

## GOVERNMENT NOTICE No. 115

## TRINIDAD AND TOBAGO

REGULATIONS MADE BY THE GOVERNOR IN COUNCIL UNDER SECTION 26 OF  
THE INCOME TAX (IN AID OF INDUSTRY) ORDINANCE, 1950

Short title. 1. These Regulations may be cited as the Income Tax (Mineral Deposits) Regulations, 1950.

Interpretation. 2. (1) The Interpretation Ordinance shall apply to these Regulations as it applies to an Ordinance.

(2) In these Regulations "the Ordinance" means the Income Tax (In Aid of Industry) Ordinance, 1950, and except where otherwise provided references to Parts, Sections and Schedules are references to Parts, Sections and Schedules of or to that Ordinance.

(3) Without prejudice to section 3 of the Interpretation Ordinance, the expression "appointed day expenditure" where used in these Regulations has the meaning which it has for the purposes of the Second Schedule.

Source. 3. The mineral deposits which are to be taken at any date as constituting a source shall be the total deposits in or upon any land from which the person carrying on the trade had at that date any right to lift or extract the mineral deposits or any title to acquire such right being land in the same mineral field or petroleum province :

Provided that for the purposes of Part III of the Second Schedule where assets were acquired by the person carrying on the trade on the appointed day from a predecessor in the working of mineral deposits; the source or part of a source worked by that predecessor with those assets may, if the person carrying on the trade on the appointed day wishes, be regarded as a separate source from any other mineral deposits.

Output. 4. The output from a source in any year or over any period shall be the amount of the payable mineral deposits lifted or extracted from the source in that year or period.

Total potential future output. 5. The total potential future output from a source at any time shall be the total payable mineral deposits that were proved or reasonably estimated to exist in the source at that time.

Residue of expenditure immediately before sale. 6. (1) The residue of the expenditure attributable to any assets immediately before the sale thereof shall be ascertained by deducting from the seller's expenditure on the assets the seller's allowances in respect of the assets.

(2) For the purpose of this Regulation :—

(a) the "seller's expenditure on the assets" shall be :—

(i) any expenditure to which Part III applies incurred by the seller on the assets on or after the appointed day ; and

(ii) so much of any expenditure deemed to have been incurred by the seller on the appointed day under subsection (4) of section 23 as is to be treated as incurred on the assets ; and

(iii) so much of any expenditure deemed to have been incurred on the assets by the seller on or after the appointed day under subsection (7) of section 24 or under subsection (2) of section 25 as is attributable to the assets ;

(b) the "seller's allowances in respect of the assets" shall be:—

- (i) any initial allowances made to the seller in respect of expenditure represented by the assets; and
- (ii) so much of any annual allowances made to the seller as is attributable to the seller's expenditure on the assets:

Provided that where some only of the assets connected with a source are in question the amount of the seller's annual allowances attributable to those assets shall be ascertained by applying the provisions of Part III relating to the computation of annual allowances as though the seller's expenditure on those assets had been the only expenditure qualifying for allowance in connection with the source.

7. The residue of the expenditure attributable to any assets immediately after the sale thereof shall be an amount equal to the residue immediately before the sale ascertained in accordance with Regulation 6 of these Regulations reduced by the amount of any balancing allowance, or increased by the amount on which any balancing charge is made, being an allowance or charge made on the occasion of the sale.

Residue of expenditure immediately after sale.

8. (1) The assets to be treated as representing appointed day expenditure shall be the assets representing the whole of the expenditure of which a part is included in the appointed day expenditure as finally computed.

Assets representing, and

(2) Where it is necessary to determine how much of any appointed day expenditure is to be treated as incurred on any particular asset or group of assets, the total appointed day expenditure may be apportioned among the assets representing that expenditure in proportion to the several amounts of expenditure to which Part III applies which were originally incurred or were deemed to have been incurred on the assets respectively;

apportionment of, appointed day expenditure.

Provided that where the appointed day expenditure is increased under the proviso to subsection (4) of section 23 and separate appointed day residues are ascertained for separate blocks of expenditure:—

- (a) the amount to be treated as incurred on any asset or group of assets representing a block of expenditure shall be the appointed day residue of that block of expenditure, and
- (b) the appointed day residue of a block of expenditure representing a group of assets shall, if necessary, be apportioned among the assets in the group in proportion to the several amounts of expenditure to which Part III applies which were originally incurred or were deemed to have been incurred on the assets respectively.

9. (1) The provisions of this Regulation shall have effect in relation to any application to the Governor in Council under the proviso to subsection (4) of section 23.

Appointed day expenditure. Application

(2) For the purposes of this Regulation and of Regulation 10 of these Regulations:—

under proviso to section 23 (4).

