

## TRINIDAD AND TOBAGO.

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No. 34—1938.

I ASSENT,

[L.S.]

J. HUGGINS,

*Acting Governor.*

21st December, 1938.

*22nd December, 1938.*

AN ORDINANCE to impose a Tax upon Incomes and to regulate the Collection thereof.

**B**E it enacted by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Income Tax short title. Ordinance, 1938.

2. In this Ordinance—

“Body of persons” means any body politic, corporate, or collegiate and any company, fraternity, fellowship, or society of persons whether corporate or not corporate;

Interpreta-  
tion.

“Chargeable income” means the aggregate amount of the income of any person from the sources specified in section 5 hereof remaining after allowing the appropriate deductions and exemptions under this Ordinance;

“Commissioner” means the Commissioner or Commissioners charged with the administration of this Ordinance;

“ Company ” means any company incorporated or registered under any law in force in the Colony, and any company which, though incorporated or registered outside the Colony, carries on business or has an office or place of business therein ;

“ Guardian ”, in relation to an infant, includes parent ;

“ Incapacitated person ” means any infant, married woman, lunatic, idiot or insane person ;

“ Person ” includes a body of persons ;

“ Tax ” means the income tax imposed by this Ordinance ;

“ Year of assessment ” means the period of twelve months commencing on the first day of January in each year.

#### ADMINISTRATION.

Appoint-  
ment of  
administrative  
authority.

3. For the due administration of this Ordinance the Governor may appoint a Commissioner or Commissioners and such other officers and persons as may be necessary and shall furnish such Commissioner or Commissioners with warrants of appointment under his hand.

Official  
secrecy.

4.—(1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income or items of the income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a Magistrate.

(2) Every person having possession of or control over any document, information, returns, or assessment lists or copies of such lists relating to the income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person—

(a) other than a person to whom he is authorised by the Governor to communicate it ; or

(b) otherwise than for the purposes of this Ordinance,

shall be guilty of an offence against this Ordinance.

(3) Where, under any law in force in any part of His Majesty's dominions or in any place under His Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in the Colony, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that part of His Majesty's dominions or in that place under His Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in the Colony or from income tax in that part or place aforesaid.

#### IMPOSITION OF INCOME TAX.

5. Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for each year of assessment upon the income of any person accruing in, derived from, or received in, the Colony in respect of—

Charge of  
Income Tax.

- (a) gains or profits from any trade, business, profession, or vocation, for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised ;
- (b) gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise ;
- (c) the annual value of land and improvements thereon used by or on behalf of the owner or used rent free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit, such annual value being that assessed to any house rate, or taxes under section 3 of the Lands and Buildings Taxes Ordinance ;
- (d) dividends, interest, or discounts ;
- (e) any pension, charge, or annuity ;
- (f) rents, royalties, premiums, and any other profits arising from property.

## BASIS OF ASSESSMENT.

Basis of  
assessment

6. Tax shall be charged, levied, and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment.

Special periods  
of assessment.

7. Where the Commissioner is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purpose of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up:

Provided that, where permission has been given for any year of assessment, tax shall be charged, levied and collected for each subsequent year upon the gains or profits for the full year terminating on the like date in the year immediately preceding the year of assessment, subject to any such adjustment as, in the opinion of the Commissioner, may be just and reasonable.

## EXEMPTIONS.

Exemptions.

8. There shall be exempt from the tax—

- (a) the official emoluments received by the Officer administering the Government during the period in which he is administering the Government, and the official emoluments drawn by the Governor while on leave;
- (b) the income of any local authority in so far as such income is not derived from a trade or business carried on by the local authority. In calculating the income of a local authority for the purposes of this paragraph the incomes derived as hereunder mentioned shall be exempt from tax:

The income of the Mayor, Aldermen and Citizens of the City of Port-of-Spain derived from markets, abattoirs, cemeteries, the Prince's Building, the Woodbrook Estate, the Cocorite Farm, and Gonzales Place;

The income of the Mayor, Aldermen and Burgesses of San Fernando derived from markets, abattoirs, cemeteries and wharves ;

The income of the Mayor, Aldermen and Burgesses of Arima derived from markets, abattoirs and cemeteries.

- (c) the income of any statutory or registered building or friendly society ;
- (d) the income of any ecclesiastical, charitable, or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution ;
- (e) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity ;
- (f) the emoluments payable from Imperial funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in the Colony in respect of their offices under the Imperial Government ;
- (g) wound and disability pensions granted to members of His Majesty's Forces ;
- (h) gratuities granted to members of His Majesty's Forces in respect of services rendered during the late War ;
- (i) the income of the Government Savings Bank, the Trinidad Co-operative Bank, Limited, and any other institution established for the encouragement of thrift which the Governor in Executive Council may declare to be exempt ;
- (j) The income of the Medical Board of Trinidad ;
- (k) The income arising from a scholarship, exhibition, bursary or any other similar educational endowment held by a person, receiving full-time instruction at a university, college, school or other educational establishment ;

Provided that nothing in this section shall be constituted to exempt in the hands of the recipients any dividends, interests, bonuses, salaries, or wages paid or credited to any person wholly or in part out of the income so exempted.

Government  
loans.

