vary Part B of the Third Schedule.

22A. *(Repealed by Act No. 2 of 2006).*

23. }
to } *(Repealed by Act No. 15 of 1992).*
24. }

25. *(Repealed by Act No. 21 of 2005).*

Royalty allowance. [15 of 1992].
Ch. 62:01.

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

25B. }
to } *(Repealed by Act No. 21 of 2005).*
26D. }

PART III

MISCELLANEOUS AND GENERAL

Claim for decommissioning. [21 of 2005].

26E. An allowance for decommissioning or abandonment costs under this Act may be claimed only in the year in which the work in respect of the decommissioning or abandonment was actually performed.

26F. *(Not included in the original Act).*

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.

Application of certain provisions of the Act. [5 of 1981, 26 of 1985, 2 of 2006]. Ch. 75:01.

TABLE

Sections 43 to 43H	...	...	(Appeals).
Section 83 to 89	...	...	(Assessments, additional assessments).
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 to 108	...	...	(Collection).
Sections 109 and 112	...	...	(Recovery).
Sections 113 and 114	...	...	(Notices).
Sections 116 to 119, 122 to 124	...	...	(General Provisions).
Sections 131 and 132	...	...	(Miscellaneous Powers of the Board).

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).

Allocation of expenses to separate business. [5 of 1981]. Ch. 75:01.

(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.

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

www.legalaffairs.gov.tt

30

Chap. 75:04

Petroleum Taxes

Provisions as to
accounting.
[5 of 1981].

Ch. 75:01.

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.

Powers of
inspection of
records.

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.

Consultation.
[5 of 1981].

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.

(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.

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. Regulations.

FIRST SCHEDULE

RATE OF PETROLEUM PROFITS TAX

Sections 9
and 19.
[16 of 1975
5 of 1981
15 of 1992].

For every dollar of the taxable profits of a person in respect of petroleum operations—50 per cent.

Sections 18, 28,
[16 of 1975
5 of 1981
15 of 1992
2 of 2006
30 of 2007].

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.

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.

Ch. 75:01.

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) and paragraphs 5A, 5B and 5C 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 or is presumed not to be at arms-length the Board shall substitute for the price reported the fair market value as determined by the Minister.

5A. Notwithstanding any law to the contrary, a person liable to tax under this Act shall submit to the Board for examination any contract which he entered into or proposes to enter into in respect of the sale, exchange, transfer or other disposition, for export purposes, of natural gas, whether or not in the gaseous or liquefied state.

5B. Where, upon an examination of a contract under paragraph 5A, it appears to the Board that the method used under the contract in valuing the sale, exchange, transfer or other disposition of natural gas for export purposes, will not arrive at a fair market value for such sale, exchange, transfer or other disposition, the Board shall submit the contract to the Minister for a determination of the fair market value in accordance with paragraphs 6, 6A and 6B.

5C. Notwithstanding any law to the contrary, a determination made by the Minister under paragraph 5B shall apply to a contract referred to in paragraph 5A and may be reconsidered where the Minister has new information which will affect the fair market value of the natural gas as previously determined.

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 in transit may be considered in determining transportation costs;
- (e) other relevant considerations.

(2) In the case of natural gas sales, 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.

(2A) In the case of the sale, exchange, transfer or other disposition, for export purposes, of natural gas, whether or not in the gaseous or liquefied state, between a person carrying on production business and—

- (a) a person carrying on liquefaction of natural gas;
- (b) a person who purchases the gas for export purposes; or
- (c) an affiliated or related person,

there shall be taken into consideration in determining the fair market value of the gas following:

- (i) the market destination of the gas;
- (ii) the price of the gas at the final destination;
- (iii) regasification costs;
- (iv) shipping costs;
- (v) liquefaction costs;
- (vi) pipeline transport costs;
- (vii) publicly available values outside Trinidad and Tobago; and
- (viii) other relevant considerations.

(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; Ch. 62:02.
- (b) supplemental petroleum tax paid under this Act;
- (c) petroleum impost and royalty paid in accordance with the Petroleum Act. Ch. 62:01.

