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CHAPTER 75:01

INCOME TAX ACT

AN ACT TO IMPOSE A TAX UPON INCOMES AND TO  
REGULATE THE COLLECTION THEREOF

(22nd December, 1938)

Commencement

PART I

1. This Act may be cited as the Income Tax Act.

Short Title

2. (1) In this Act -

Interpretation

"Appeal Board" means the Appeal Board established under The Tax Appeal Board Act;

Ch.4:50

"assessment" includes a re-assessment;

"Board of Inland Revenue" or "Board" means the Board of Inland Revenue established by section 3;

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

"chargeable income" means the aggregate amount of the income of any person from the sources specified in section 5, remaining after allowing the appropriate deductions and exemptions under this Act;

"child" includes a step-child, an illegitimate child or an adopted child;

"close company" has the same meaning as in the Third Schedule of the Corporation Tax Act;

Ch.75:02

"company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2(1) thereof;

"Corporation Tax" means the tax charged under the Corporation Tax Act by section 3 thereof;

"distribution" has the meaning assigned to that expression in section 49;

"earned income" means any income of an individual arising in respect of -

- (a) any gains or profits immediately derived by the individual from any trade, business, profession or vocation carried on or exercised by the individual either as an individual or in the case of a partnership as a partner personally acting therein;
- (b) any gains or profits from any employment or office including any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in section 27(1)(c) or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 28 to 33, and the estimated annual value of any quarters or board, residence or of any other allowance granted in respect of employment whether in money or otherwise; or

Finance Act, 1989

- (c) any pension, superannuation or other allowances, deferred pay or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person whether the individual or husband or parent of the individual has contributed to such pension, superannuation or other allowance or not;

"employer" in relation to an employee or officer means the person from whom the employee or officer receives his remuneration;

"former year of assessment" means the period of twelve months commencing on the 1st January in each year that before 20th April 1965 (that is, the date of commencement of the Income Tax [Amendment] Act, 1963) was the year for which tax was charged, levied and collected upon the chargeable income of any person for the year immediately preceding that year;

"guardian" in relation to an infant, includes parent;

"incapacitated person" means an infant, person of unsound mind, idiot or insane person;

<sup>1</sup>"management charges" means charges made for the provision of management services and charges made for the provision of personal services and technical and managerial skills, head office charges, foreign research and development fees and other shared costs charged by head office; Act 2 of 2006

"Minister" means the Minister responsible for Finance;

"non-resident company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act in section 2 thereof; Ch.75:02

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<sup>1</sup> Repealed and replaced effective 1<sup>st</sup> January 2006. Definition extended to head office charges, r&d fees and other shared costs.

"participator" has the same meaning as in paragraph 4 of the Third Schedule to the Corporation Tax Act;

"penalty" means any amount or other sum (other than interest) imposed or charged on a person in addition to any tax payable on an assessment made under the provisions of this Act, and includes a fine recoverable on summary conviction;

"person" includes, subject to subsection (2), a company;

"resident company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

"royalties" has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

"separated" means in relation to the marital status of an individual, that the individual is living apart from his or her spouse under - Act No 66 of 1975

- (a) an order of a court of competent jurisdiction;
- (b) a written agreement of separation; or
- (c) any other circumstances where the separation is likely to be permanent;

"short term capital gains" means chargeable gains accruing on the disposal of an asset within twelve months of its acquisition;

"tax" means income tax imposed by this Act;

<sup>2</sup> "total income" means the aggregate amount of income of a person from the sources specified in section 5, before making any deductions allowed by-

- (a) any provision of this Act other than sections 10, 11 and 16;
- (b) the Income Tax (In Aid of Industry) Act, Chap. 85:04

"trade" includes a business, and every trade, manufacture, adventure or concern in the nature of a trade or business;

"withholding tax" means the tax so referred to in section 50;

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<sup>2</sup> BIR Note: Effective 30<sup>th</sup> January 2004

"year of income" means the period of twelve months commencing on the 1st January, in each year.

(2) For years of income after the year of income 1965 the provisions, other than section 50, of this Act relating to the charge of income tax shall not apply to the profits or gains accruing or arising -

(a) to a resident company; or

(b) to a non-resident company, if the profits or gains are within the charge (as defined by section 2(1) of the Corporation Tax Act) to corporation tax or any other written law administered by the Board. Act 9 of 1990

### ADMINISTRATION

3. (1) For the purposes of this Act there is hereby established a Board of Inland Revenue. Board of Inland Revenue

(2) The Board shall consist of five Commissioners whose offices shall be public offices within the meaning of section 3 of the Constitution of Trinidad and Tobago. Section 6 Finance Act 1966/Sch. 4 Act 37 of 1989  
Act No. 15 of 2003<sup>3</sup>

(3) The President shall appoint one of the Commissioners to be Chairman and the Chairman shall preside at all meetings of the Board.

(4) Subject to any regulations made by the President for the purpose, the Board may regulate its own procedure.

4. (1) Every person having any official duty or being employed in the administration of this Act 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. Official Secrecy

(2) Any 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 authorized by the President to communicate it; or

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<sup>3</sup> Effective 1<sup>st</sup> September 2001

- (b) otherwise than for the purposes of this Act or any other written law administered by the Board, is guilty of an offence. Gov't Notice 212 of 1989

(3) Where, under any law in force in any Commonwealth country, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Trinidad and Tobago, the obligation as to the secrecy imposed by this section shall not prevent the disclosure to the authorized officers of the Government in that Commonwealth country 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 Trinidad and Tobago or from income tax in that Commonwealth country aforesaid.

### CHARGING PROVISIONS

5. (1) Income Tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereafter for each year of income upon the income of any person accruing in or derived from Trinidad and Tobago or elsewhere, and whether received in Trinidad and Tobago or not in respect of - Charge to Income Tax
- (a) gains or profits from farming, agriculture, forestry, fishing or other primary activity;
  - (b) gains or profits from the operation of mines or the exploitation of natural or mineral resources;
  - (c) gains or profits from any other trade or business;
  - (d) gains or profits from the practice of any profession or vocation or management charges for the provision of personal services and technical and managerial skills;
  - (e) gains or profits from any employment or office including pensions or emoluments within the meaning of section 100 and any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in section 27(1)(c) or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 28 to 33, and the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment or office whether in money or otherwise; Act No.11 of 1988
  - (f) short term capital gains;
  - (g) interest, discounts, annuities or other annual or periodical sums;
  - (h) rents for real property and royalties from the operation of mines, quarries or other natural resources; Finance Act, 1989

(i) rentals and royalties for the use or the right to use -

(i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tape for radio and television broadcasting, or other like properties or rights, or

(ii) information concerning industrial, commercial or scientific knowledge, experience or skill;

(j) premiums, commissions, fees and licence charges;

(k) dividends or other distributions;

(l) gains or profits or amounts deemed to be income of that person under this Act;

(m) any annual gains or profits not falling under any of the foregoing paragraphs.

(2) In the case of income arising outside Trinidad and Tobago to a person who is not ordinarily resident or not domiciled therein tax shall be payable on the amount received in Trinidad and Tobago, so however, that where any employment or office is exercised by any such person in Trinidad and Tobago, gains or profits from the employment or office, whether received in Trinidad and Tobago or not, shall be treated as income arising therein.

(3) The Capital Gains (Supplementary Provisions) Rules set out in the First Schedule shall have effect for the computation of short term capital gains and generally for the purposes of the charge to tax thereon. First Schedule

(4) Where a person has ceased to hold any employment or office and any pension or annual payment is paid to him or his widow or child, or to any relative or dependent of his by the person by whom he was employed or by the successors of that last mentioned person, then notwithstanding that the pension or annual payment is paid voluntarily or is capable of being discontinued, any amount paid in respect of that pension or annual payment shall be deemed to be income of the person to whom, and for the year of income in which, it is so paid.

(5) Notwithstanding anything in this Act or any other rule of law to the contrary, where income arises to a person from any activities on the continental shelf (this expression here having the same meaning as in the Continental Shelf Act) such income shall for all the purposes of this Act be deemed to have accrued in or to have been derived from Trinidad and Tobago. Ch.1:52

(6) Notwithstanding subsection (1)(e), where under a contract of employment the employer is liable to pay an amount by way of severance pay upon the termination of the employment of an employee by reason of the redundancy



of the position held by the employee or upon the retirement, or other termination of the employment, by reason of ill-health -

Amended by Finance Act, 1993

(a) so much of the amount as does not exceed<sup>4</sup> three hundred thousand dollars shall be exempt from tax; and

(b) the remainder, if any, of the amount -

(i) shall be treated as income for the year in which the employment is terminated and, irrespective of when payment is received, shall not be treated as income of any other year;

Amended by Act No. 20 of 1989

(ii) shall not form part of the chargeable income of the employee but shall be separately charged to tax at his average rate of tax for the year of income immediately preceding the year in which the employment is terminated.

(6A) For the purposes of subsection (6), ill-health shall not be regarded as the reason for retirement or other termination of the employment of an employee unless the Board is satisfied, on such evidence that it may require, that ill-health was the reason for the termination of employment.

Amended by Finance Act, 1993

<sup>5</sup>(6B) The provisions of subsection (6) (a) and (b) in relation to the taxation of an amount paid by an employer to an employee on the termination of the employment of an employee by reason of redundancy, shall apply to a payment not otherwise chargeable to tax which is made, whether in pursuance of any legal obligation or not, either directly or indirectly, in consideration or in consequence of, or otherwise in connection with, the termination of the holding of an office or employment or any change in the functions or emoluments of an employee, including any payment in commutation of annual or periodical payments, whether chargeable to tax or not, which would otherwise have been made

(6C) For the purposes of subsection (6B), any payment made to the spouse or any relative or dependent of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as a payment made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it was given.

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<sup>4</sup> BIR Note: Effective 1st January 1983. Effective 1st January 1981 to 31st December 1982 - \$40,000

Effective 1st January 1983 to 31st December 1992 - \$80,000. Effective January 1st

1993 - \$100,000. Effective 1<sup>st</sup> January 2003 - \$300,000.

<sup>5</sup> Effective 1st January, 1995

(6D) A payment referred to in subsection (6B) does not include a lumpsum payment made -

- (a) under an approved pension scheme under section 28;
- (b) under an approved pension fund plan or an approved deferred annuity plan under section 28;
- (c) under a fund or contract approved by the Board under section 134 (6A);
- (d) in connection with the termination of the holding of an office or employment by the death of the holder or made on account of the injury to or disability of the holder of the office or employment.

Amended by Finance Act, 1995

(7) For the purposes of subsection (6) -

"severance pay" includes any payment in lieu of notice and any payment made in relation to past service of the employee;

"average rate of tax" means such rate, expressed as a percentage as results from dividing the tax payable in respect of a year of income by the amount of the chargeable income of that year.

Act No.14 of 1976

(8) Where the gains or profits from any employment or office which are received by any person during a year of income include an amount which relates to any other year or years of income, the whole of the amount shall, subject to subsections (6) and (10), be treated as income for the year of income during which the amount was received by the person.

Finance Act, 1989

~~(9)~~

Deleted by Finance Act, 1989

(10) Notwithstanding subsection (1)(e), a person who receives a retirement severance benefit shall be exempt from income tax to the extent of not more than three hundred thousand dollars of such benefit where at the date of his retirement -

Act No. 21 of 1983

Amended by Finance Act, 1993

(a) he is not entitled to a pension other than under the National Insurance Act or the Old Age Pensions Act;

Act No. 35 of 1971

Ch 13:2

(b) he is not a member of an approved Pension Fund Plan, or of a Fund or Scheme that is a Provident Fund; and

(c) he produces evidence to the satisfaction of the Board of Inland Revenue -

- (i) that he has retired from insurable employment within the meaning of the National Insurance Act;
- (ii) that he has reached the age of sixty years.

but nothing in this subsection limits the effect of subsection (6)

(11) For the purposes of subsection (10) the Board of Inland Revenue may require from the employee the production of a certificate from the National Insurance Board to the effect that the requirements outlined in subsection (10)(c) have been fulfilled.

Act No. 25 of 1981

**65A**(1) For each year of income, there shall be levied and paid to the Board at the rate of 0.2 per cent a tax to be known as a business levy on the gross sales or receipts, other than emolument income under section 100, of a person.

Finance Act, 1994  
Finance Act, 1995  
Finance Act, 1996  
Finance Act, 1997  
Finance Act, 1998  
Act 91 of 2000\*

(2) Subsection (1) does not apply to -

(a) the gross sales or receipts of a person which give rise to income exempt from income tax under any Act;

(b) the income of a person whose emolument income under section 100 exceeds seventy-five percent of his total income;

With effect from 1/1/99

(c) the gross sales or receipts of a person whose gross sales or receipts in the preceding year of income do not exceed the sum of two hundred thousand dollars, unless there are reasonable grounds to believe that the gross sales or receipts in the particular year of income will exceed that sum; and

Finance Act, 1996  
Finance Act 1998\*

(d) the gross sales or receipts of the business of a person for a period of three years following the commencement of the business.