9. The Governor may, by proclamation, provide that the interest payable on any loan charged on the public revenue of the Colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the Colony; and such interest shall, as from the date and to the extent specified in the proclamation, be exempt accordingly.

#### ASCERTAINMENT OF CHARGEABLE INCOME.

Deductions  
allowed.

10.—(1) For the purpose of ascertaining the chargeable income of any person, there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year preceding the year of assessment by such person in the production of the income, including—

- (a) sums paid by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income: Provided such interest is chargeable to tax under this Ordinance as part of the income of the person who receives or is entitled to receive the same;
- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
- (c) where any person engaged in any trade, business, profession, or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession, or vocation, and which has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

- (d) any sum expended for repair of premises, plant, and machinery employed in acquiring the income or for the renewal, repair, or alteration of any implement, utensil, or article so employed;
- (e) bad debts incurred in any trade, business, profession, or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year: Provided that all sums recovered during the said year on account of amounts previously written off or allowed in respect of bad or doubtful debts shall, for the purposes of this Ordinance, be treated as receipts of the trade, business, profession, or vocation for that year;
- (f) annuities or other annual payments whether payable within or out of the Colony, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract: Provided that no voluntary allowances or payments of any description shall be deducted;
- (g) rates and taxes on real estate (but not including income tax);
- (h) premiums paid on any fire insurance policy on property used in acquiring the income upon which the tax is payable;
- (i) such other deductions as may be prescribed by any regulation made under this Ordinance.

(2) The Governor in Executive Council may, by regulations, provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

Allowance for  
wear and tear.

**11.** In ascertaining the chargeable income of any person engaged in a trade, business, profession, or vocation, there shall be allowed as a deduction a reasonable amount for the exhaustion by wear and tear of any plant and machinery, and any buildings used exclusively for housing such plant and machinery, owned by him, arising out of the use or employment of such plant or machinery in the trade, business, profession, or vocation during the year immediately preceding the year of assessment.

Deductions  
not to be  
allowed.

**12.** For the purpose of ascertaining the chargeable income of any person, no deduction shall be allowed in respect of—

- (a) domestic or private expenses ;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income ;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital ;
- (d) any capital employed in improvements ;
- (e) any sum recoverable under an insurance or contract of indemnity ;
- (f) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of acquiring the income ;
- (g) any amounts paid or payable in respect of the United Kingdom income tax or super-tax or Empire income tax as defined by this Ordinance .

Allowance of  
trade losses.

**13.** Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession, or vocation carried on by any person either solely or in partnership is such that it cannot be wholly set off against his income from other sources for the same year, the amount of such loss shall, to the extent to which it is not allowed against his income from other sources for the same year, be carried forward, and shall, subject as is hereinafter provided, be set off against what would otherwise have been his chargeable income for the next five years

in succession: Provided that the amount of any such loss allowed to be set-off in computing the chargeable income of any year shall not be set off in computing the chargeable income of any other year: Provided also, that in no case shall such set-off be allowed to an extent which would reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set-off not been allowed.

**14.** In ascertaining the chargeable income of an individual there shall be allowed a deduction of twelve hundred dollars. Deduction for individuals.

**15.—(1)** In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, his wife living with him or wholly maintained by him and that he is not entitled in computing the amount of his income for that year for the purposes of this Ordinance to make any deduction in respect of the sums paid for the maintenance of his wife under sub-section 2 (a) hereof there shall be allowed a deduction of four hundred and eighty dollars. Deduction for wife.

**(2)** In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, paid— Maintenance and Alimony.

(a) a maintenance or separation allowance to his wife in accordance with the terms of a registered deed of separation or an order of any Court of competent jurisdiction, or

(b) alimony to a previous wife whose marriage with him has been dissolved by any Court of competent jurisdiction,

there shall be allowed a deduction of such maintenance or separation allowance or such alimony.

**(3)** In ascertaining the chargeable income of any individual who proves to the satisfaction of the Commissioner that he had the custody of and maintained at his own expense any child born in the year immediately Deduction for children.

preceding the year of assessment or who at the commencement of that year was under the age of sixteen years or who in the course of that year received full time instruction at any university, college, school or other educational establishment, there shall be allowed a deduction—

- (a) in respect of every such child who in the course of that year resided in the Colony or resided outside the Colony but did not receive instruction as aforesaid outside the Colony, the sum of two hundred dollars ;
- (b) in respect of every such child who in the course of that year received instruction as aforesaid outside the Colony, the sum actually paid for his maintenance and education in such year, but not exceeding in any case the sum of twelve hundred dollars :

Provided that no deduction shall be allowed under paragraph (a) hereof in respect of any child who was entitled in his own right to an income exceeding two hundred dollars in the year immediately preceding the year of assessment ; and no deduction shall be allowed under paragraph (b) hereof in respect of any child who was entitled in his own right to an income exceeding twelve hundred dollars in the year immediately preceding the year of assessment :

Provided further that in calculating the income of the child for the purpose of the foregoing provision no account shall be taken of any income to which the child is entitled as the holder of a scholarship, exhibition, bursary or other similar educational endowment.

The expression " child " in this sub-section includes a step-child or an adopted child but does not include an illegitimate child.

