

HEALTH SURCHARGE ACT

CHAPTER 75:05

Act

14 of 1987

Amended by

11 of 1988

6 of 1991

2 of 2002

5 of 2004

30 of 2007

Current Authorised Pages

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LAWS OF TRINIDAD AND TOBAGO

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Chap. 75:05

Health Surcharge

Note on Subsidiary Legislation

This Chapter contains no subsidiary legislation.

Note on Finance Act 1987 (Act No. 14 of 1987)

This Act was formerly Part I (i.e., sections 2 to 9) of the Finance Act, 1987 and the Schedule thereto.

HEALTH SURCHARGE ACT

CHAPTER 75:05

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE.

CHAPTER 75:05

HEALTH SURCHARGE ACT

14 of 1987.

An Act relating to Health Surcharge.

Commencement.

[23RD JANUARY 1987]

Short title.

1. This Act may be cited as the Health Surcharge Act.

Interpretation.

Ch. 75:01.

2. Except as otherwise expressly provided, expressions used in this Act have the same meanings as in the Income Tax Act.Health
surcharge.
[6 of 1991].

Ch. 32:01.

Ch. 75:01.

3. (1) A tax to be called a health surcharge shall be charged and is payable—*(a)* by every employed person who pays or is liable to pay contribution under the National Insurance Act; and*(b)* by individuals other than employed persons who in accordance with section 76 of the Income Tax Act are liable to furnish a return of income.

(2) Subsection (1) does not apply to individuals who—

(a) have not attained the age of 16 years; or*(b)* have attained the age of 60 years.

(3) With effect from the 1st June, 1987 the Board is responsible for the due administration of this Act and for the computation, collection and recovery of health surcharge which shall be paid into the Consolidated Fund and shall be applied to the provisions of health services in Trinidad and Tobago.

(4) The rates at which health surcharge is payable are as follows:

(a) employed persons whose monthly emoluments are more than \$469.99 or whose weekly emoluments are more than \$109.00—\$8.25 per week. All other employed persons—\$4.80 per week;*(b)* individuals other than employed persons whose total income for the year of income averages

more than \$469.99 per month—\$8.25 per week.
All other individuals other than employed
persons—\$4.80 per week.

(5) The Minister may by Order amend the rates of the health surcharge.

(6) An Order made under subsection (5) shall be subject to affirmative resolution of Parliament.

(7) The provisions of the Income Tax Act set out in the Schedule shall apply *mutatis mutandis* to health surcharge. Ch. 75:01.
Schedule.

(8) In this Act—
“emoluments” has the same meaning assigned to it by section 100 of the Income Tax Act;
“employed person” means a person in receipt of emoluments from any employment or office;
“total income” means the aggregate amount of income of a person from the sources specified in section 5 of the Income Tax Act before making any deductions allowed by any provision of that Act other than sections 10, 11 and 16 of that Act and the Income Tax (In Aid of Industry) Act. Ch. 85:04.

4. (1) Where a person is an individual other than an employed person, the health surcharge shall be paid to the Board on or before 31st March, 30th June, 30th September and 31st December in each year of income. Method of effecting payment of surcharge. [11 of 1988 5 of 2004].

(2) Where an individual other than an employed person fails to make such payment on or before the date on which it is due and payable as required by subsection (1) he shall on payment of the amount due, pay interest at the rate of twenty per cent per annum from the date on which the payment became due to the date of payment unless the Board otherwise directs.

(3) Payment of health surcharge in respect of an employed person shall be effected by his employer who shall deduct from the emoluments of the employed person at the time that payment of such emoluments is made a sum equal to the amount of the surcharge imposed under this Act and deposit the sum so deducted with the Board.

(4) Health surcharge shall be deposited with the Board by an employer on or before the fifteenth day of the month following that in which the surcharge is deducted from the emoluments of the employed person in respect of whom it is paid.

(5) Health surcharge shall be deposited in cash or by certified cheque and shall be accompanied by a return in the form approved by the Board.

(6) Where an employer in accordance with subsection (3) deducts the surcharge from the emoluments of any person in his employment, the employer shall as against that person be acquitted and discharged of so much money as is represented by the deduction as if the sum had actually been paid to that person.

Offences.
Interest on
unpaid
surcharge.
[11 of 1988
2 of 2002
*30 of 2007].