(3) Notwithstanding subitems (1) and (2), in ascertaining the taxable profits for a year of income of a person carrying on production business under a production sharing contract entered into on or after the coming into operation of the Finance (No. 2) Act, 2007 no deduction shall be allowed in respect of—

- (a) petroleum production levy payable under the Petroleum Production Levy and Subsidy Act;
- (b) petroleum impost and royalty payable under the Petroleum Act; and
- (c) supplemental petroleum tax payable 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.

Ch. 85:04.

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-fifth” for the words “or the fraction one-twentieth” occurring at the end of section 24(2) thereof.

(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 utilised. For the purposes of this sub-paragraph 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 utilised” 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.

THIRD SCHEDULE

RATES OF SUPPLEMENTAL PETROLEUM TAX

Section 22.
[15 of 1992
21 of 2005
2 of 2006
30 of 2007].

PART A

1. In this Schedule “weighted average crude oil price” means gross income derived by a company from the disposal of crude oil during a particular quarter, divided by the gross volume of crude oil disposed of for that quarter. Interpretation.

1A. For the purposes of item 1, the quarters referred to are the period of three months ending on 31st March, 30th June, 30th September and 31st December of a financial year.

2. The tax chargeable in respect of petroleum marine operations, is hereby computed and fixed as follows: Rates for Marine Operations.

Marine Operations

- (a) where the weighted average annual crude oil price for any financial year is U.S. \$15.00 per barrel or less, no tax is chargeable;
- (b) where a licence, sub-licence or contract was issued to a person prior to January 1, 1988, in respect of a marine area, the tax is chargeable on gross income from crude oil production from any field in the licensed area or area subject to the contract, at the rates set out in Column “A” of Part B;
- (c) where a licence, sub-licence or contract was issued to a person in respect of a marine area on or after January 1, 1988 and production of crude oil commenced after January 1, 1992, from any field in the licensed area or area subject to the contract the tax is chargeable on gross income from crude oil production in such field, at the rates set out in Column “B” of Part B;
- (d) where a person carries out petroleum operations in a marine area under a licence issued prior to January 1, 1988, and also carries out petroleum operations in a marine area under a licence issued on or after January 1, 1992, the person may elect—
 - (i) to compute gross income and the allowances separately in respect of a field in each such licensed area, and apply the allowances at the rates in columns A and B of Part B respectively; or
 - (ii) to consolidate his gross income and gross expenditure in respect of both such licensed areas, and where such election is made, the tax is chargeable on the gross income from the consolidated operations, at the rates set out in Column “A” of Part B;

L.R.O. 1/2009

- (e) for the purposes of paragraph (d), a person who elects to have his operations consolidated, shall do so in writing, to the Board of Inland Revenue in the financial year in which expenditure in the production of crude oil in the area licensed on or after January 1, 1992, was first incurred, and such election is irrevocable.

Rates for land operations.

3. The tax chargeable in respect of petroleum land operations is hereby computed and fixed as follows:

Land Operations

- (a) where the weighted average annual crude oil price for any financial year is U.S. \$16.50 per barrel or less, no tax is chargeable;
- (b) where a licence or sub-licence was issued to a person prior to January 1, 1988, in respect of a land area, the tax is chargeable on gross income in respect of crude oil production from any field in the licensed area, at the rates set out in Column "C" of Part B;
- (c) where a sub-licence is issued to a person after January 1, 1988, in respect of a land area, the tax is chargeable on gross income in respect of crude oil production from any field in the licensed area at the rates set out in Column "D" of Part B;
- (d) where a licence, sub-licence or contract was issued to a person in respect of a land area on or after January 1, 1988 and production of crude oil commenced after January 1, 1992, from any field in the licensed area or area subject to the contract, the tax is chargeable on gross income from crude oil production in such field at the rates set out in Column "D" of Part B;
- (e) where a person carries out petroleum operations in a land area under a licence issued prior to January 1, 1988, and also carries out petroleum operations in a land area under a licence issued on or after January 1, 1992, the person may elect—
- (i) to compute gross income and the allowance separately in respect of a field in each such licensed area, and apply the allowances at the rates specified in columns C and D of Part B respectively; or
 - (ii) to consolidate his gross income and gross expenditure in respect of both such licensed areas, and where such election is made, the tax is chargeable on the gross income from the consolidated operations, at the rates set out in Column "C" of Part B;
- (f) for the purposes of paragraph (e), the person who elects to have his operations consolidated shall do so in writing, to the