Finance Act 35 of 1998  
With effect from 1/1/99  
Act 39 of 2000\*\*

<sup>7</sup>(3)A person is entitled to a tax credit against his business levy liability for a year of income of any payment made in respect of his income tax liability for that year of income up to a maximum of his business levy liability.

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<sup>6</sup> Note: 1994 - .25%; 1995 - .5%; 1996 - .4%; 1997 to 1998 - .33%;  
1999 to 2000 - .25%; 2001 to present .2%.

<sup>7</sup> Note: Effective 1st January, 1995

(4) Deleted

(5) The business levy shall be payable on the gross sales or receipts of each quarter ending on 31st March, 30th June, 30th September and 31st December, in each year of income.

(6) Where the Board is satisfied that a person is unable to determine, by the due date for payment in any quarter, the gross sales or receipts for any day in that quarter, that person may, with the approval of the Board, estimate the gross sales or receipts for that day.

(7) Where a person who estimates his gross sales or receipts for any day in a quarter determines that his actual sales or receipts for that day are more than the estimated sales or receipts, that person shall pay the business levy due on the difference between the actual sales or receipts and the estimated sales or receipts no later than the last day of the quarter following the quarter in which the sales or receipts were estimated.

(8) Where a person to whom subsection (6) applies pays business levy in any quarter amounting to less than ninety per cent of the business levy liability for that quarter, the difference between ninety per cent of the business levy liability and the amount paid by the end of the quarter in which the levy liability arose shall be subject to interest from the day following the end of that quarter to the date of payment at the rate of fifteen percent per annum.

(9) For the avoidance of doubt, it is declared that in ascertaining the chargeable income of a person, no deduction or allowance shall be made of, or on account of, the levy imposed by this section.

(10) The business levy shall be under the care and management of the Board and the provisions referred to in the Table apply in relation to the business levy as they apply in relation to income tax, but subject to any necessary modifications and adaptations:

### **TABLE**

#### **INCOME TAX PROVISIONS APPLIED TO THE BUSINESS LEVY**

Section 2 (Interpretation)

Sections 3 and 4 (Administration)

Sections 59 to 65 (Trustees, Agents, etc.)

Section 66 (Deceased persons)

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\* Effective 1<sup>st</sup> January 1999

\*\* Effective 5<sup>th</sup> September 2000

Sections 76 and 77 (Returns)

Sections 79 to 82 (Payment of tax in instalments)

Section <sup>8</sup>82A (Relief from payment of tax)

Finance Act No. 30 of 2007

Sections 83 and 84 (Assessments)

Section 85 (Assessment lists etc.)

Section 86 (Notices of Assessment)

Section 87 (Appeals)

Sections 88 and 89 (Errors in assessments and additional assessments)

Section 90(1) and (3) (Repayment of tax)

Section 92 (Refunds)

Section 93 (Relief from double taxation)

Section 94 (Certain income deemed to be income for the purposes of the Income Tax Act)

<sup>9</sup>Section 97 (General powers of the Board)

Finance (No. 2) Act, 1994

Section 103 (Interest for non-payment of tax)

Sections 104 to 108 (Collection)

Sections 109 to 112 (Recovery)

Sections 113 and 114 (Notices)

Section 115 (Imprisonment of defaulters)

Sections 116 to 124 (General Provisions)

Section 125 (Regulations)

Sections 130 to 132 (Miscellaneous powers of the Board)

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<sup>8</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>9</sup> B.I.R. Note: Effective 1st January, 1994

The Sixth Schedule

BASIS OF ASSESSMENT

6. Tax shall be charged for each year of income upon the chargeable income of every person for that year. Basis of assessment
7. (1) The gains or profits of any person for a year of income so far as such gains or profits arise from the carrying on of any trade business, profession or vocation shall be Chargeable Income of certain persons
- (a) where there is an established accounting terminal date, the gains or profits of the twelve months from the established accounting terminal date occurring in the year immediately preceding the year of income;
  - (b) in the case of the commencement by any person of any trade, business, profession or vocation, the gains or profits from the date of commencement of such trade, business, profession or vocation occurring in the year immediately preceding the year of income or occurring in the year of income to such date in the year of income as may be agreed by the Board which agreed date shall thereafter be the established accounting terminal date;
  - (c) in the event of a departure from the established accounting terminal date, the gains or profits for such twelve-month period as the Board in its discretion may determine in respect of the year of income in which the departure from the established accounting terminal date occurs and in respect of the next succeeding year of income; thereafter the accounting terminal date resulting from the change shall be the established accounting terminal date.
- (2) Where any person ceases to carry on his trade, business, profession or vocation, the gains or profits of such person arising from his trade, business, profession or vocation for the year of income in which he ceased to carry on his trade, business, profession or vocation shall be the gains or profits from the established accounting terminal date in the year immediately preceding the year of income to the date upon which he ceased his trade, business, profession or vocation.
- (3) In this section "established accounting terminal date" means the accounting date to which the accounts of any trade, business, profession or vocation of any person are ordinarily made up and accepted for the purpose of assessment under this Act, or in the case of any new trade, business, profession or vocation, such date as may be agreed by the Board.

## 108.(1) There shall be exempt from the tax -

Exemptions

- (a) the official emoluments received by the President or a person performing the functions of President temporarily, the pension received by a retired President and by the widow of a President or retired President;
- (b) the official emoluments received by persons exempt under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act;
- (c) wound and disability pensions granted to members of the armed forces of any Commonwealth country;
- (d) gratuities to members of the armed forces of any Commonwealth country in respect of service rendered during the wars which began on 14th August 1914 and 3rd September 1939;

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<sup>10</sup> BIR Note: Exemption granted by other written laws include -

- (1) The income of certain international organisations and the salaries and emoluments paid by such organisations to employees who are not local citizens. (INTERNATIONAL FINANCIAL ORGANISATIONS ACT, 1963 as amended).
- (2) The salaries and emoluments of directors and employees of the Caribbean Development Bank who are not citizens, nationals or permanent residents of Trinidad. (CARIBBEAN DEVELOPMENT BANK ACT, 1969, SEC. 55).
- (3) The income of foreign firms or organisations engaged by the Caribbean Industrial Research Institute, and the salaries of their foreign personnel earned in the execution of their project. (CARIBBEAN INDUSTRIAL RESEARCH INSTITUTE ACT, 1971, SEC. 16 & SCHEDULE).
- (4) Any dividend, not exceeding five thousand dollars, received by a unit holder and any profit, interest or gain received by an institution in respect of its contribution to the initial capital of the Unit Trust. (UNIT TRUST CORPORATION ACT NO. 26 of 1981, SEC. 36).
- (5) Interest paid on bonds issued by the Home Mortgage Bank is exempt from income tax and any other tax including Unemployment Levy. (HOME MORTGAGE BANK ACT, 1985. Act No. 12 of 1985 Sec. 31(1)).
- (6) The income or profit of the Eric Williams Medical Sciences Complex Authority. (ERIC WILLIAMS MEDICAL SCIENCES COMPLEX AUTHORITY ACT, 1989. Act No.29 of 1989 Sec.41).
- (7) The property of the CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE as well as the salaries and emoluments of officials of the Institute. (CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE) ORDER, 1989 G.N.201 of 1989
- (8) The two members of the staff of Foerster & Reimann assigned to the Tourism Development Authority shall be exempt from income tax and other taxes specified in the order. (THE PRIVILEGES AND IMMUNITIES (CONVENTIONS OF LOME) ORDER, 1990) L.N. 88 OF 1990.
- (9) The eight members of the staff of TEDS Consultancy assigned to the Trinidad and Tobago Export Development corporation shall be exempt from income tax and other taxes specified in the order. The firm of TEDS Consultancy shall be exempt from such direct or indirect taxes as may be specified by the Minister. (THE PRIVILEGES AND IMMUNITIES (CONVENTIONS OF LOME) (NO. 2 ORDER), 1990) L.N. 89 of 1990
- (10) The salary, pension and every allowance of whatsoever nature payable to a Judge in respect of his service as a Judge shall be wholly exempt from the payment of income tax and any other tax. (THE JUDGES' (CONDITIONS OF SERVICES AND ALLOWANCES) (AMENDMENT) REGULATIONS, 1990) L.N. 114 of 1990



- (e) the income arising under a scholarship, exhibition, bursary or any other similar education endowment held by a person receiving full-time instruction at a university, college, school or other educational establishment;
- (f) the income arising from investments of any fund or scheme approved by the President under section 27(1)(c);

<sup>11</sup>(fa) Repealed

Finance Act 35 of 1998  
Finance Act 2 of 2006

- (g) benefits (including lump sum payments) paid out of the Employment Injury Benefit Fund and the Short Term Benefits Funds established under section 43 of the National Insurance Act; Ch.32:01

- <sup>12</sup>(h) dividends or bonus distributions, or both paid by a registered co-operative society or dividends paid by the Agricultural Development Bank to a member or a shareholder, as the case may be, who is either resident or ordinarily resident in Trinidad and Tobago;

- (i) the income of the Council of Legal Education;

- (j) (deleted with effect from 8th January 1988); Act No.11 of 1988

- <sup>13</sup>(k) the income of any resident individual where the total income does not exceed sixty thousand dollars for a year of income;

Act No. 14 of 1987

Act No.5 of 2004

Act 2 of 2006

- (l) interest payable on bonds known as TTDFC Industrial Bonds that are issued by Trinidad and Tobago Development Finance Company Limited; Act No. 20 of 1989

- <sup>14</sup>(la) interest payable on bonds, known as restoration bonds, that are issued by the Industrial Development Corporation for the purposes of financing a business restoration facility; Finance Act 1991

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<sup>11</sup> BIR Note: Effective 1st January 2006. Interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company no longer exempt.

<sup>12</sup> BIR Note: Effective 1st January 1972

<sup>13</sup> BIR Note: \$25,000 effective 1st January 2004. \$60,000 effective 1<sup>st</sup> January 2006

(lb) with effect from 1st October, 1998 interest payable to resident individuals on bonds issued by the Trinidad and Tobago Mortgage and Finance Company Limited for the purpose of providing loans to first time home owners.

Finance Act 35 of 1998

(m) subject to subsection (1A), the amount of any gratuity payable under a Government pension Act to a person who was a monthly-paid officer or employee;

Act No. 20 of 1989

15(n) Deleted

Finance Act 1997

16(o) pensions payable under the National Insurance Act;

17(p) interest whether or not denominated in local currency, paid or credited to a resident individual-

- (i) on all classes of savings or other accounts with banks or other financial institutions in Trinidad and Tobago;
- (ii) on savings or other accounts with a person carrying on a trade or business in Trinidad and Tobago who, in the ordinary course of operations of such trade or business, receives and retains money in such circumstances that interest becomes payable; or
- (iii) on bonds or similar investment instruments issued in Trinidad and Tobago;

Act 5 of 2004

18 (pa) that portion of a dividend comprising interest which is payable to a resident individual who is a beneficiary under a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, No. 18 of 1993, where the profits of such trust are exempt from corporation tax;

Act 5 of 2004

19 (pb) that portion of the amount or value of a distribution comprising interest which is paid or credited to a resident individual by the Trinidad and Tobago Unit Trust Corporation;

Act 5 of 2004

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<sup>15</sup> BIR Note: Effective 1st January 1990. Substituted by Finance Act, 1994 and effective 1st January, 1994

<sup>16</sup> BIR Note: Effective 1st January 1991

<sup>17</sup> BIR Note: Effective 1st January 2004

<sup>18</sup> BIR Note: Effective 1st January 2004

<sup>19</sup> BIR Note: Effective 1st January 2004

- (q) Deleted Finance Act 1997
- (r) with effect from 10th January, 1996 interest on bonds issued in accordance with the National Tax Free Savings Bonds Regulations Finance Act 1997
- (s) Deleted Finance Act 1997
- <sup>20</sup>(t) annuity or other periodic sum payable under an immediate annuity purchased on or after 1st January, 2006 by an individual who is a resident of Trinidad and Tobago; Finance Act 1994  
Act 2 of 2006
- <sup>21</sup>(u) dividends payable by a venture capital company to its shareholders who are ordinarily resident in Trinidad and Tobago.
- (ua) dividends paid by the Export Import Bank to its shareholders who are ordinarily resident in Trinidad and Tobago for a period of ten years commencing from the date of the initial investment; Act 36 of 2000\*
- <sup>22</sup>(ub) dividends paid by the Export Import Bank to its shareholders who are not ordinarily resident in Trinidad and Tobago for a period of ten years commencing from the date of initial investment; Act 36 of 2000
- <sup>23</sup>(v) the amount or value of the dividends or other distributions paid to a resident individual - Finance Act 1995  
Finance Act 1996
- (i) by a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act 1993 where the profits of the trust are exempt from corporation tax;
- (ii) under the First and Second Unit Schemes of the Trinidad and Tobago Unit Trust Corporation established by the Unit Trust Corporation of Trinidad and Tobago Act;

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<sup>20</sup> BIR Note: Effective 1st January 1994; repealed and replaced effective 1<sup>st</sup> January 2006 to remove age

restriction of 60 years.