Deduction in respect of relatives taking charge of widower's or widow's children or acting as housekeeper.

(4) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that during the year immediately preceding the year of assessment he was a widower and that a female

relative of his or of his deceased wife was resident with him for the purpose of having the charge and care of any child of his or in the capacity of a housekeeper, there shall be allowed, subject as hereinafter provided, a deduction of two hundred dollars in respect of that female relative :

Provided that—

- (a) no deduction shall be allowed under this sub-section unless the claimant proves that no other individual is entitled to a deduction in respect of the female relative under the provisions of this Ordinance or, if any other individual is so entitled, that the other individual has relinquished his claim thereto ; and
- (b) no deduction shall be allowed under this sub-section where the female relative is a married woman living with her husband, and the husband has claimed and been allowed a deduction under the provisions of sub-section (1) of this section ; and
- (c) not more than one deduction of two hundred dollars shall be allowed to any claimant under this sub-section in any year :

Provided further that this sub-section shall apply to a claimant being a widow as it applies to a claimant being a widower with the substitution of " her deceased husband " for " his deceased wife " ; and the expression " child " means a child in respect of whom a deduction is allowed under this Ordinance.

(5) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that during the year immediately preceding the year of assessment he maintained at his own expense any person being a child, brother or sister of his or of his wife, who is incapacitated by old age or infirmity from maintaining himself, or being his or his wife's widowed mother whether incapacitated or not, and being a person whose total income from all sources does not exceed

Deduction in respect of dependent relatives.

two hundred dollars a year, there shall be allowed a deduction of two hundred dollars in respect of each person whom he so maintained :

Provided that where two or more persons jointly maintain any such person as aforesaid, the deduction to be made under this sub-section shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person :

Provided further that this sub-section shall apply to a claimant being a female person as it applies to a claimant being a male person with the substitution of " husband " for " wife."

Deduction in respect of life insurance and contribution to Widows' and Orphans' Fund.

**16.** In ascertaining the chargeable income of any individual who—

- (a) shall have made insurance on his life or the life of his wife in any insurance Company ; or
- (b) shall have made a contribution under the Widows' and Orphans' Pensions Ordinance, or to such fund or scheme as the Governor may approve of,

there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contribution as aforesaid : Provided that no such deduction shall be allowed in respect of any such annual amount of premium or contribution beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections 14 and 15 of this Ordinance.

Deductions to be made only in the case of residents and non-resident British subjects.

**17.** Subject as hereinafter provided, no allowances under sections 14, 15 and 16 of this Ordinance shall be made in the case of any individual who is not resident in the Colony :

Provided that the foregoing provision shall not apply in the case of any individual who satisfies the Commissioner that he is a British subject, so, however, that no such allowance or relief as aforesaid shall be given so as to

reduce the amount of the income tax payable by that individual below an amount which bears the same proportion to the amount which would be payable by him by way of tax if the tax were chargeable on his total income from all sources, including income which is not subject to income tax charged in the Colony, as the amount of the income subject to income tax so charged bears to the amount of his total income from all sources.

**18.** The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee: Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

#### INSURANCE AND SHIPPING COMPANIES.

**19.** Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that—

- (1) in the case of an Insurance Company (other than a Life Insurance Company) where the gains or profits accrue in part outside the Colony, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in the Colony (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of

Wife's  
income.

Special  
provisions as  
to certain  
companies and  
businesses.

(1) Insurance  
Companies  
other than Life  
Insurance  
Companies.

assessment, and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in the Colony, and a fair proportion of the expenses of the head office of the company.

(2) Life Insurance Companies.

- (2) In the case of a Life Insurance Company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission): Provided that where such a company received premiums outside the Colony, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received or annuities paid in the Colony bore to the total premiums received or annuities paid after deducting from the amount so arrived at the agency expenses in the Colony and a fair proportion of the expenses of the head office of the company.

(3) Shipping Companies.

- (3) (a) in the case of a shipowner, the gains or profits of his business as shipowner shall, if he produces or causes to be produced to the Commissioner the certificate mentioned in paragraph (b) of this sub-section, be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods, or mails shipped in the Colony as his total profits for the relevant accounting period shown by that certificate bear to the gross earnings for that period.

(b) The certificate shall be a certificate by the Taxing Authority of the place in which the principal place of business of the ship owner is situated and shall state—

- (i) that the shipowner has furnished to the satisfaction of that Authority account of the whole of his business; and

- (ii) the ratio of the gains or profits for the relevant accounting period as computed according to the Income Tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the shipowner's fleet or vessel for that period.
- (c) If the gains or profits of a shipowner have, for the purpose of assessment in the Colony under this Ordinance, been computed on any basis other than the ratio of the gains or profits shown by a certificate as aforesaid, and an assessment has been made accordingly, the shipowner shall, upon production of such a certificate at any time within two years from the end of the year of assessment, be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded.
- (d) In this sub-section, the expression "shipowner" means an owner or charterer of ships whose principal place of business is situated outside the Colony, but in a part of His Majesty's dominions or in territory under His Majesty's protection.

20.—(1) Gains or profits arising from the business of shipping carried on by a person not resident in the Colony shall be exempted from the tax provided that the Governor is satisfied that an equivalent exemption from income tax is granted by the country in which such person is resident to persons resident in the Colony and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom.