Board of Inland Revenue, in the financial year in which expenditure in the production of crude oil in the area licensed on or after January 1, 1992, was first incurred, and such election is irrevocable.

4. }
5. } *(Deleted by Act No. 21 of 2005).*

6. The Minister to whom responsibility for petroleum is assigned may in writing under his hand determine a field. Determination of a field.

7. (1) The income derived by a person carrying on production business, whether on land or in a marine area, under a production sharing contract shall be subject to supplemental petroleum tax. Production Sharing Contract.

(2) Notwithstanding the provisions of item 7(1), where in relation to the supplemental petroleum tax, a production sharing contract—

- (a) excludes the provisions of this Act in respect of that tax, this Act shall not apply to the contract;
- (b) modifies the provisions of this Act, then for the purposes of such contract, this Act shall be read and construed accordingly; or
- (c) conflicts or is at variance with this Act,

the provisions of the contract shall prevail.

(3) Every act done by the Board of Inland Revenue prior to the commencement of this Act in relation to the allowance of petroleum impost and royalty as a deduction in ascertaining taxable profits of a person in respect of production business is validated and declared to have been lawfully done by the Board.

8. (1) The rates of supplemental petroleum tax to be applied from the disposal of crude oil from any well in a deepwater block shall be at the rates set out in Column D of Part B of this Schedule. Application of rates of supplemental petroleum tax.

(2) A deepwater block is one so classified by the Minister to whom responsibility for petroleum is assigned.

LAWS OF TRINIDAD AND TOBAGO

PART B

SCALE OF SUPPLEMENTAL PETROLEUM TAX RATES

<i>Price US \$</i>			<i>Rate %</i>			
Between			Marine		Land	
\$		\$	“A”	“B”	“C”	“D”
00.00	and	15.00	0	0	0	0
15.01	”	16.50	7	5	0	0
16.51	”	18.00	11	6	4	0
18.01	”	19.50	15	10	8	1
19.51	”	21.00	19	11	12	2
21.01	”	22.50	23	15	16	2
22.51	”	24.00	24	15	17	3
24.01	”	25.50	25	17	18	3
25.51	”	27.00	26	17	19	3
27.01	”	28.50	27	18	20	4
28.51	”	30.00	28	19	21	4
30.01	”	31.50	29	20	22	5
31.51	”	33.00	30	21	23	6
33.01	”	34.50	31	22	24	7
34.51	”	36.00	32	23	25	8
36.01	”	37.50	33	24	26	9
37.51	”	39.00	34	25	27	10
39.01	”	40.50	35	26	28	11
40.51	”	42.00	36	27	29	12
42.01	”	43.50	37	28	30	13
43.51	”	45.00	38	29	31	14
45.01	”	46.50	39	30	32	15
46.51	”	48.00	40	31	33	16
48.01	”	49.50	41	32	34	17
49.51	and	over	42	33	35	18

FOURTH SCHEDULE

(Section 26A).
[5 of 1981
15 of 1992].

**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

143/1982.

**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.

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

119/1983.

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

made under section 22(2)

Citation.

1. This Order may be cited as the Supplemental Petroleum Tax (Variation of Rate) Order.

Rate of supplemental petroleum tax varied.

2. The rate of supplemental petroleum tax in respect of land operations is varied to 15 per cent.

Effective date of Order.

3. This Order has effect from 1st January 1983.

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

152/1984.

made under section 22(2)

1. This Order may be cited as the Supplement 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.