<sup>21</sup> BIR Note: Effective 17th June, 1996

<sup>22</sup> BIR Note: Effective 25<sup>th</sup> September 2000

<sup>23</sup> BIR Note: Deleted 1st December 1994 and substituted. Effective 1st January, 1995  
Deleted Finance Act 1996 and substituted Effective 8th May, 1996

<sup>24</sup> (w) the amount or value of distributions, other than preferenc dividends, paid by a resident company to a resident individual. Finance Act 1996  
G.N.212 of 1989

<sup>25</sup> (x) on the death of a person, a lump sum death benefit paid under a pension plan <sup>26</sup>or deferred annuity plan approved by the Board in accordance with section 28. Finance Act 35 of 1998  
With effect from 1/1/99  
Finance Act 17 of 2007  
Finance Act 30 of 2007

(1A) Where a gratuity, other than a gratuity payable as a result of the exercise of an option to receive a gratuity and a reduced deferred pension as referred to in section 9 of the Voluntary Termination of Employment Act, 1989, is payable to a person upon his services terminating under the Voluntary Termination of Employment Act, 1989 before he has attained the age of fifty years, the exemption provided by subsection (1)(m) does not apply but section 5(6) applies to the amount of the gratuity as if it were an amount that the employer of that person were liable to pay by way of severance pay, as referred to in section 5(6). Act  
No. 20 of 1989

(2) Nothing in section 6 of the Corporation Tax Act shall be construed so as to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid or credited to any person wholly or in part out of the income so exempt.

(3) In subsection (1) -

"Agricultural Development Bank" means the Agricultural Development Bank of Trinidad and Tobago established under the Agricultural Development Bank Act; Ch.79:07

<sup>27</sup>"Emolument income" means all salary, wages, overtime, bonus, remuneration, perquisites including the value of board and lodging, stipend, commission or other amounts for services, director's fees, retiring allowances or pension, arising or accruing in or derived from or received in Trinidad and Tobago, but does not include any salary or share of profits arising from a trade, business, profession or vocation carried on by a person either by himself or in partnership with any other person; Act No. 3 of 1994

"Government pension Act" means an Act under which there is payable any benefit by way of a pension or gratuity in respect of past service, the

<sup>24</sup> BIR Note: Effective 8th May, 1996

<sup>25</sup> BIR Note: Effective 1<sup>st</sup> January, 2007, approval by Board is required.

<sup>26</sup> BIR Note: Effective 1<sup>st</sup> January, 2008

<sup>27</sup> BIR Note: Effective 1st January, 1994

payment of which is a charge on the Consolidated Fund or other public funds;

Act No. 20 of 1989

28 "Immediate annuity" means a contract between an individual and a person authorized to carry on an annuities business in Trinidad and Tobago under which, in consideration of a lumpsum payment made by the individual, the person agrees to pay to the individual an annuity or other periodic sum commencing immediately; Act No. 3 of 1994

"Industrial Development Corporation" means the Industrial Development Corporation established in accordance with the Industrial Development Corporation Act; Ch.85:50

"registered co-operative society" means a society which has been registered under the Co-operative Societies Act. Ch.81:03

29 "spouse" includes a cohabitant as defined in the Cohabital Relationships Act. Act No. 30 of 1998  
Act No. 39 of 2000  
Act No. 5 of 2004

**8A** Where on or after 1<sup>st</sup> January 2004, but before the commencement of the Financial Act, 2004 a bank, financial institution or other person-

- (a) pays or credits a resident individual with the interest referred to in section 8(1)(p), (pa) or (pb); and
- (b) deducts a tax at the rate of five per cent thereon,

such bank, financial institution or other person shall pay or credit the resident individual with an amount equal to the tax deducted instead of remitting it to the Board.

Finance Act 2004

30 **8B.** Notwithstanding the repeal of section 8(1)(fa), where, on or before 31<sup>st</sup> December, 2005, a person would have been entitled to an exemption from tax under the repealed section 8(1) (fa) in respect of interest income on loans made to fund projects within the small business sector, the provisions of that repealed section shall continue to have effect with respect to that person as if section 8(1)(fa) had not been repealed.

Savings of benefits under repealed section 8(1)(fa)

Act No. 2 of 2006

Finance Act 17 of 2007

**9.** The President may by Order provide that the interest payable on

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28 BIR Note: Effective 1st January, 1994

29 Effective 5<sup>th</sup> September 2000

30 BIR Note: Effective 1<sup>st</sup> January, 2006,

any loan charged on the public revenue of Trinidad and Tobago shall be exempt from the tax, either generally or only in respect of interest payable to persons not resident in Trinidad and Tobago; and such interest shall, as from the date and to the extent specified in the Order, be exempt accordingly.

Government Loans

### COMPUTATION OF INCOME

10. (1) In computing the income of any person for a year of income from any source specified in section 5 for the purpose of ascertaining the chargeable income of a person for that year, there shall be allowed to that person all outgoing and expenses wholly and exclusively incurred during the year of income by that person in the production of the income from that source, so however that -

Computation of Income generally

(a) in the case of gains or profits from employment or office under section 5(1)(e), the outgoings or expenses allowable shall be expenses that were wholly, exclusively and necessarily incurred and defrayed in respect of travelling in the performance of duties of the employment or office or keeping or maintaining means of transport to enable the performance of those duties.

Finance Act 1997

(b) in the case of outgoings and expenses in respect of management charges paid to or for the benefit of a person not resident in Trinidad and Tobago and to every non-resident company (such person or company not being engaged in a trade or business in Trinidad and Tobago giving rise to such management charges) the expenses allowable shall, subject to subsection (2), be the amount of the management charges or <sup>31</sup>two per cent of the outgoings and expenses (exclusive of such management charges) allowed under this section and section 11(1), other than paragraph (a) or (b) thereof, whichever is the lesser;

Act 2 of 2006

(c) in the case of expenses incurred by way of salary or wages paid to one's spouse as an employee, the expenses shall be allowable only to the extent to which the Board is satisfied that they are reasonable in amount and any amount not allowed, shall be deemed not to be income of the spouse;

Act No.14 of 1976

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<sup>31</sup> BIR Note: Effective 1<sup>st</sup> January 2006 (previously 1%)

<sup>32</sup>(d) in the case of expenses incurred in respect of entertainment or meals provided for the purpose of entertainment, the amount allowed shall be seventy-five per cent of such expenses.

Act No. 11 of 1988

(2) Where the Board is satisfied that any outgoings and expenses in respect of management charges incurred in any year of income by a person is of an extraordinary and non-recurrent nature (not being capital expenditure), the Board may, in its discretion, allow so much thereof in excess of <sup>33</sup>two per cent as appears to the Board to be reasonable in the circumstances, so, however, that nothing in this subsection shall apply unless the Board is satisfied that the management charges were incurred in respect of services that cannot reasonably be expected to be acquired or performed or both in Trinidad and Tobago.

Finance Act, 1992  
Act 2 of 2006

<sup>34</sup> (3) Repealed

Finance Act, 1995  
Finance Act, 1997  
Act 39 of 2000\*  
Amended by Finance Act 1996  
Finance Act, 1997  
Act 2 of 2006

<sup>35</sup>(4) Repealed

Finance Act, 1989  
Finance Act 1997  
Finance Act 35 of 1998  
Act 91 of 2000  
Act 39 of 2000  
Act 2 of 2006

<sup>36</sup>(4A) Repealed

Finance Act 1997  
Finance Act 35 of 1998  
Act 39 of 2000  
Act 2 of 2006

<sup>37</sup> (5) Repealed

Finance Act, 1989  
Amended by Finance Act 1992  
Act 2 of 2006

<sup>38</sup>(5A) Repealed

Finance Act, 1994

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<sup>32</sup> BIR Note: Effective 1st January 1988

<sup>33</sup> BIR Note: Effective 1<sup>st</sup> January 2006 (previously 1%)

<sup>34</sup> \*BIR Note: Effective 1<sup>st</sup> January 2000; Repealed, effective 1<sup>st</sup> January 2006

<sup>35</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>36</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>37</sup> BIR Note: Effective 1<sup>st</sup> January 2006

(With effect from 1/1/94 )  
Finance Act 35 of 1998

Act 2 of 2006

39 (5B) Repealed

(6B) Repealed

40(7) Repealed

Finance Act 1996  
Finance Act 1997  
Act 2 of 2006

41 (8) Repealed

Finance Act 1996  
Finance Act 1997  
Act 2 of 2006

42 (9) Subject to subsection (10), where in a year of income a person incurs expenditure on behalf of himself, his spouse or his child in respect of tertiary education at an institution approved by the Ministry with responsibility for tertiary education, other than-

Act 39 of 2000  
Act 91 of 2000  
Act 2 of 2006  
Finance Act 17 of 2007

- (a) at an institution situated in Trinidad and Tobago; or
- (b) at a regional public institution supported substantially by public funds, whether or not situated in Trinidad and Tobago,

a deduction of the amount actually incurred but not exceeding the sum of sixty thousand dollars, may be claimed by that person in ascertaining his chargeable income for the year during which the person, his spouse or child received tertiary education.

43(10) Where, in a year of income, a person and his spouse incur expenditure under subsection (9), a deduction of the amount actually incurred by both spouses

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<sup>38</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>39</sup> BIR Note: Effective 1<sup>st</sup> January, 1995; Repealed effective 1<sup>st</sup> January 2006

<sup>40</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>41</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>42</sup> BIR Note: Effective 1<sup>st</sup> January 2007



in that year but not exceeding the sum of sixty thousand dollars, may be claimed in such proportion as may be determined by both spouses in ascertaining their respective chargeable incomes for that year.

Act 39 of 2000  
Act 91 of 2000  
Act 2 of 2006

44(11) Repealed

Act 39 of 2000  
Act 91 of 2000  
Act 2 of 2006

**10A(1)** For the purpose of ascertaining the chargeable income of a person for a year of income from a trade or business including commercial farming carried out on an approved agricultural holding, there shall be allowed promotional expenses wholly and exclusively incurred in order to create or promote the expansion of foreign markets for the export of - Promotional Expenses

- (a) architectural, engineering, design, quantity surveying or contracting services in connection with the building industry where such services are performed by a person resident in Trinidad and Tobago for a recipient who is outside Trinidad and Tobago; or
- (b) goods and agricultural produce manufactured or produced in Trinidad and Tobago and shipped in commercial quantities;

equivalent to one hundred and fifty percent of the amount actually expended.

(2) A person granted an allowance under this section is not entitled to a deduction under section 10 in respect of the expenses referred to in subsection (1).

(3) A person may only qualify for an allowance under this section in respect of promotional expenses incurred in order to create or promote the expansion of foreign markets for the export of services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago, where the services or goods and agricultural produce have been exported as a result of such expenditure.

(4) A person may not be allowed an allowance under this section in respect of expenses incurred on emolument income within the meaning of section 100, except in respect of expenses incurred under subsection (5)(g).

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<sup>43</sup> BIR Note: Effective 1<sup>st</sup> January 2007

<sup>44</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Repealed subsections (3) to (8) and (11) referred to interest expense deduction on owner occupied property which is now no longer allowable.

(5) For the purposes of this section, "promotional expenses" means expenses incurred in respect of goods and agricultural produce manufactured or produced in Trinidad and Tobago or services referred in subsection (1)(a) in-

- (a) advertising in foreign markets
- (b) providing promotional literature for overseas distribution;
- (c) participating in trade fairs, trade missions and similar promotional activities;
- (d) overseas travel for the purposes of conducting promotional activities;
- (e) providing free samples and technical information on products;
- (f) inviting buyers to Trinidad and Tobago;
- (g) the recruitment of specialist sales personnel operating in foreign markets for a maximum of two years;
- (h) conducting foreign market surveys.

(6) The provisions of subsection (1) shall not apply to expenses incurred in petroleum operations, nor in respect of expenses incurred in the export or the expanding of the export services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago to countries specified in the Sixth Schedule to the Corporation Tax Act.