Special exemption as to shipping companies where reciprocal concessions prevail.

(2) In this Section the expression "business of shipping" means the business carried on by an owner of ships, and for the purposes of this definition the expression "owner" includes any charterer.

(3) For the purposes of this Section a company shall be deemed to be resident in that country only in which the central management and control of its business is situate.

## TEMPORARY RESIDENTS.

Temporary residents.

21. Tax shall not be payable in respect of any income arising out of the Colony of any person who is in the Colony for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in the Colony at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

## RATE OF TAX.

Rates as per schedule.

22. There shall be levied and paid upon the chargeable income of every person tax at the rates set forth in the schedule hereto.

## COMPANY DIVIDENDS

Deduction of tax from dividends of companies.

23.—(1) Every company which is registered in the Colony shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections 45 and 46 of this Ordinance) on the income out of which such dividend is paid: Provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid, the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

(2) Every such company shall, upon payment of a dividend, whether tax is deducted therefrom or not, furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

Setting off tax so deducted.

24. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to which any person is entitled in the income of a body of persons assessed under this Ordinance, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

## TRUSTEES, AGENT, &amp;C.

25. A receiver, trustee, guardian, curator, or committee, <sup>Chargeability of trustees, &c.</sup> having the direction, control or management of any property or concern on behalf of any person, shall be chargeable to tax in respect of income derived from such property or concern in like manner and to the like amount as such person would be chargeable if he had received such income, and every such receiver, trustee, guardian, curator, or committee shall be answerable for doing all matters and things required to be done under this Ordinance for the purpose of assessment and payment of tax: Provided that nothing in this section shall affect the liability of any person represented by any such receiver, trustee, guardian, curator, or committee to be himself charged to tax in his own name.

26.—(1) A person not resident in the Colony (herein-<sup>Chargeability of agent of person residing out of the Colony.</sup> after in this section referred to as a non-resident person), whether a British subject or not, shall be assessable and chargeable in the name of his trustee, guardian, curator, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether such attorney, factor, agent, receiver, branch, or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the Colony and in the actual receipt of such income.

A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch, or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch, or manager.

(2) Where a non-resident person, not being a British subject or a firm or company whose principal place of business is situated in His Majesty's dominions or in territory under His Majesty's protection, or a branch thereof, carries on business with a resident person, and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person, and to the substantial control exercised by the non-resident person over the resident person, the course of

business between those persons can be so arranged and is so arranged that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner by whom the assessment is made, or to the Judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or Judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provisions of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged: Provided that the amount of the percentage shall in each case be determined having regard to the nature of the business, and shall, when determined by the Commissioner be subject to an appeal to a Judge as provided by section 41 of this Ordinance.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent, or agent is not an authorised person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of sub-sections (2) and (3) of this section, in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of sub-sections (2) and (3) of this section in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch, or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of the Colony by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Commissioner or, in the case of an appeal, to the Judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct, and, on proof to the satisfaction of the Commissioner or Judge of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

27. The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident is chargeable, shall be answerable for all matters required to be done by virtue of this Ordinance for the assessment of the income of any person for whom he acts and for the payment of the tax chargeable thereon.

Acts, &c., to  
be done by  
trustees, &c.

28.—(1) Every person who, in whatever capacity, is in receipt of any money or value being income arising from any of the sources mentioned in this Ordinance of or belonging to any other person who is chargeable in respect thereof, or would be so chargeable if he were resident in the Colony and not an incapacitated person, shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period

Lists to be  
prepared by  
representative  
or agent.

mentioned in such notice a list in a form approved by the Commissioner, signed by him, containing—

- (a) a true and correct statement of all such income;
- (b) the name and address of every person to whom the same shall belong.

(2) Every person who refuses, fails or neglects to comply with the provisions of this section shall be guilty of an offence against this Ordinance.

Manager of  
corporate  
bodies of  
persons.

**29.** The manager or other principal officer of every corporate body of persons shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of such body and for payment of the tax.

Agents, &c.,  
of non-  
residents to  
be assessed.

**30.** Any resident agent, trustee, mortgagor, or other person who transmits rent, interest, or income derived from any other source within the Colony, to a non-resident person shall be deemed to be the agent of such non-resident person and shall be assessed and shall pay the tax accordingly.

In demnifica-  
tion of  
representative.

**31.** Every person answerable under this Ordinance for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Deduction of  
and accounting  
for tax on  
Mortgage and  
debenture  
interest.

**32.—**(1) Where any person pays mortgage or debenture interest to a person not resident in the Colony and such interest is chargeable income under the provisions of this Ordinance, he shall upon paying the interest deduct therefrom tax at the rate of five cents on every \$1 of such interest payable to any individual and at the appropriate rate set out in the Schedule hereto in the case of a company and shall forthwith render an account to the Commissioner of the amount so deducted and pay thereout the amount of tax assessable in respect of such interest and every such amount shall be a debt from him to the Government of the Colony and shall be recoverable as such.

(2) In the case of a company, the account aforesaid shall be rendered by the manager or other principal officer of the company.

(3) Any person who fails or neglects to render an account under this section shall be guilty of an offence against this Ordinance.