5. (1) An employer who—

- (a) fails or neglects to deduct health surcharge in respect of a person in his employment who is required to pay such surcharge; or
- (b) having deducted or received health surcharge fails or neglects to deposit it with the Board,

is guilty of an offence.

(2) An employer, in addition to being liable to pay to the Board the amount of health surcharge which he has failed to deduct or deposit under this Act, shall pay to the Board, from the date on which the amount is due to the date of payment, a sum of twenty-five per cent of such amount and interest at the rate of twenty per cent a year on such amount and on such additional amount, unless the Board otherwise directs.

(3) Notwithstanding subsection (2), the amount of interest an employer is liable to pay on account of the health surcharge payable by him may be calculated by the Board from the due date up to a date determined by the Board, which is earlier than the date of payment.

(4) The Board shall, by notice in writing, inform the employer that interest shall not be calculated in accordance with subsection (2) where the employer pays the interest calculated in accordance with subsection (3) on or before a date stipulated in the notice.

* The Amendment effected to section 5(2) by Act No. 30 of 2007 came into operation on 1st January 2008.

(5) Where the interest so calculated by the Board under subsection (3) remains unpaid after the date stipulated in the notice, the person shall be liable to pay interest calculated in accordance with subsection (2).

6. (1) Subject to subsection (2), an employed person from whose emoluments health surcharge is deducted is entitled either alone or together with any other person to examine his health surcharge record maintained in the prescribed form and retained by his employer.

Employed person may examine his health surcharge record.

(2) An employed person is not entitled to examine his health surcharge record more than once in any month and such examination may not take place elsewhere than on the employer's premises.

7. (1) Where an individual other than an employed person fails or neglects to furnish an income tax return in accordance with the Income Tax Act or where it appears to the Board that such individual has failed to pay or has paid less health surcharge than that which he ought to have paid, the Board shall demand payment from such individual by notice in writing stipulating the amount due, but such demand shall not affect any liabilities otherwise incurred by such individual by reason of his failure or neglect to make the payment as required by section 4(1).

Notice of demand.

Ch. 75:01.

(2) Subsection (1) shall not preclude the Board from issuing further notices of demand, if it is satisfied that the amount paid by or demanded from an individual other than an employed person is less than the amount payable under section 4(1).

(3) A reference to a notice of assessment or an assessment in sections 81, 82 and 86 of the Income Tax Act shall be construed as a reference to the notice of demand issued under subsection (1) or (2) and to the quantification of the tax stated in the notice respectively.

(4) The notice of demand referred to in subsections (1) and (2) shall be issued within the year of income to which the health surcharge relates or within six years after the expiration thereof. The limitation shall not apply where any fraud or any gross or wilful neglect has been committed by or on behalf of any person in connection with or in relation to health surcharge.

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(5) In the case of a notice of demand issued on a personal representative of a deceased person that would but for his death have been issued to such deceased person, the time allowed for issuing the notice shall not extend beyond three years after the year of income in which the person died.

Repayments
and credits.

8. (1) If it is proved to the satisfaction of the Board that any person for any year of income has paid health surcharge 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 in accordance with subsection (3).

(2) Every claim for repayment under this section shall be made within six years from the end of the year of income to which the claim relates.

(3) The Board shall give a certificate of the amount to be refunded and the claimant may apply the refund stated in the certificate against any amount due from him for any subsequent year except that if the refund is due to a person who is not liable to pay the health surcharge the Board shall cause refund to be made in conformity with the certificate.

Certificates of
employee.

9. On or before the last day of the month of February of each year next following a year in which health surcharge was deducted from the emoluments of an employee, the employer by whom the health surcharge was deducted or withheld shall deliver personally or send by post to the employee a certificate containing the following particulars:

- (a) name and address of the employee;
 - (b) total amount of all emoluments paid by the employer to the employee;
 - (c) total amount of health surcharge deducted;
 - (d) date when the employment commenced or ceased if such date falls within the year to which the health surcharge relates.
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SCHEDULE

[Section 3(7)].

**WRITTEN LAWS APPLICABLE TO
HEALTH SURCHARGE**

Sections 2 to 4, 63, 66, 81, 82, 86 to 88, 97, 99(5), (7), (8), (9), (10), (11), (12),
104 to 108, 110 to 125, 130 to 132 of the Income Tax Act.

Regulations 2(3), 17, 22 and 25 of the Income Tax (Employment) Regulations.