(7) For the purpose of subsection (6), "petroleum operations" means operations related to the various phases of the petroleum industry and includes exploring for, producing, refining, transporting and marketing petroleum or petroleum products or both and manufacturing and marketing of petroleum based products and petro-chemicals.

**4510B.** Repealed

Human Resource Development  
Finance Act 35 of 1998  
Finance Act 39 of 2000  
Finance Act 17 of 2007

**11.(1)** For the purpose of ascertaining the chargeable income of any person for any year of income from any trade, business, profession or vocation, there shall be allowed -

Allowances in certain cases

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<sup>45</sup> BIR Note: Effective 1<sup>st</sup> January 2007.[Human Resource Development]

- (a) where that person has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation that has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as represents 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 realized by the sale thereof;

Sec. 9 Finance Act 1966

- (b) 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 out of the use or employment of such plant or machinery in the trade, business, profession or vocation during that year;

- <sup>46</sup>(ba) where that person has incurred expenditure in constructing or setting up a facility which is dedicated for use as a child care or homework facility for dependants of employees who are minors, an amount equivalent to the expenditure actually incurred in that year in constructing or setting up the facility up to a maximum of five hundred thousand dollars in respect of each facility but not exceeding in the aggregate in a year of income the sum of three million dollars;

Finance Act No. 30 of 2007

- <sup>47</sup>(bb) where the amount actually expended in paragraph (ba) exceeds the sum of five hundred thousand dollars, the amount in excess may be claimed as a wear and tear allowance in accordance with subsection (1)(b) and sections 11A and 11B;

Finance Act No. 30 of 2007

- (c) bad debts incurred in any trade, business, profession, or vocation, proved to the satisfaction of the Board to have become bad during the year of income, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board 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, so however 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 purpose of this Act, be treated as receipts of the trade, business, profession, or vocation for that year;

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<sup>46</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>47</sup> BIR Note: Effective 1<sup>st</sup> January 2008

- (d) rates and taxes on real estate (but not including income tax);
- (e) premiums paid on any fire insurance policy entered into with an insurance company, the agents or managing directors of which are liable to pay a contribution under section 168A of the <sup>48</sup> Insurance Act, 1966, on property used in acquiring the income upon which the tax is payable; Act No.28 of 1967
- (f) any annual sums paid by such person (being an employer) in respect of an employee by way of the employer's contribution to any approved fund or scheme referred to in section 27(1)(c);
- (g) in the case of a lump sum payment made by such person (being an employer) in respect of an employee's past services by way of the employer's contribution to any approved fund or scheme, referred to in section 27(1)(c), one-tenth of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made, but only if the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme;
- (h) amounts contributed by an employer or employee to a trust under an approved pension fund plan to the extent provided by sections 28 to 33;

(i) contributions paid by an employer under the system of National Insurance established under the National Insurance Act; and for the purposes of this paragraph "employer" includes the employer of a domestic worker within the meaning of the National Insurance Act; Ch.32:01

<sup>49</sup>(j) amounts contributed by an employer to an approved employees' profit sharing plan established under section 35. Finance Act 1974  
Amended/Deleted by Finance Act, 1989

<sup>50</sup> (k) Repealed Finance Act 1997  
Act 2 of 2006

<sup>51</sup> (1) Repealed Act 91 of 2000  
Act 2 of 2006

(2) Where deductions have been allowed under subsection (1)(b) and sections (11A) and (11B) to any person in ascertaining his chargeable income for a year of income from any trade, business, profession or vocation, and that person ceases to have any interest in plant and machinery and buildings in respect of which the deductions have been allowed, a balancing allowance or a balancing charge shall be made, and for the

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<sup>48</sup> BIR Note: This Act has been repealed by the Insurance Act 1980 (Act 6 of 1980)

<sup>49</sup> BIR Note: Effective 1st January 1971.

<sup>50</sup> BIR Note: Employment Allowance, effective 1st January 1997; Repealed, effective 1<sup>st</sup> January 2006

<sup>51</sup> BIR Note: Apprenticeship Allowance effective 1st January, 2001; Repealed, effective 1<sup>st</sup> January 2006

purposes of ascertaining such allowance or charge, section 4 and sections 17 and 17A, as the case may be, of the Income Tax (In Aid of Industry) Act shall apply. Act 17 of 1992  
Finance Act, 1995

52 (2A) Notwithstanding subsection (2) where a person ceases to have an interest in respect of assets to which section 11A relates:

(a) a balancing allowance shall not be made until there are no assets in the pool;

(b) a balancing charge shall not be made until the value in the pool results in a credit balance. Finance Act 35 of 1998

53(3) In computing the amount to be allowed under subsection (1)(b) in respect of a private motor car purchased prior to 1<sup>st</sup> January, 2006, the cost of which exceeds one hundred thousand dollars, the value against which the amount is computed shall be deemed to be one hundred thousand dollars.

Finance Act, 1993

Finance Act 2 of 2006

54(4) Subsection (3) shall not apply to a rented car.

55(5) In computing the balancing allowance or balancing charge under subsection (2) on the disposal of a private motor car the value or cost of which is deemed to be one hundred thousand dollars under subsection (3), the allowance or charge shall be calculated on the basis that the amount of the sale, insurance, salvage or compensation moneys shall be deemed for those purposes only to be an amount equal to the fraction of that sum of which the numerator is the actual amount of the sale salvage or compensation moneys and the denominator is the actual value or cost of the total capital expenditure incurred, that is to say by applying the following formula -

Proceeds from disposal X \$100,000.00  
Actual value or cost

Act 2 of 2006

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52 BIR Note: Effective 1st January 1998.

53 BIR Note: Effective 1<sup>st</sup> January 1993; Repealed and replaced effective 1<sup>st</sup> January 2006.

54 BIR Note: Effective 1<sup>st</sup> January 1993

55 BIR Note: Amended effective 1<sup>st</sup> January 2006. Now applies only to vehicles purchased prior to 1.1.06.

(6) For the purposes of subsections (3), (4) and (5), "private motor car" and "rented car" have the same meanings as in section 2 of the Motor Vehicles and Road Traffic Act.

Ch. 48:50  
Finance Act, 1993

<sup>56</sup> (7) Where in a year of income a person claims an allowance under subsection (1)(b), the allowance shall be granted where the taxes payable in that year under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid for the year of income to which the claim relates.

Finance Act 1994

Finance Act No. 5 of 2004  
Finance Act 17 of 2007

(8) Notwithstanding subsection (7), the allowance under subsection (1)(b) shall be granted in computing the chargeable income of a person for the year of income 1994, where the person satisfies the Board that the taxes payable by him in that year of income under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid on or before the 30th April 1995.

<sup>57</sup>**11A.**(1) For the purpose of computing the allowance under section 11(1)(b) for a year of income in respect of - Computation of Wear and Tear Allowances

- (a) any plant and machinery;
- (b) any buildings used exclusively to house such plant and machinery, acquired after the 1st January 1995, the plant and machinery or the buildings housing such plant and machinery, shall be classified into a class specified in the Seventh Schedule, and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring the plant and machinery or buildings housing such plant and machinery.

<sup>58</sup>(1A) For the purpose of computing the allowance under section 11(1)(b) for a year of income commencing 1<sup>st</sup> January, 2006, in respect of-

- (a) any plant and machinery;
- (b) any building used exclusively to house such plant and machinery,

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<sup>56</sup> BIR Note: Effective 1st January, 2007. Taxes to be paid for the year and not necessarily in the year.

<sup>57</sup> BIR Note: Effective 29th March, 1995

<sup>58</sup> BIR Note: Effective 1<sup>st</sup> January 2006

acquired prior to 1<sup>st</sup> January, 1995, the plant and machinery or the buildings housing such plant and machinery, shall be classified into a class specified in the Seventh Schedule and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring the plant and machinery or buildings housing such plant and machinery less any wear and tear allowances previously granted in respect of such plant and machinery or buildings.

Act 2 of 2006

<sup>59</sup>(1B) For the purpose of computing the allowance for a year of income commencing 1<sup>st</sup> January, 2006, in respect of the exhaustion of wear and tear of any building which-

- (a) qualifies under the Income Tax (In Aid of Industry) Act; and
- (b) is acquired after 1<sup>st</sup> January, 2006,

such building shall be classified into Class A specified in the Seventh Schedule and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring such building.

Act 2 of 2006

(2) In computing the allowance applicable to several items in a class specified in the Seventh Schedule, the wear and tear percentage relating to that class shall be applied against the aggregate expenditure incurred in acquiring the several plant and machinery or buildings housing such plant and machinery within that class.

Finance Act No.5 of 1995

<sup>60</sup> (2A) In computing the allowance applicable to the items in a class specified in the Seventh Schedule -

- (a) the value of the plant or machinery acquired in a year of income shall be added to the written down value of the plant or machinery;
- (b) the value of the plant or machinery disposed of in a year of income shall be deducted from the written down value of the plant or machinery so however, that in the case of -
  - (i) a sale of plant or machinery, the amount deducted shall be the proceeds of sale of the plant or machinery; and
  - (ii) loss or destruction of plant or machinery, the amount deducted shall be the money received by way of insurance or compensation;

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<sup>59</sup> BIR Note: Effective 1<sup>st</sup> January, 2006

<sup>60</sup> BIR Note: Effective 1<sup>st</sup> January, 1998

(c) where the plant or machinery is used both for business and private purposes, the pool shall be debited with the proportionate cost of the asset equivalent to its business use and where the asset is disposed of, the pool shall be credited with the same percentage applied to the proceeds of disposal up to the original cost of the asset;

(d) the value of plant or machinery brought into the business from private use shall be the market value of the plant or machinery;

(e) where plant or machinery used for business purposes is appropriated for private use, the pool shall be credited with the market value of the plant or machinery so appropriated;

(f) in the case of any other event resulting in the cessation of interest in any plant or machinery the amount deducted from the pool shall be the market value of such plant or machinery;

(g) where plant or machinery is sold and the buyer and the seller are associates, the disposal value of the said plant or machinery shall be its market value;

<sup>61</sup>(h). Repealed

Finance Act 35 of 1998  
Act 2 of 2006

<sup>62</sup>(2B) For the purpose of subsection (2A), "associates" has the same meaning assigned to it in the Companies Act, 1995.

Finance Act 35 of 1998\*

(3) Where the plant and machinery or the buildings referred to in section 11 (1)(b) cannot be placed into a class under the Seventh Schedule, the Board may apply such wear and tear percentage as may be determined by it by reference to the anticipated normal working life of the plant and machinery or the buildings housing such plant and machinery.

(4) For the purposes of this section, "anticipated normal working life" means in relation to plant and machinery or buildings housing such plant and machinery, the period which might be expected to elapse, when the plant and machinery or the buildings housing such plant and machinery are first put into use, before they are finally put out of use, as being unfit for further use, it being assumed that they will be used in the normal manner and to the normal extent and are going to be so used throughout that period.

Finance Act 1995

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<sup>61</sup> BIR Note: Effective 1<sup>st</sup> January, 2006. Amount credited to the pool is no longer restricted to original cost.

<sup>62</sup> BIR Note: Effective 1<sup>st</sup> January, 1998



**6311B.**(1) Subject to subsection (6), for the purpose of ascertaining the chargeable income of a person, carrying on a trade, business, profession or vocation for a year of income, there shall be allowed as a wear and tear allowance, an amount equal to ten percent on a declining balance of the capital expenditure incurred by that person

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Allowances on buildings and structures

- (a) in the construction of a building or structure; or
- (b) in respect of capital improvement made to a building or structure, completed on or after 1st January 1995 and used in the trade, business, profession or vocation for the production of the income of that person for that year of income.

(2) Where part of the building or structure is to be used in the production of income of a person under subsection (1) and the capital expenditure incurred in the construction of that part of the building which is not used in the production of the income -

- (a) does not exceed one tenth of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, the allowance granted in subsection (1) shall apply to the total capital expenditure incurred in the construction of the building or structure or in the capital improvements made to the building or structure;
- (b) exceeds one tenth but does not exceed one half of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, the allowance granted in subsection (1) shall apply only to the capital expenditure incurred in the construction of or improvements to that part of the building or structure which is to be used in the production of income;
- (c) exceeds one half of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, no allowance shall be granted under subsection (1).

(3) Where the building or structure is used in the production of income for part of the year of income, the allowance granted under subsection (1) shall be reduced by a proportionate part equivalent to the period during which the building or structure was not used for the production of income.

(4) A person whose income derived from premiums and rents is exempt from tax under section 42(2)(b) or section 45A(2) may, in ascertaining his chargeable income for a year of income, at his option elect to claim -

- (a) the exemptions under those sections, or

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<sup>63</sup> BIR Note: Effective 29th March 1995

(b) the allowance granted under subsection (1).