**33.** When any person dies during the year preceding <sup>Deceased persons.</sup> the year of assessment, and such person would, but for his death, have been chargeable to tax for the year of assessment, or when any person dies during the year of assessment or within two years after the expiration thereof, and no assessment has been made upon him for that year, the personal representative of such person shall be liable for and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person, if he were alive, would be liable to do under this Ordinance: Provided that in the case of a person dying during the year preceding the year of assessment, if his personal representative distributes his estate before the commencement of the year of assessment, such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate.

#### RETURNS ; BY WHOM TO BE MADE.

**34.**—(1) Every person chargeable with tax shall, on or before the prescribed date in every year, deliver to the <sup>Returns of personal incomes.</sup> Commissioner a true and correct return of the whole of his income from every source whatsoever for the year immediately preceding the year of assessment, and shall, if absent from the Colony, give the name and address of an agent residing in the Colony.

(2) Every employer shall, on or before the prescribed <sup>Returns by employers.</sup> date in every year, prepare and deliver to the Commissioner a return containing—

- (a) the names and places of residence of all persons employed by him ; and
- (b) the payments and allowances made to those persons in respect of such employment, except persons who are not employed in any other employment and whose remuneration in the employment for the year does not exceed nine hundred and sixty dollars :

Provided that the expression "remuneration" in this sub-section shall be deemed to include not only moneys paid as salary, wages, overtime, or bonus, but also the annual value of any residence, quarters, board and lodging, or other allowances in kind received by an employee in respect of his services.

(3) Where the employer is a body of persons, the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

(4) Returns required under the provisions of this section shall be in a form approved by the Commissioners.

(5) Any person who refuses, fails, or neglects to deliver any return required under the provisions of this section shall be guilty of an offence against this Ordinance.

Power of  
Commissioner  
to require  
returns.

**35.**—(1) The Commissioner may, by notice, require any person, or the attorney of any person, or the secretary, attorney, manager, agent, or other principal officer of a company residing in the Colony, to make returns under this Ordinance within the time specified in such notice.

(2) Any person who, after being required by the Commissioner to make a return, fails or neglects to do so within the time specified, shall, whether or not any liability to tax is involved, be guilty of an offence against this Ordinance.

#### PARTNERSHIPS.

Partnerships.

**36.** Where a trade, business, profession, or vocation is carried on by two or more persons jointly—

(1) The income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership (such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.

(2)—(a) The precedent partner, that is to say, the partner who of the partners resident in the Colony—

(i) is first named in the agreement of partnership, or

(ii) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm, or

(iii) is the precedent acting partner, if the partner named with precedence is not an acting partner, shall make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, and shall declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year ;

(b) Where no partner is resident in the Colony, the return shall be made and delivered by the attorney, agent, manager or factor of the firm resident in the Colony.

(3) Any person who refuses, fails, or neglects to deliver any return required under the provisions of this section shall be guilty of an offence against this Ordinance.

#### ASSESSMENTS.

37.—(1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the day prescribed for delivering the returns. Commissioner to make assessments.

(2) Where a person has delivered a return, the Commissioner may—

(a) accept the return and make an assessment accordingly ; or

(b) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and assess him accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of such person and assess him accordingly, but such assessment shall not affect any liability otherwise incurred by such person by reason of his refusal, failure, or neglect to deliver a return.

Appointment  
of Agent in  
the United  
Kingdom.

**38.** For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom, the Governor may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance, and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner, on receipt of the report, shall enter the amount reported in the assessment list: Provided that if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration: Provided also, that nothing in this section shall prevent the appeal to a Judge in the Colony conferred by section 41 of this Ordinance.

#### ASSESSMENT LISTS.

Lists of  
persons  
assessed and  
notices of  
assessment.

**39.**—(1) After completing his assessment, the Commissioner shall prepare lists of persons liable to tax.

(2) Such lists (herein called the assessment lists) shall contain the names and addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and such other particulars as may be necessary.

#### NOTICES OF ASSESSMENTS.

Notices to be  
served on  
persons  
assessed.

**40.**—(1) The Commissioner shall cause to be served personally on or sent by registered post to each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

(2) If any person disputes the assessment he may <sup>Objections to assessment.</sup> apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment: Provided that the Commissioner, upon being satisfied that, owing to absence from the Colony, sickness, or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2) of this section, the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed, and to produce all books or other documents in his custody or under his control relating to such income and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the amount so agreed shall be the amount at which such person shall stand assessed, and the assessment shall be confirmed or amended accordingly:

Provided always, that in the event of any person who, under sub-section (2) of this section, has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed, his right of appeal to a Judge, under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

#### APPEALS:

41.—(1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of the last preceding section, may appeal against the <sup>Appeals against assessments</sup>

assessment to a Judge in Chambers upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired :

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against such assessment if he shows to the satisfaction of a Judge in Chambers that, owing to absence from the Colony, sickness, or other reasonable cause, he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) Such appeal shall be by summons, and evidence shall be received at the hearing if tendered.

(3) Every person appealing shall attend before the Judge in person on the day and at the time fixed for the hearing of his appeal :

Provided always, that if it be proved to the satisfaction of the Judge that, owing to absence from the Colony, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the Judge may postpone the hearing of the appeal for such reasonable time as he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk, or servant of the appellant, on his behalf.