- (a) The "normal appointed day expenditure" means the appointed day expenditure computed in accordance with the Second Schedule.
- (b) Subject as hereinafter provided "block of expenditure" means—
  - (i) so much of the expenditure incurred on the construction of any works specified by the applicant as is expenditure of which a part is included in his normal appointed day expenditure;

- (ii) so much of the expenditure incurred in any period specified by the applicant as is expenditure of which a part is included in his normal appointed day expenditure, except expenditure incurred on such works as aforesaid ;
  - (iii) all the expenditure of which a part is included in the applicant's normal appointed day expenditure except expenditure incurred on such works or in such periods as aforesaid.
- (c) Subject as hereinafter provided the " relevant date " of any block of expenditure means the date when first an asset representing any part of that block of expenditure came into use or the day preceding the appointed day if earlier :

Provided that assets representing expenditure on searching for, discovering or testing deposits, shall be deemed to have come into use when the relevant search, exploration or inquiry was completed.

- (d) Where a part of expenditure consisting of a price paid for assets purchased from a predecessor is included in the trader's normal appointed day expenditure, the price paid shall be regarded as expenditure to which Part III applies which was incurred by the applicant, and in such a case the relevant date means the date when the applicant began to use the purchased assets in question.

(3) The amount by which the normal appointed day expenditure is inadequate shall for the purposes of the application be taken to be the amount, if any, by which the normal appointed day expenditure falls short of the sum of the appointed day residues of all the separate blocks of expenditure.

(4) In determining the appointed day residue of any block of expenditure, it shall be assumed that the applicant had always worked the source and had incurred the block of expenditure, and the appointed day residue of each separate block of expenditure shall be ascertained by applying the principles of Part II of the Second Schedule relating to the computation of appointed day expenditure as though the assets representing that block of expenditure had been the only assets representing expenditure to which Part III applies connected with the source and as though the source had first been worked at the relevant date of that block of expenditure :

Provided that in applying the principles of Part II of the Second Schedule to a block of expenditure represented solely by assets in respect of which any depreciation allowances were made, no deduction shall be made for any relevant depreciation allowances, but the appointed day residue of such a block of expenditure shall not be greater than the amount by which that block of expenditure exceeds the total of any relevant depreciation allowances made in respect of assets representing that block of expenditure for years of assessment before that in which the appointed day falls.

Revision of  
balancing  
allowances :  
application  
under  
proviso to  
section 24 (4).

10. (1) The provisions of this Regulations shall have effect in relation to any application to the Governor in Council under the proviso to subsection (4) of section 24.

(2) In this Regulation—

- (a) the " basic allowance " means the balancing allowance which apart from subsection (4) of section 24 would have been due under subsection (2) thereof ;

- (b) the "modified allowance" means the balancing allowance which would have been due apart from the application ;
- (c) the "new assets" means such of the assets sold as do not represent any part of the applicant's appointed day expenditure ;
- (d) "element of expenditure" means so much of any block of expenditure as is represented by any of the assets sold, or, as regards expenditure represented by new assets, all such expenditure ;
- (e) the "relevant date of an element of expenditure" means the relevant date of the corresponding block of expenditure.

(3) The amount by which the difference between the basic allowance and the modified allowance is excessive shall for the purpose of the application be taken to be the amount, if any, by which the amount specified in paragraph (4) of this Regulation exceeds the modified allowance.

(4) The said last mentioned amount shall be ascertained by a series of separate comparisons between—

- (a) the residue of each element of expenditure ; and
- (b) so much of the net proceeds of the sale as is attributable to the assets representing that element of expenditure and shall be the amount arrived at by :—
  - (i) ascertaining the sum of the adjusted excesses for all cases in which there is an excess of the said residue over the amount mentioned in sub-paragraph (b) of this paragraph, and
  - (ii) subtracting therefrom the sum of the adjusted deficiencies for all cases in which there is a deficiency of the said residue below the amount mentioned in sub-paragraph (b) of this paragraph.

For this purpose—

- (i) the residue of an element of expenditure means the residue immediately before the sale of the expenditure attributable to the assets representing the expenditure comprised in that element computed separately in accordance with Regulation 6 of these Regulations ; and
- (ii) the adjusted excess or deficiency means in the case of an element of expenditure represented by assets other than new assets, the amount obtained by applying to the excess or deficiency in question the fraction of which—
  - (A) the numerator represents the total output from the source in the period which begins with the appointed day and ends with the time of sale, and
  - (B) the denominator represents the total output from the source in the period which begins with the relevant date of the element of expenditure and ends with the time of sale,
 and in the case of an element of expenditure represented by new assets, the excess or deficiency itself.

Dated this 25th day of April, 1950.

G. E. CHEN  
Clerk, Executive Council.