(5) A person who makes an election under subsection (4) shall do so in writing to the Board in the year of income in which the construction or the capital improvements were completed and such election shall be irrevocable.

(6) Notwithstanding subsection (1), no allowance shall be made to a person for a year of income where the person is entitled to benefit under -

(a) the Fiscal Incentives Act ; Ch. 85:01

(b) the Tourism Development Act, 2000; Ch. 85:02

(c) the Trinidad and Tobago Free Zones Act, 1988;

<sup>64</sup>(d) section 13B.

Act 19 of 1988

in respect of the building or structure or the capital improvements made to the building or structure.

Act 50 of 2000

Finance Act 17 of 2007

(7) The provisions of Part 1 of the Income Tax (In Aid of Industry) Act Ch. 85:04

relating to initial and annual allowances on industrial buildings and structures shall not apply to a person entitled to an allowance under this section.

(8) For the avoidance of doubt, in ascertaining the chargeable income of a person for a year of income, no allowance shall be made under subsection (1) in respect of any plant and machinery or buildings used exclusively for housing such plant and machinery in the production of the income of that person.

**12.** In ascertaining the chargeable income of any person for any year of income, no deduction shall be allowed from the income in respect of - Deductions not allowed

(a) any disbursements or expenses not being monies wholly and exclusively laid out or expended for the purpose of producing the income;

(b) domestic or private expenses;

(c) any capital withdrawn or any sum employed or intended to be employed as capital;

(d) any capital employed in improvements;

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<sup>64</sup> BIR Note: Effective 1<sup>st</sup> January 2007

- (e) any sum recoverable under an insurance 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 the production of the income;
- (g) any amounts paid or payable in respect of foreign income tax, except in accordance with the provisions of this Act or of any double taxation arrangements entered into with the foreign country;
- (h) sums paid by any person by way of interest upon any money borrowed by that person for use in the production of the income, unless -
  - (i) the person receiving such interest is chargeable to tax, or
  - (ii) such interest is exempt in the hands of the person entitled to receive it by virtue of the provisions of this Act or any other written law;
- (i) payments within the meaning of section 51, unless the payer has accounted for and paid over withholding tax to the Board.
- <sup>65</sup> (j) rental payments incurred for the purpose of the production of income unless information relating to such payments and to the payee are furnished to the Board in a form approved by the Board.
- <sup>66</sup>(k) expenses incurred by a resident individual in acquiring shares in a listed resident company under section 55A where the distributions made in respect of those shares are subject to tax under that section

Act No.11 of 1988

Finance Act 1995

**13.(1) Notwithstanding anything to the contrary contained in this Act -**

Relief to Hotel Proprietors

- (a) in any case approved by the President, in which the erection of an hotel or of any extension to an hotel is commenced after 1st July 1954 and in which a licence has been granted to any person in respect of such hotel under the <sup>67</sup>Tourism Development Act 2000, the proprietor of such hotel shall be exempt from income tax in respect of the income arising from such hotel in each of the five years of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed, and

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<sup>65</sup> BIR Note: Effective 1st January 1988

<sup>66</sup> BIR Note:Effective 29th March, 1995

<sup>67</sup> Act 50 of 2000

thereafter shall be allowed in each of any five of the eight years of assessment next following the set-off against the income arising from such hotel one-fifth of the capital expenditure upon such hotel or extension thereof as the case may be, so however, that no such set-off be allowed in any year of assessment later than the thirteenth year of assessment next after the year of assessment in which the erection or the extension of such hotel, as the case may be, is completed;

- (b) in any case approved by the President, in which a licence has been granted to any person under the Tourism Development Act 2000, but which is not within the contemplation of paragraph (a), the proprietor of the hotel to which such licence relates shall be allowed in each of any five of the eight years of assessment next after the year of assessment in which the licence is granted to set-off against the income arising from the hotel one-fifth of the capital expenditure upon such hotel, so, however, that no such set-off be allowed in any year of assessment later than the eighth year after the year of assessment in which the capital expenditure was incurred.

(2) Where the capital expenditure is allowed to be set off against the income arising from an hotel, section 11(1)(b) shall not apply in respect of such expenditure.

(3) For the purposes of this section, the question whether the erection or extension of an hotel was commenced before 1st July 1954 shall be for determination by the President. The President shall also for the purposes of this section determine on what date the erection or extension of an hotel is completed. His determination in each case shall be final.

(4) Relief under subsection (1)(a) shall not be granted to any person unless such person -

(a) applies in writing to the President, through the Minister, for approval of the case before commencing the erection or extension, as the case may be, of the hotel; and

(b) notifies the Minister in writing of the date on which he intends to commence the erection or extension, as the case may be, of the hotel.

(5) Where any case is approved by the President for the purposes of subsection (1)(a) the Minister shall -

(a) report to the President the dates on which, in his opinion, the erection or extension, as the case may be, of the hotel is commenced;

(b) issue to the Board a certificate stating the fact of such approval and the dates fixed by the President as the dates on which the erection or

extension, as the case may be, of the hotel was commenced and completed.

(6) The Minister, or any person authorised by him in writing to do so, may at any reasonable time enter upon the premises on which an hotel or any extension of an hotel is to be, or is being, erected, for the purpose of

(c) the purchase of any existing hotel where -

(i) an existing hotel has been purchased,

(ii) there has been a bona fide change of ownership, and

(iii) the purchaser qualifies for relief under the Tourism Development Act 2000 in respect of the buildings comprising the hotel; but no account shall be taken of any sum paid in respect of the purchase price of the land on which such hotel stands or in respect of goodwill,

(d) the purchase of articles of hotel equipment and on the installation of

such articles of hotel equipment,

and for the purposes of this definition, "articles of hotel equipment" and "construction" have the same meanings as are respectively assigned to the said expression in the Tourism Development Act 2000 "hotel" has the same meaning as is assigned to that expression in the Tourism Development Act 2000;

"Minister" means the Minister responsible for Industry.

### **6813(A) Repealed**

Finance Act 3 of 1994

Act 2 of 2006

**6913B** (1) Subject to this section, where an individual converts a house into an approved guest house there shall be allowed in the year in which the certificate of completion for the approved guest house was issued, a deduction of the approved capital expenditure incurred by the individual in respect of the conversion to such guest house.

Finance Act 2 of 2002

(2) The deduction referred to in subsection (1) shall not be allowed unless the individual –

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<sup>68</sup> BIR Note : Repealed, effective 1<sup>st</sup> January 2006 (Formerly deduction for investment in approved hotel or tourism project)

<sup>69</sup> BIR Note: Effective 1st January 2003

(a) obtains from the Minister, approval for conversion into a guest house prior to the commencement of conversion; and

(b) furnishes the Board with a certificate of completion of the conversion issued by the appropriate State agency.

(3) The individual referred to in subsection (1) shall, prior to the commencement of a conversion, apply to the Minister for approval of the conversion, such application being accompanied by –

(a) the building plans for the conversion;

(b) any other requisite approvals which may be required from other State agencies for the conversion; and

(c) any other information as may be required by the Minister.

(4) The Minister shall, where the individual meets the requirements under subsection (3) and after consultation with the Tourism and Industrial Development Company of Trinidad and Tobago, grant written approval to the individual for the conversion, such approval stating –

(a) the date on which approval for the conversion is granted;

(b) the nature of the conversion in respect of which approval is granted; and

(c) any other information which the Minister considers necessary.

(5) In this section -

“approved capital expenditure” means such sum as the Board is satisfied has been expended on the purchase of building materials used in the conversion of a house into a guest house;

Deduction for conversion of house to an approved guest house

“approved guest house” means a building in respect of which approval is granted by the Minister under subsection (4), comprising not more than six separate bedrooms occupied for the purpose of providing for reward sleeping accommodation together with services and facilities ancillary thereto provided for its guests, not being persons resident in the guest house under a contract of service;

“Minister” means the member of Cabinet to whom responsibility for tourism is assigned.

<sup>70</sup>14. (1) Notwithstanding anything to the contrary contained in section 5, but subject to this section, the gains or profits from commercial farming carried out on an approved agricultural holding shall be exempt from tax for a period of ten years from the date of approval of the agricultural holding under section 14(5).

Exemption of income from approved agricultural holdings

(1A ) Where a person has enjoyed a period of exemption for ten years or more, the exemption from tax of his gains or profits from commercial farming shall cease to have effect from 1st January, 1993.

(1B) Where a person has enjoyed a period of exemption for less than ten years, the period of exemption shall continue for a further period not exceeding ten years from the date of approval of the agricultural holding under section 14(5).

(1C) For the purpose of determining whether a person has enjoyed a period of exemption for ten years or more, the date of the approval of the agricultural holding under section 14(5) shall be treated as the commencement date of the period of exemption.

Finance Act, 1993

(2) Where, in any year of income during the period of exemption, a loss is incurred, that loss, or where the loss occurs in more than one year of income the aggregate of those losses shall be carried forward until the end of the period of exemption and there shall be deducted from that loss or the aggregate of those losses any profits made during the period of exemption and the remainder of that loss or such losses, if any (hereinafter referred to as the "net loss") shall be dealt with in accordance with subsection (3).

(3) Any net loss incurred by any person during the period of exemption shall be set off against his income of succeeding years of income in the manner provided by section 16.

(4) Where, during the period of exemption, an approved agricultural holding is -

(a) sold or otherwise disposed of; or

(b) increased so that it ceases to qualify as an approved agricultural holding,

the net loss, calculated in accordance with subsection (2), incurred by a person before the occurrence of either of these two events shall be set off against his income of succeeding years of income in the manner provided by section 16.

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<sup>70</sup> BIR Note: Deleted and substituted Finance Act, 1993. Effective 1st January, 1993

(5) For the purposes of this section the Minister may, by notification approve any parcel of land as an approved agricultural holding, but no such approval shall be given in respect of a parcel of land which -

- (a) exceeds one hundred acres in area; Act No.46 of 1977
- (b) is used as a pleasure ground, private garden or an allotment garden;
- (c) is used or preserved mainly for sporting or other recreational purposes, unless the Minister is satisfied that the use of such land for agricultural purposes does not conflict with its main usage.

(6) In this section -

"approved agricultural holding" means a parcel of land, held by way of freehold, leasehold or other form of occupancy including mere user, which is used or is capable of being used for the purpose of farming that is approved by the Minister under subsection (5);

"Minister" means the Minister responsible for Agriculture.

~~15-~~

Repealed by Finance Act, 1993

**16.** (1) Subject to subsection (2), where the amount of a loss incurred in the year of income 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 succeeding years.

Allowance of Trade Losses

(2)(a) 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.

<sup>71</sup>(b) (Deleted.)

Act No. 11 of 1988

(c) The amount of any such loss shall be set off as far as possible against what would otherwise have been his chargeable income for the first succeeding year, and so far as it cannot be so set off, then against the said income for the next succeeding year and so on.

(d) No loss incurred in connection with any hotel in any year in respect of which any allowance is granted under section 13 shall be set off

<sup>71</sup> BIR Note: 50% limitation on loss-relief deleted with effect from 1st January 1988



against the profits arising from any other trade, business, profession, or vocation carried on by the person to whom the allowance is granted.

- (e) <sup>72</sup>No loss incurred in connection with a guest house in any year in respect of which an allowance is granted under section 13A, shall be set off against the profits arising from any other trade, business, profession or vocation carried on by the person to whom the allowance is granted.

Finance Act 2002\*

<sup>73</sup>(3) The amount of any loss incurred by a person in any year of income-

- (a) from sources specified in section 5(1)(a) to (c) and (f) to (m) shall not be set off in that year or any succeeding year against gains or profits from the sources specified in section 5(1)(d) or (e); and

- (b) from sources specified in section 5(1)(d), shall not be set off in that year or any succeeding year against gains or profits from sources specified in section 5(1)(e).

Act No.11 of 1988

Finance Act 17 of 2007

**17.** In ascertaining the chargeable income for any year of an individual who is resident in Trinidad and Tobago, there shall, upon due claim and subject to such evidence as the Board may require, be allowed any deduction to which he is entitled under this Act.

Reliefs allowable to Residents

**<sup>74</sup>18(1)** An individual to whom section 17 applies, shall be entitled to a personal allowance of sixty thousand dollars.

Personal Allowance

Finance Act 1997

Finance Act No. 5 of 2005

Finance Act No.21 of 2005\*

Finance Act No. 91 of 2000

Finance Act No. 5 of 2004\*

Act 5 of 2004

Act 2 of 2006

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<sup>72</sup> BIR Note: Effective 1<sup>st</sup> January 2003.