(4) Seven clear days' notice shall, unless rules made hereunder otherwise provided, be given to the Commissioner of the date fixed for the hearing of the appeal.

(5) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(6) If the Judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

(7) Notice of the amount of tax payable under the assessment as determined by the Judge shall be served by the Commissioner upon the appellant.

(8) All appeals shall be heard *in camera*, unless the Judge shall, on the application of the appellant, otherwise direct.

(9) The costs of the appeal shall be in the discretion of the Judge hearing the appeal and shall be a sum fixed by the Judge.

(10) The decision of the Judge hearing the appeal shall be final: Provided that the Judge hearing such appeal may, if he so desires, and shall, on the application of the appellant or the Commissioner, state a case on a question of law for the opinion of the Full Court.

(11) The Chief Justice may make rules governing such appeals and providing for the method of tendering evidence and appointing places for the hearing of such appeals and prescribing the procedure to be followed on a case being stated. Rules.

(12) Notwithstanding anything contained in sub-section (2) of section 49 of this Ordinance, if the Judge is satisfied that tax in accordance with his decision upon the appeal may not be recovered, the Judge may require the appellant forthwith to furnish such security for payment of the tax, if any, which may become payable by the appellant as may seem to the Judge to be proper. If such security is not given the tax assessed shall become payable forthwith and shall be recoverable forthwith by suit in the name of the Commissioner as well as in the manner prescribed by section 51 of this Ordinance. Appellant to give security for payment of tax.

#### ERRORS IN ASSESSMENTS AND NOTICES.

42.—(1) No assessment, warrant, or other proceeding purporting to be made in accordance with the provisions of this Ordinance shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding. Assessments, &c., not void by reason of errors therein in names and descriptions.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

- (i) the name or surname of a person liable, or
- (ii) the description of any income, or
- (iii) the amount of tax charged ;

(b) by reason of any variance between the assessment and the notice thereof :

Provided that in cases of assessment, the notice thereof shall be duly served on the person intended to be charged, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

#### ADDITIONAL ASSESSMENTS.

Omissions and undercharges may be rectified within two years.

43.—Where it appears to the Commissioner that any person liable to tax has not been assessed, or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within two years after the expiration thereof, assess such person at such amount or additional amount as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

#### REPAYMENT OF TAX.

Circumstances under which repayment may be made.

44.—(1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Treasurer shall cause repayment to be made in conformity therewith.

(2) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards which that person has failed or neglected to deliver a return or has

been assessed in a sum in excess of the amount contained in his return, provided that he has received notice of the assessment made upon him for that year, unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

#### RELIEF IN CASES OF DOUBLE TAXATION.

45.—(1) Any person who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Ordinance paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds half the appropriate rate of United Kingdom tax. If, however, the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax.

Relief in respect of United Kingdom income tax.

(2) For the purposes of this section, a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom tax in any particular case.

(3) For the purposes of this section, the expression "rate of tax" when applied to tax paid or payable under this Ordinance, means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance has been charged for that year, except that where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section 26 of this Ordinance

on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in  
respect of  
Empire  
income tax.

46.—(1) If any person resident in the Colony who has paid, by deduction or otherwise, or is liable to pay tax, under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in the Colony paid or payable by him on that part of his income at a rate thereon to be determined as follows :—

- (a) If the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in the Colony, the rate at which relief is to be given shall be the Empire rate of tax ;
- (b) In any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

(2) If any person not resident in the Colony who has paid by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows :—

- (a) If the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax ;
- (b) If the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be equal to the amount

by which the rate of tax appropriate to his case under this Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section, the expression "Empire income tax" means any income tax charged under any law in force in any part of His Majesty's dominions or in any place under His Majesty's protection (other than the United Kingdom or the Colony), provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and the Colony in a manner similar to that provided in this section.

(4) For the purposes of this section, the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section, and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is, for any year of assessment, resident both in the Colony and in a part or place in which Empire income tax is charged, he shall, for the purposes of this section, be deemed to be resident where, during that year, he resides for the longer period.

47. A claim for relief under Section 45 or Section 46 of this Ordinance shall be made within two years from the end of the year of assessment to which it relates: Provided that such a claim, though not made within the said period of two years, shall be admitted if made within six years from the end of the said year of assessment and within six months from the date upon which the relevant amount of United Kingdom income tax or of Empire income tax, as the case may be, has been ascertained.

Period within which a claim may be made for relief from double taxation.

#### GENERAL POWERS OF COMMISSIONER.

48.—(1) The Commissioner may, by notice in writing, require any person to furnish him within a specified time with a schedule containing such particulars as he may require for the purposes of this Ordinance with respect to the income of such person.

Power of Commissioner to require schedule of particulars.

(2) Any person who fails or neglects duly to furnish such schedule shall be guilty of an offence against this Ordinance.

Power of  
Commissioner  
to require  
persons to  
attend  
before him.

(3) The Commissioner may, by not less than fourteen days' notice in writing, require any person to attend before him and give evidence with respect to his income, and to produce all books or other documents in his custody or under his control relating to such income.