<sup>73</sup> BIR Note: Effective 1st January 2007.

<sup>74</sup> BIR Note: Repealed and replaced effective 1<sup>st</sup> January 2006. [From 1<sup>st</sup> January 2004 , a resident or non-resident individual age 60 or over was entitled to a personal allowance of \$40,000 (increased from \$30,000 for resident individuals only) . Other resident individuals were entitled to an allowance of \$25,000, except for the 2005 year of income where: if gross annual income was \$30,000 or less the allowance was \$30,000; if gross annual income was between \$30,000 and \$35,000, the allowance was \$30,000 less \$1 for every dollar exceeding \$30,000 and if gross annual income exceeded \$35,000 the allowance was \$25,000.]

(2) A person in receipt of pension income accruing or derived from Trinidad and Tobago who-

- (a) is not resident in Trinidad and Tobago; and
- (b) has attained the age of sixty years,

shall be entitled to a personal allowance of sixty thousand dollars.

Act 2 of 2006

**7518A.** (1) Subject to subsections (2), (3) and (4), where in a year of income commencing 1<sup>st</sup> January, 2003, an individual who is a resident acquires by way of purchase or construction, a house to be used as his residence and was not the owner of a house at any time prior to 1<sup>st</sup> January 2003, that person shall be entitled to an allowance of ten thousand dollars per year in respect of such acquisition.

Allowances for purchase of house  
Finance Act 2 of 2002

(2) The allowance referred to in subsection (1) may be claimed by such individual referred to in subsection (1), for each of the first five years commencing from the year in which the house is acquired.

(3) Where in a year of income an individual claims the allowance referred to in subsection (1), the allowance shall not be granted unless the individual -

- (a) furnishes the Board with proof of ownership of the house;
- (b) satisfies the Board that the house which is to be used as his residence is a first-time acquisition; and
- (c) satisfies the Board that the taxes payable by him in that year of income under the Land and Buildings Taxes Act and the Municipal Corporations Act, have been paid in respect of the year to which the claim relates.

Chap. 76:04 Act No. 21 of 1990

(4) Where an individual acquires by way of purchase or construction a house together with one or more other individuals, the allowance under subsection (1) may be claimed by the individual in such proportion as may be determined by the owners, save that -

- (a) the individual claiming the allowance shall satisfy the Board that he is a first time owner who occupies the house as a residence; and
- (b) the aggregate allowance shall not exceed ten thousand dollars in any year.

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<sup>75</sup> BIR Note: Effective 1<sup>st</sup> January 2003

(5) For the purposes of this section, “first-time acquisition” means-

- (a) the purchase for the first time of a completed house or any share therein on or after 1<sup>st</sup> January, 2003; or
- (b) the construction for the first-time of a house completed on or after 1<sup>st</sup> January, 2003.

<sup>76</sup>(6) This section shall not apply to an individual who acquired for the first time by way of purchase or construction a house, on or after 1<sup>st</sup> January, 2006.

Act 2 of 2006

~~77~~**18B.** Repealed

Act 2 of 2006

~~19.~~

Deleted by Finance Act, 1989

**20.** (1) Subject to subsection (2), an individual to whom section 17 applies who, in the year of income has paid

Maintenance and Alimony

- (a) a maintenance or separation allowance in accordance with the terms of a registered deed of separation or an order of any court of competent jurisdiction, to his or her spouse, from whom he or she is separated; or
- (b) alimony to a former spouse from whom he or she is divorced under a divorce recognized under the laws of Trinidad and Tobago,

shall be entitled to a deduction equal to the amount of such allowance or alimony.

(2) The deduction allowable under this section shall not apply unless the spouse or former spouse, as the case may be, receiving such maintenance or separation allowance or alimony is chargeable to tax thereon under this Act.

<sup>78</sup>(3) Repealed

Finance Act 1995  
Act 2 of 2006

**21.** Deleted

Donations to Charity etc.  
Act 25 of 1992

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<sup>76</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>77</sup> BIR Note: Effective 1<sup>st</sup> January 2006 . Formerly, a deduction of up to \$10,000 was available to an individual for purchase of shares in a cooperative society effective 1<sup>st</sup> January 2003 (Act 2 of 2002)

<sup>78</sup> BIR Note: Effective 1<sup>st</sup> January 2006; With effect from 29<sup>th</sup> March 1995, payments to spouse for maintenance of a child not exceeding \$1,200 were deemed not to be income of the spouse.

- 22. Deleted by Finance Act, 1989
- 23. Deleted by Finance Act, 1989
- 24. Deleted by Finance Act, 1989
- 25. Deleted by Finance Act, 1989
- 26. Deleted by Finance Act, 1989

27. (1) An individual to whom section 17 applies, who - Contributions to Approved Fund or Scheme

(a) Deleted by Finance Act, 1989

(b) Deleted by Finance Act, 1989

(c) has made a contribution under the Widows' and Orphans' Pensions Act or under any similar written law in the United Kingdom or in any Commonwealth Country, or to any approved fund or scheme; Finance Act 2002

(d) being an insured person within the meaning of the National Insurance Act has paid a contribution under the system of national insurance established by that Act; or Ch.32:01

Deleted by Finance Act, 1989  
Amended by Finance Act 1997  
Amended by Finance Act 1998  
With effect from 1/1/98  
Finance Act 35 of 1998  
Finance Act 2002

(e) has made a contribution under the Retiring Allowances (Legislative Service) Act; Chap. 2:03  
Finance Act 2002

shall be allowed subject to section 28(15) a deduction of the contribution in accordance with sections 28 to 32.

(1A) Subsection (1)(e) shall be deemed to have come into operation on 1<sup>st</sup> January, 1996. Finance Act 2002

(2) Nothing in subsection (1)(d) shall apply to so much of the contribution of an employed person who is registered or eligible to be registered under the system of national insurance established by the National Insurance Act as is paid out of contributions of a contributor under the Widows' and Orphans' Pensions Act in accordance with section 18(3) thereof.

(3) Deleted by Finance Act, 1989

~~(4)~~ Deleted by Finance Act, 1989

~~(5)~~ Deleted by Finance Act, 1989

(6) For the purposes of this section a contribution of an employee paid by an employer on behalf of the employee to an approved fund or scheme referred to in subsection (1)(c) shall be deemed to be a contribution to such fund or scheme by the employee.

(7) In this section -

"approved" means approved by the Governor-General before the passing of the Income Tax (Amendment) Act 1963;

"any Commonwealth country" includes Pakistan and South West Africa.

(8) Amended/Deleted by Finance Act, 1989

(9)

**28.** (1) In this section and in section 11(1)(h) and sections 29 to 32 - Approved Pension Fund /Deferred Annuity Plans  
Finance Act (No 2) 1993  
Amended by Finance (No. 2) Act, 1993

<sup>79</sup>(a) "actuarial reserve" means -

(i) in the case of an approved pension fund plan, the cash equivalent of the benefits that would be payable to an employee if he left the service of the employer on the date at which the reserve is determined, including the amount of any tax payable in respect of the said benefits;

(ii) in the case of an approved deferred annuity plan, the surrender value which would be payable on the date at which the reserve is determined if the contract were capable of being surrendered, including the amount of any tax payable in respect of the said surrender value;

(aa) "actuary" means a Fellow by examination of the Institute of Actuaries in England, of the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America or an actuary possessing such other qualifications as may from time to time be approved by the officer designated to be the Supervisor of Insurance under the Insurance Act by the Minister to whom responsibility for finance is assigned".

Ch. 84:01

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<sup>79</sup> BIR Note: Paragraphs (a) and (aa) effective 22nd October, 1993

- (ab) "annuitant" means an individual referred to in paragraph (b)(i) or (b)(ii) to whom, under an approved deferred annuity plan, any annuity for life is agreed to be paid or is to be provided;
- (b) "deferred annuity plan" means -
- (i) a contract between an individual and a person authorised to carry on an annuities business in Trinidad and Tobago, under which, in consideration of payment by the individual of any periodic or other amount as consideration under the contract, that person agrees to pay to the individual, commencing at maturity, an annuity for life, in this section and in sections 29 to 32 referred to as an approved deferred annuity plan; or
  - (ii) an arrangement under which payment is made by an individual -
    - (A) in trust to a company of any periodic or other amount as a contribution under the trust; or
    - (B) in trust to a company approved by the President for the purposes of this section that is authorised by law to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable amount at maturity, of any periodic or other amount as a contribution under any such contract between the individual and that investment company,  
  
to be used, invested, or otherwise applied by that company or that investment company, as the case may be, for the purpose of providing to the individual, commencing at maturity, an annuity for life;
- (c) "approved deferred annuity plan" means a deferred annuity plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the regulations;
- (d) "approved pension fund plan" means a pension fund plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the regulations;
- (e) "benefit" means any amount paid or payable under an approved pension fund plan or an approved deferred annuity plan otherwise than as a contribution or premium as the case may be;
- (f) "contribution" means other than in paragraph (b)(ii)(A) and in paragraph (k)(ii) any periodic or other amount paid or payable under

a pension fund plan as a contribution referred to in paragraph (j) for the purpose stated in that paragraph;

- (g) "employee" means any person employed in the service of another at a weekly, monthly or other periodic remuneration other than the directors not actively engaged in the day to day management of a company, whether the company is incorporated or not;

<sup>80</sup>(ga) Repealed

Finance Act (No. 2) 1993  
Act 2 of 2006

- (h) "maturity" means the date fixed under an approved deferred annuity plan for the commencement of any annuity the payment of which is provided for by the plan;
- (i) "non-contributory plan" means a pension fund plan under the terms of which no payment of any amount is made by employees as a contribution to the plan;
- (j) "pension fund plan" means an arrangement under which payment is made by -
- (i) an employee in trust to trustees or a corporation sole of any periodic or other amount as a contribution under the trust, and
  - (ii) by an employer in respect of that employee in trust to the said trustees or corporation sole of any periodic or other amount as a contribution under the trust,
- to be used, invested, or otherwise applied by the said trustee or trust corporation, as the case may be, in accordance with the regulations for the purpose of providing to the employee commencing on retirement, a pension for life;
- (k) "premium" means any periodic or other amount paid or payable under an approved deferred annuity plan -
- (i) as consideration for any agreement referred to in paragraph (b)(i) to pay an annuity, or
  - (ii) as a contribution referred to in paragraph (b)(ii) for the purpose stated in that sub-paragraph;
- (l) "refund of contributions" means any amount paid or payable under an approved pension fund plan on the withdrawal from a plan before five years

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<sup>80</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Definition of first time home acquisition.

contribution is made of an employee, or on approval of an application by the Board therefor for any other reason, as or on account of -

(i) a return of the employee's contribution,

(ii) reasonable interest on the employee's contributions;

(m) "refund of premiums" means any amount paid or payable under an approved deferred annuity plan, on or after the death of the annuitant thereunder in the event of his death before maturity, as or on account of -

(i) a return of premiums,

(ii) reasonable interest on premiums, or

(iii) a share or interest in or a bonus out of profits or gains;

(n) "regulations" means regulations made under section 32;

(o) "trustee" means a person in whom a trust in respect of an approved pension fund plan is vested in accordance with section 30 and includes a member of a Management Committee where the trust is vested in a trust corporation;

<sup>81</sup>(p) "trust corporation" has the meaning assigned to it by the Trustee Ordinance.

<sup>82</sup> (q) Repealed

Finance Act (No. 2) 1993  
Act 2 of 2006

<sup>83</sup>(r) Repealed

Act 2 of 2006

(2) After the passing of the Income Tax (Amendment) Act 1963 -

(a) the President shall not approve any fund or scheme under section 27;

(b) no deductions under section 11(1)(f) and (g) or under section 27(1)(c) on account of a contribution to an approved fund or scheme that is a Provident Fund, shall be allowed with respect to any new contributor under such approved fund or scheme.

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<sup>81</sup> BIR Note: This Ordinance has been repealed by the Trustee Act 1981

<sup>82</sup> BIR Note: Effective 1<sup>st</sup> January 2006. ( formerly defined "withdrawal of contributions" )

<sup>83</sup> BIR Note: Effective 1<sup>st</sup> January 2006; ( formerly defined "withdrawal of premiums" )



(3) Where an approved fund or scheme (within the meaning of section 27) is registered under Part VI of the Insurance Act 1966, the fund or scheme shall unless converted under subsection (4) continue to be treated as an approved fund or scheme under section 27 for the purposes of this Act, notwithstanding any amendment to its rules directed to be made by the Supervisor of Insurance -

- (a) for the purpose of the qualification of the fund or scheme for registration; or
- (b) in order to comply with the requirements of any regulations made under the National Insurance Act for the purpose of the harmonization of the fund or scheme with the system of national insurance established by that Act.