(4) Any person who, without lawful excuse, refuses or neglects to attend or give evidence in pursuance of such notice or to produce such books or other documents, or who refuses to answer any lawful question touching the matters under consideration or knowingly or wilfully gives any false evidence under this section, shall be guilty of an offence against this Ordinance.

#### COLLECTION AND RECOVERY OF TAX.

Extracts from  
lists to be  
sent to  
Treasurer.

49.—(1) The Commissioner shall from time to time forward to the Treasurer, for collection of the tax, certified extracts from the assessment lists containing the names and addresses of the persons assessed together with the amount of tax payable by each person.

Date for  
payment.

(2) The tax appearing in the lists referred to in sub-section (1) of this section shall be payable on or before the prescribed date.

Procedure in  
cases where  
objection or  
appeal is  
pending.

(3) Collection of tax shall, in cases where notice of an objection or an appeal has been given, remain in abeyance until such objection or appeal is determined: Provided that the Treasurer may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Collection of  
tax after  
determination  
of objection  
or appeal.

(4) Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on such objection or appeal, as the case may be shall be payable within thirty days from the receipt by the person assessed of the notification of the tax payable, and if such tax is not paid within such period, payment thereof may be enforced under the provisions of this Ordinance.

Penalty for  
non-payment  
of tax; and  
enforcement  
of payment.

50. If any tax is not paid on or before the prescribed date, a sum equal to five per centum of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

51. In the event of any tax or any portion thereof not being paid on or before the prescribed date, the same shall be recoverable by distress and sale of the goods, chattels, and lands belonging to the person making default in payment.

Recovery of  
tax.

52. It shall be lawful for the Treasurer to issue warrants under his hand addressed to the Marshal requiring him to enforce payment of the tax.

Issue of  
warrants to  
enforce  
payment.

53. It shall be the duty of the Marshal forthwith to execute all warrants addressed to him according to the tenor thereof, and to levy upon the goods, chattels, and lands of the person liable to pay the tax and to sell so much of the same as may be required to satisfy such liability.

Duty of  
Marshal.

54.—(1) There shall be paid to the Marshal such commission, fees, charges, and expenses as may be prescribed in respect of the duties performed by him under this Ordinance; and all such commission, fees, charges, and expenses may be levied for over and above any sum due in respect of tax.

Marshal's  
fees.

(2) All such commission, fees, charges, and expenses received or recovered by the Marshal shall be paid into the Treasury.

55. Every sale of land by the Marshal shall be by public auction before the doors of the Supreme Court; and notice of such sale shall be given in the *Royal Gazette* in each of the three consecutive weeks before the day of the sale.

Sale by public  
auction.

56.—(1) The Marshal shall have power by deed to convey all lands sold by him, and every such conveyance so executed by the Marshal shall have the same force and effect as if executed by the person whose estate or interest in such lands is purported to be conveyed thereby.

Conveyance  
on sale.

(2)—(a) In the case of land under the Real Property Ordinance, the Marshal may execute such instruments and do such acts and things as under the provisions of the said Ordinance may be necessary or proper to transfer any such land.

(b) On production of the proper instruments and payment of the requisite fees ; the Registrar-General shall duly register such transfer.

Surplus on  
sale.

57.—(1) Any surplus moneys arising on any sales under this Ordinance shall be paid to the person entitled thereto.

(2) The Commissioner may, if he thinks fit, pay any such surplus moneys into Court ; and the Supreme Court or a Judge thereof may, on the petition of any person entitled or claiming to be entitled to such moneys or any part thereof, make order for the payment of the same or any part thereof to the person entitled thereto.

Recovery of  
tax in certain  
cases

58.—(1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave the Colony before such tax becomes payable without having paid such tax, he may by notice in writing to such person demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith by suit in the name of the Commissioner as well as in the manner prescribed by section 51 of this Ordinance.

(2) If in any particular case the Commissioner has reason to believe that tax upon any chargeable income may not be recovered, he may at any time and as the case may require—

(a) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within the time to be specified in such notice ;

(b) make an assessment upon such person in the amount of the income returned, or if default is made in making such return or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable ;

(c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to his satisfaction.

(3) If in any particular case the Commissioner has reason to believe that tax upon any income chargeable to such tax may not be recovered, he may at any time—

(a) by notice in writing to the person by whom the tax would be payable determine a period for which tax shall be charged and require such person to render within the time specified therein returns and particulars of such income for that period ;

(b) make an assessment upon such person in the amount of the income returned, or if default is made in making a return or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable.

(4) Notice of assessment made in accordance with the provisions of sub-sections (2) and (3) of this section shall be given to the person assessed, and any tax so assessed (in accordance with the provisions of sub-sections (2) and (3) of this section) shall be payable on demand made in writing under the hand of the Commissioner, and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith by suit in the name of the Commissioner as well as in the manner prescribed by section 51 of this Ordinance.

Any person who has paid the tax in accordance with a demand made by the Commissioner or who has given security for such payment under sub-sections (2) and (3) of this section shall have the rights of objection and appeal conferred by sections 40 and 41 of this Ordinance, and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

The provisions of sub-sections (2) and (3) of this section shall not affect the powers conferred upon the Commissioner by section 43 of this Ordinance.