(4) An approved fund or scheme within the meaning of section 27 may at any time be converted into an approved pension fund plan if it complies with the provisions of this section and the regulations and the Board approves the plan save that where such approved fund or scheme is so converted the regulations shall not apply to pension accrued at the date of approval of the plan.

(5) The Board shall not approve for the purposes of this Act any pension fund plan or deferred annuity plan unless, in its opinion, it complies with the following conditions:-

- (a) the pension fund plan or deferred annuity plan does not, subject to subsections (6) and (7) -

- (i) provide for the payment of any benefit before retirement or maturity except by way of a -

Finance Act (No. 2) 1993

- (A) refund of contributions;

- (B) refund of premiums;

- 84(C) Repealed

- 85(D) Repealed

Act 2 of 2006

- (ii) provide for the payment of any benefit after retirement or maturity except by way of gratuity and pension, or

- (A) an annuity to the annuitant for his life, or

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<sup>84</sup> BIR Note: Effective 1<sup>st</sup> January 2006. (Withdrawal of contributions)

<sup>85</sup> BIR Note: Effective 1<sup>st</sup> January 2006 (Withdrawal of premiums)

(B) an annuity to the annuitant for the lives, jointly, of the annuitant and spouse and to the survivor of them for his or her life,

commencing at maturity and with or without a guaranteed term, not exceeding 15 years, as the case may be;

(b) the pension fund plan or deferred annuity plan does not -

(i) subject to subsection (6), provide for the payment of any amount by way of pension or of an annuity except equal annual or periodic amounts throughout the lifetime of the employee after retirement, or the annuitant as the case may be, or in the case of a deferred annuity plan equal annual or other periodic amounts (not exceeding the corresponding annual or other periodic amounts aforementioned) throughout the period, if any, after the death of the annuitant, for which payment of the annuity is provided for by the deferred annuity plan,

(ii) provide for the payment of any contribution after retirement, or premium after maturity, as the case may be, or

(iii) provide for retirement or maturity before such time as the employee or annuitant attains fifty years of age;

(c) the pension fund plan or deferred annuity plan includes a provision stipulating that no pension or annuity payable thereunder is capable either in whole or in part of surrender, commutation or assignment; and

(d) the pension fund plan or deferred annuity plan in all other respects complies with this section and sections 29 to 32 and the regulations.

<sup>86</sup>(e) Repealed

Finance Act (No. 2) 1993  
Act 2 of 2006

(6) The Board may approve for the purposes of this Act any pension fund plan notwithstanding that the pension fund plan -

(a) is a non-contributory plan; and

(b) contains such other terms and provisions, not inconsistent with this section as are authorised or permitted by the regulations.

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<sup>86</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Withdrawal of contributions or premiums.

(7) The Board may approve for the purposes of this Act any deferred annuity plan notwithstanding that the plan -

(a) provides for the payment of a benefit after maturity by way of dividend;

<sup>87</sup>(b) provides for the commutation of any annuity payable thereunder if the amount so payable, expressed in terms of a monthly rate is less than five hundred dollars;

Act 2 of 2006

(c) in the case of an annuity for a guaranteed term, provides for the annuity to be assignable by will, or, in the event of the death of any person to whom any such annuity is payable, to be assignable by the heir, administrators or other legal representatives of such person in the distribution of his estate, so as to give effect to any testamentary disposition, or to the rights of any person on an intestacy, or to its appropriation to a legacy or a share or interest in the estate;

(d) is adjoined to a contract or other arrangement that is not a deferred annuity plan; or

(e) contains such other terms and provisions, not inconsistent with this section, as are authorised or permitted by the regulations.

(8) No tax is payable under this Act by a trust on the chargeable income of the trust for a period during which the trust was governed by an approved pension fund plan.

<sup>88</sup>(9) All amounts received by a person in a year of income as a benefit under an approved pension fund plan or an approved deferred annuity plan shall be deemed to be the income of that person, except amounts received by way of a lump sum equivalent to the capitalized value of twenty-five per cent of the annual pension or annuity at the date of retirement or maturity.

Finance Act (No. 2) 1993  
Act 2 of 2006

<sup>89</sup>(9A) Repealed

Act 2 of 2006

<sup>90</sup>(9B) Repealed

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<sup>87</sup> BIR Note: Increased from \$65 effective 1<sup>st</sup> January 2006.

<sup>88</sup> BIR Note: Repealed and replaced effective 1<sup>st</sup> January 2006

<sup>89</sup> BIR Note: Effective 1<sup>st</sup> January 2006 [Withdrawal of contributions/ premiums for house acquisition]

Act 2 of 2006

91(9C) Repealed

Act 2 of 2006

92(10) Where an amount is payable by a trustee or trust corporation under an approved pension fund plan or by a company under an approved deferred annuity plan for a year of income by way of a refund of contributions or refund of premiums, as the case may be, there shall be deducted or withheld a tax equal to twenty five per cent of the amount payable, and

Amended Finance Act 2 of 2002

Act 2 of 2006

93 (a) that tax shall be paid to the Board by the fifteenth day of the month following that in which that tax was deducted or withheld, and the remainder when received by the employee or annuitant, shall be deemed not to be the income of that person for the purposes of this Act;

Finance Act No. 5 of 2004

94(b) there shall be payable a penalty of twenty-five percent of the tax owed for failure to pay to the Board by the fifteenth day of the month following that in which the tax was deducted or withheld; and

Amended/Finance Act No. 30 of 2007

(c) there shall be payable from the due date, interest at the rate of twenty per cent a year on the amount of tax remaining unpaid.

(11) Where, at any time after a pension fund plan or deferred annuity plan has been approved by the Board for the purposes of this Act, the plan is revised or amended or a new pension fund plan or a new deferred annuity plan is substituted therefor, and the plan as revised or amended or the new pension fund plan or the new deferred annuity plan substituted therefor, as the case may be (hereinafter in either case in this subsection referred to as the "amended plan") does not comply with the requirements of this section for its approval by the Board for the purposes of this Act, the following rules apply -

(a) the amended plan shall be deemed, for the purposes of this Act, not to be an approved pension fund plan or deferred annuity plan, as the case may be;

90 BIR Note: Effective 1<sup>st</sup> January 2006 [Withdrawal of contributions/ premiums for house acquisition]

91 BIR Note: Effective 1<sup>st</sup> January 2006 [Withdrawal of contributions/ premiums for house acquisition]

92 BIR Note: Effective 1<sup>st</sup> January 2003; increased from 10% effective 1<sup>st</sup> January 2006

93 BIR Note: Effective 1<sup>st</sup> January 2003

94 BIR Note: Effective 1<sup>st</sup> January 2008, reduced from 100%.

- (b) there shall be included in computing the income of a person for a year of income all amounts received by him in the year that, by virtue of subsection (9), would have been so included -
  - (i) if the amended plan had been an approved pension fund plan or an approved deferred annuity plan, as the case may be, at the time he received those amounts, and
  - (ii) if those amounts had been received by him otherwise than by way of a refund of contributions or a refund of premiums as the case may be;
- <sup>95</sup>(c) there shall be deducted or withheld from any amount paid to a person, in a year of income as a benefit under the amended plan, by the person paying that amount, an amount equal to twenty-five per cent thereof, and

Amended Finance Act 2002

- (i) any amount so withheld or deducted shall be remitted to the Board on the fifteenth day of the month following that in which the tax was withheld or deducted, on account of the payee's tax for the year under this Act;
- <sup>96</sup>(ii) there shall be payable a penalty of twenty-five per cent of the tax owed for failure to remit to the Board by the fifteenth day of the month following that in which the tax was deducted; and

Amended/Finance Act No. 30 of 2007

- (iii) there shall be payable interest at a rate of twenty per cent a year on that tax by the fifteenth day of the month following that in which the tax was deducted.
  - (d) where an amount is deducted or withheld under this subsection from any amount paid to a person as a benefit under an amended plan, it shall be deemed, for all purposes of this Act, to have been received at that time by the person to whom the benefit was paid.
- (12) For the purposes of subsection (11) -
- (a) a reference to an amount paid as a benefit under an amended plan shall be deemed to include any amount paid under that amended plan, otherwise than as a contribution or premium as the case may be or an amount that would, by virtue of paragraph (f) or (k) of subsection (1), as the case may be, be regarded as contribution or premium if that amended plan were a pension fund plan or deferred annuity plan; and

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<sup>95</sup> BIR Note: Effective 1<sup>st</sup> January 2003

<sup>96</sup> BIR Note: Effective 1<sup>st</sup> January 2008, reduced from 100%.

(b) an arrangement under which a right or obligation under an approved pension fund plan or an approved deferred annuity plan is released or extinguished either wholly or in part and either in exchange or substitution for any other right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the plan) or under which payment of any amount by way of loan or otherwise is made on the security of a right under an approved pension fund plan, or an approved deferred annuity plan shall be deemed to be a new plan substituted for that approved pension fund plan or approved deferred annuity plan, as the case may be.

(13) Where any amount has been paid in a year of income as a contribution or premium under a pension fund plan or a deferred annuity plan that was, at the end of that year of income, an approved pension fund plan or an approved deferred annuity plan, the amount so paid shall be deemed, for the purposes of this Act, to have been paid in that year as a contribution or premium under an approved pension fund plan, or an approved deferred annuity plan, as the case may be.

(14) In ascertaining the chargeable income of any person for any year of income there shall be allowed a deduction of the premiums paid by him as an annuitant under an approved deferred annuity plan to the extent provided by this section and by sections 29 to 33.

Finance Act No. 9 of 1997  
Finance Act No. 35 of 1998  
Finance Act No. 17 of 2007

<sup>97</sup>(14A) A trustee, trust corporation or insurer which manages a pension fund plan or deferred annuity plan approved under this section, may, at the request of an employee or annuitant, transfer the value of the benefits accrued to the employee or annuitant under such plans to another approved pension fund plan or deferred annuity plan.

Finance Act 17 of 2007

<sup>98</sup>(14B) For the purpose of subsection (14A) and subject to subsection (14C), the value of the benefits accrued to –

- (a) an employee who is a member of a pension fund plan approved under this section, shall not be less than the contributions of the employee, such contributions being deemed to include the payment of interest or a share of return on investments made in accordance with the pension fund plan;
- (b) an annuitant under a deferred annuity plan approved under this section, shall not be less than the premiums of such annuitant, such premiums being deemed to include the payment of interest or a share of return on investment in accordance with the deferred annuity plan;

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<sup>97</sup> BIR Note: Effective 1<sup>st</sup> January 2007

<sup>98</sup> BIR Note: Effective 1<sup>st</sup> January 2007

- (c) the value of benefits accrued to an employee under a pension fund plan approved under this section may also include the contributions of the employee, such contributions being deemed to include the payment of interest or share of return on investment in accordance with the pension fund plan;
- (d) the value of benefits transferred in accordance with subsection (14A) shall be deemed not to have been a payment of a benefit before retirement or maturity and shall not be liable to tax.

Finance Act 17 of 2007

<sup>99</sup>(15) Where a person claims a deduction under Section 27(1)(c), (d),(e) or section 31(1) and under this section the deduction shall be limited to an aggregate amount of thirty thousand dollars.

Finance Act No. 35 of 1998\*

Finance Act No. 5 of 2004\*\*

Amended/Finance Act No. 30 of 2007\*\*\*

Amended/Finance Act No. 1 of 2009\*\*\*\*

**29. (1)** Where an employer has made a special payment or payments on account of an approved pension fund plan in respect of the past services of employees-

Employers' special payments to funds

- (a) pursuant to a recommendation of a qualified actuary in whose opinion the resources of the plan require to be augmented by the amount of one or more special payments to ensure that all the obligations of the plan to employees may be discharged in full; or
- (b) to enable employees with service prior to the constitution of the approved pension fund plan to receive benefits that relate to such service,

and has made the payment so that it is irrevocably vested in or for the plan and the payment has been approved by the Board then subject to subsection (2) the whole amount of the payment is deductible in computing the chargeable income of the employer for the year of income.

(2) Where the payment under subsection (1) is equal to or greater than the ordinary annual contribution of the employer to the approved pension fund plan there may be deducted in computing the chargeable income of the employer for the year of income and for the next nine years one-tenth of the whole amount paid under subsection (1).

(3) In the case where a special contribution is made by an employee for the purposes of subsection (1)(b) the whole of the contribution may be deducted in computing the chargeable income of the employee for the year of income.

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<sup>99</sup> BIR Note: \* Effective 1<sup>st</sup> January 1998; \*\* Effective 1<sup>st</sup> January 2004; \*\*\* Effective 1<sup>st</sup> January 2008, increased from \$12,000 to \$25,000. \*\*\*\*Effective 1<sup>st</sup> January, 2009.