## NOTICES.

Signature of notices.

59.—(1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon: Provided that any notice in writing under this Ordinance to any person requiring him to furnish particulars to the Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

Service of notices.

60. Notice may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter case be deemed to have been served, in the case of persons resident in the Colony, not later than the fifteenth day succeeding the day when posted, and in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

## IMPRISONMENT OF DEFAULTERS.

In case of refusal to pay where there are no distrainable effects, defaulter may be imprisoned.

61.—(1) If a person neglects or refuses to pay the tax charged upon him by virtue of this Ordinance, and no sufficient distress can be found whereby the same may be levied, the Governor may, by warrant under his hand and seal, commit such person to prison, there to be kept without bail until payment be made of that sum or security given to his satisfaction for payment thereof, together with such further sum as he may adjudge to be reasonable for the costs and expenses of apprehending and conveying such person to prison, where he shall be detained and kept according to the tenor and effect of the warrant.

(2) The Governor may issue his warrant to the Superintendent of Prisons directing the liberation of any defaulter, and, on receipt thereof, the Superintendent of Prisons shall forthwith release and discharge such defaulter out of custody, unless he is under detention for some other cause than that set forth in the warrant of commitment.

#### GENERAL.

**62.** Any person engaged in any trade, business or profession shall keep in the English language proper books of account sufficient to record all transactions necessary in order to ascertain the gains and profits made or the loss incurred in each such trade, business or profession, and any such person who fails to comply with this provision shall be guilty of an offence against this Ordinance, and in addition he shall be liable to pay any tax to which he may be assessed under the provisions of this Ordinance.

**63.**—(1) Any person who, for the purpose of obtaining any deduction, rebate, reduction, or repayment in respect of tax for himself or for any other person, or who in any return, account, or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations ; and

(2) Any person who aids, abets, assists, counsels, incites, or induces another person—

(a) to make or deliver any false return or statement under this Ordinance, or

(b) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance,

shall be guilty of an offence against this Ordinance.

**64.** Any person who fails or neglects to perform any duty required to be performed under this Ordinance shall be guilty of an offence against this Ordinance.

**65.** Any person guilty of an offence against this Ordinance shall, unless some other penalty is specifically provided for such offence, be liable, on summary conviction

before a Magistrate, to a penalty not exceeding Four hundred and eighty dollars, and in default of payment to imprisonment, with or without hard labour, for any term not exceeding six months.

Limitation of time for prosecutions.

**66.** Prosecutions for offences against this Ordinance may be commenced at any time within three years next after the cause of complaint arose.

Saving for criminal proceedings

**67.** The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law.

Governor in Executive Council may remit tax.

**68.** The Governor in Executive Council may remit the whole or any part of the tax payable by any person if he is satisfied that it would be just and equitable to do so.

Regulations.

**69.**—(1) The Governor in Executive Council may make regulations generally for carrying out the provisions of this Ordinance, and may, in particular, by those regulations provide—

- (a) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of the Colony ;
- (b) for the payment of tax by monthly or other instalments ;
- (c) for any such matters as are authorised by this Ordinance to be prescribed ; and
- (d) for any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make regulations for the purpose of carrying this Ordinance into execution.

(2) All regulations purporting to be made in pursuance of this section shall be published in the *Royal Gazette* and shall come into operation on such publication or at such other time as may be named in such regulations.

(3) If any person fails to comply with or contravenes the provisions of any regulation made under this Ordinance he shall be guilty of an offence against this Ordinance.

70. The following Ordinances are hereby repealed :—
- |   |                       |
|---|-----------------------|
| The Income Tax Ordinance,                   | Repeals.<br>Cap. 203. |
| The Income Tax (Amendment) Ordinance, 1928. | No. 10-1928.          |
| The Income Tax (Amendment) Ordinance, 1931. | No. 37-1931.          |
| The Income Tax (Amendment) Ordinance, 1935. | No. 1-1935.           |

## SCHEDULE.

( Vide Section 22.)

## SCALE OF RATES OF INCOME TAX PAYABLE ON THE NET CHARGEABLE INCOME.

(1) In the case of a person other than a Company—

For every dollar of the first 1,000 dollars	... ..	1½ cents.
Do. next 1,000 dollars	... ..	2½ cents.
Do. „ 1,000 dollars	... ..	4 cents.
Do. „ 1,000 dollars	... ..	5 cents.
Do. „ 2,000 dollars	... ..	7 cents.
Do. „ 2,000 dollars	... ..	9 cents.
Do. „ 4,000 dollars	... ..	12 cents.
Do. „ 6,000 dollars	... ..	15 cents.
Do. „ 3,000 dollars	... ..	18 cents.
Do. „ 3,000 dollars	... ..	21 cents.
Do. „ 5,000 dollars	... ..	27 cents.
Do. „ 9,000 dollars	... ..	32 cents.
Do. of the remainder of the chargeable income	... ..	38 cents.

(2) In the case of a Company other than a Life Insurance Company 12½ per centum.

(3) In the case of a Life Insurance Company, 2½ per centum.

Passed in Council this ninth day of December, in the year of Our Lord one thousand nine hundred and thirty-eight.

W. E. BOARDMAN,  
Clerk of the Council.