10029A. Repealed

Finance Act (No. 2) 1993  
Act 2 of 2006

**30.**(1) Every approved pension fund plan under this Act shall be constituted by trust irrevocably vested - Constitution of pension fund plan

(a) in not less than three trustees where the trustees are individuals; or

(b) in a trust corporation.

(2) Subject to subsection (3) where the trustees are individuals at least one trustee shall be a representative of the employees selected by the employees and where the trustee is a trust corporation there shall be established a Management Committee of not less than three members at least one of whom is a representative of the employees selected by the employees.

(3) No employer shall be capable of being a trustee in respect of any plan.

**10131.** (1) An individual to whom section 17 applies who:

Rules for deductions in respect of insurance, etc.  
Finance Act No.9 of 1997  
Finance Act No. 35 of 1998\*

(a) Deleted by Finance Act, 1989

(b) has made a contribution under such written laws or to such approved fund or scheme as is mentioned in section 27(1)(c) or to an approved pension fund plan or has paid premiums under an approved deferred annuity plan, shall be allowed a deduction of the contributions made or premiums paid or both;

Deleted by Finance Act, 1989  
Amended G.N.. no. 5 of 1990  
Finance Act, 1997

(c) being an insured person within the meaning of the National Insurance Act, has paid a contribution as is mentioned in section 27(1)(d) shall be allowed a deduction of seventy per cent of the annual amount of the contribution so paid.

Ch. 32:01

**102**(2) In this section "premiums" includes premiums paid for a waiver of premium benefit.

Finance Act, 1993

<sup>100</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Section required person paying a benefit in respect of withdrawal of contributions or premiums to obtain a certificate from the Board.

<sup>101</sup> BIR Note:\* Effective 1<sup>st</sup> January 1998



- (3) Deleted by Finance Act, 1989
- (4) Deleted 16 G.N. 5 of 1990
- (5) <sup>103</sup>Finance Act 1990 Deleted 17 G.N. of 1990

**32.** (1) The President may make regulations generally for the purpose of carrying out the provisions of sections 28 to 31 and such regulations may provide for the granting of pensions and gratuities to employees under an approved pension fund plan. Regulations

(2) The regulations shall be laid on the table of the Senate and the House of Representatives within thirty days of the making thereof.

(3) Where the President is satisfied that it is equitable that any regulation should have retrospective effect in order to confer a benefit upon or resolve a disability attaching to any employee that regulation may be given effect for that purpose.

(3) A regulation having retrospective effect shall be subject to affirmative resolution of Parliament.

**33.** (1) Notwithstanding the provisions of sections 27 to 32, but subject to this section, no deduction shall, for the year of income 1966 and subsequent years of income, be allowed - Conversion of certain policies into local currency

~~(a)~~ Deleted by Finance Act, 1989

(b) in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme are payable only in the currency of the East Caribbean Currency Authority or is in the currency of Trinidad and Tobago, or of Barbados, or of Guyana, or if payable in some other currency are converted within a reasonable period of time to be made payable in Trinidad and Tobago currency, such period to be determined by the Minister.

(2) Nothing in this section shall apply –

~~(a)~~ Deleted by Finance Act, 1989

(b) to any such contribution as is mentioned under subsection (1)(b) if the person who makes such contribution entered outside of Trinidad and Tobago into the agreement to make such contribution and if at the time of

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<sup>102</sup> BIR Note: Effective 1st January, 1993 (the original subsection (2) was deleted by Finance Act, 1989)

<sup>103</sup> BIR Note: Change effective 1st January, 1990

entering into such agreement the beneficiary was not resident and not domiciled in Trinidad and Tobago and if the benefits payable under the fund, plan or scheme to which such contribution relates are not payable in Trinidad and Tobago.

- (c) <sup>104</sup>to any such contribution as is mentioned under subsection (1)(b), where any sum is payable by an insurer under section 195 of the Insurance Act in the currency in which the premiums has been paid. Act 39 of 2000

<sup>105</sup>**34.** Repealed

Tax on surrender value of a life insurance policy

Finance Act 17 of 2007

G.N.212 of 1989

<sup>106</sup>**34A** Repealed

Finance Act No. 5 of 2004\*

**34B** Repealed

- 35.** (1) Subject to this section, a company may establish an employees' profit sharing plan to which contributions may be made annually by that company.  
Company may establish employees' profit sharing plan

(2) An employees' profit sharing plan shall not be approved by the Board unless it is satisfied that the plan provides -

(a) for the annual distribution of profits by way of bonus (hereinafter referred to as "the annual bonus distribution") to all permanent employees;

(b) that not less than forty per cent of the annual bonus distribution shall be utilized to purchase shares in the company;

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<sup>104</sup> BIR Note: Effective 5<sup>th</sup> September 2000

<sup>105</sup> BIR Note: Effective 1<sup>st</sup> January 2007

<sup>106</sup> BIR Note: Section 34A formerly dealing with 'interest on savings' was deleted and substituted with provisions on tax on interest and dividends.

Subsections (a) and (b): Effective 29th March, 1995

Subsection (c): Effective 1st January, 1994

Subsection (d): Effective 1st January, 1995

\*The section has been repealed effective 1<sup>st</sup> January 2004.

- (c) that the annual bonus distribution to employees does not discriminate against any employee or class of employees; but nothing in this paragraph shall, however, be construed as precluding the allocation of bonus distributions of different amounts to any employee by reason of -
  - (i) different salary or wage levels, or
  - (ii) length of service; and
- (d) for its constitution by a trust under which the property of the plan is irrevocably vested in -
  - (i) not less than three persons where the trustees are individuals, or
  - (ii) a trust corporation.
- (3) A company shall transfer not less than forty per cent of the annual bonus distribution to the trustee of an approved employees' profit sharing plan to be applied towards the purchase of shares in the company and the remainder, if any, may be applied by the company towards cash payments to the employees.
- (4) Where the whole or any part of the annual bonus distribution of a company is applied towards the purchase of shares in the company, the whole or such part of the profits that has been so applied shall be deemed not to be the income of the employee or the trustee.
- (5) The trustee shall -
  - (a) allocate all the shares purchased by him to the employees in proportion to their entitlement thereto;
  - (b) pay over to each employee any distribution in respect of shares held in trust for that employee, who shall be entitled to the dividend income allowance provided by section 56 in respect of such distribution;
  - (c) furnish each employee not later than 31st December in each year, with a statement showing -
    - (i) the number of shares allocated to him during that year, and
    - (ii) the total number of shares held on his behalf at the date on which the statement was furnished.
- (6) Where shares have been allocated to an employee pursuant to this section the trustee shall -
  - (a) at the request of the employee, transfer such shares to the employee, or his nominee -

- (i) where the employee is still in the employment of the employer, at any time after the expiration of five years from the date of the allocation of the shares, or
  - (ii) where for any reason other than retirement or death the employee ceases to be in the employment of the employer, at any time after cessation of such employment;
- (b) on the retirement date of the employee, or on the cessation of employment, where an employee retires prematurely as a result of mental or physical infirmity, transfer such shares to the employee or his nominee; or
- (c) on the death of the employee before his retirement date, transfer such shares to the personal representative of the employee.

In this subsection "retirement date" means, in relation to an employee, the date fixed under an approved employees' profit sharing plan as the date of retirement from employment of that employee.

<sup>107</sup>(7) Where shares are transferred in a year of income pursuant to subsection (6)(a), the market value of the shares at the date of transfer shall be deemed to be income accrued to the beneficial owner of the shares on that date and the full amount of such income shall form part of the income of the individual for that year.

Act 2 of 2006

<sup>108</sup>(8) Repealed

Act 2 of 2006

(9) Where shares are transferred pursuant to subsection (6)(b) or (c), no income shall, by reason of such transfer, be deemed to have accrued to the beneficial owner of the shares.

(10) Where an approved employees' profit-sharing plan is vested in -

(a) individuals, at least one trustee shall be a representative of the employees selected by them; or

(b) a trust corporation, a management committee shall be established comprising not less than three individuals at least one of whom shall be a representative of the employees selected by them.

(11) No employer shall be capable of being a trustee of any plan established under this section, but nothing herein shall be construed as preventing an employer from

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<sup>107</sup> BIR Note: Repealed and replaced effective 1<sup>st</sup> January 2006.

<sup>108</sup> BIR Note: Effective 1<sup>st</sup> January 2006

appointing a representative under subsection (10) either as a trustee or a member of the management committee, as the case may be.

<sup>109</sup>(12) In this section -

"approved employees' profit sharing plan" means an employees' profit sharing plan approved by the Board for the purposes of this Act as complying with the requirements of this section;

"company" means any body corporate, whether public or private, or unincorporated association but does not include a partnership.

Finance Act No. 35 of 1998\*

"employees' profit sharing plan" means an arrangement whereby the whole or part of a company's annual bonus distribution is transferred to a trustee to be applied towards the purchase of shares in the company to be held by the trustee to the use and benefit of the employees of the company and otherwise dealt with in accordance with this section.

**36.** Deleted by Finance Act, 1989

**37. (1)** Deleted by Finance Act, 1989

**(2)** Deleted by Finance Act, 1989

(3) Subject to subsection (4) interest on treasury bonds is exempt from income tax.

<sup>110</sup>(4) The exemption referred to in subsection (3) applies only to such portion of treasury bonds held by any person which will not exceed the sum of sixty thousand dollars as at 31st December 1986 and increasing that sum by four thousand dollars per year in each of the next five succeeding years.

Act No.14 of 1987

**37A.** Amended/Deleted by Finance Act, 1989

**37B.** Where an individual to whom section 17 applies holds tax free housing bonds, the interest on that portion of the value of the bonds that does not exceed eighty-four thousand dollars is exempt from tax.

Certain interest on housing bonds exempt  
Finance Act, 1989

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<sup>109</sup> BIR Note: This section effective from 1st January 1971

<sup>110</sup> BIR Note: Effective 1<sup>st</sup> January 1987.

**38.** (1) Subject to this section, an employer may with the approval of the Board establish an employees' savings plan to which contributions may be made annually by the employer and the employee.

Employer may establish employees' savings plan  
Act No.46 of 1977

(2) All persons in the employ of an employer are eligible to become members of an employees' savings plan (hereinafter referred to as "the plan").

(3) The Board shall not approve the establishment of a plan unless it is satisfied that -

Act No.46 of 1977

(a) membership in the plan is voluntary;

(b) the plan is intended as a supplement and not as a substitute for any approved pension fund plan or deferred annuity plan;

(c) the plan is to be constituted by trust vested -

(i) in not less than three trustees where the trustees are individuals, or

(ii) in a trust corporation;

(d) the funds of the plan are to be invested in assets originating and situated in Trinidad and Tobago;

(e) where the employer is a public company, any investment in the company by way of shares or debentures would not exceed one-third of the total assets of the plan; and

<sup>111</sup>(f) the plan provides for contributions

(i) not exceeding five per cent of the salary or wages of the employee, subject to a maximum of two thousand four hundred dollars, to be made by an employer (hereinafter referred to as "the employer's contribution"); and

Finance Act 1995

(ii) at least equal to but not exceeding twice the amount of the employer's contribution to be made by an employee.

(4) The President may, in order to confer a benefit on the employees, approve with retrospective effect any plan which was in operation before the commencement of

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<sup>111</sup> BIR Note: Subsection (f)(1) formerly dealt with plans, the contribution of which do not exceed three percent

of the salary/wages of employees, subject to a maximum of \$1,200. These provisions were amended effective 29th March 1995

this Act where he is satisfied that the plan is not inconsistent with the provisions of this Act.

<sup>112</sup>(5) Where pursuant to subsection (4) a plan has been approved with retrospective effect, the provisions of this Act shall apply to that plan as if this Act has been in operation on the date from which the plan was given retrospective effect.

- 39.** (1) Every employer who establishes a plan shall, for the purpose of computing his chargeable income for the year of income, be allowed a deduction of the amount contributed by him to the plan, in respect of each employee who is a member of the plan.

Employer's contribution to be allowed as deduction for income tax

- (2) For the purpose of computing the chargeable income of an employee, no

deduction may be allowed in respect of his contribution to a plan.

Act No 46 of 1977

(3) The employer's contribution shall not form part of the chargeable income of the employee except where such contribution is withdrawn pursuant to section 41(3).

- 40.** (1) Where the funds of a plan are invested the trustees of plan shall be taxable on the income derived from the investment -

Trustees to be taxed on income derived from investment

(a) at prevailing scale rates for the appropriate year of income, where the income does not exceed five thousand four hundred dollars; or

Act No.46 of 1977

(b) at a flat rate of fifteen per cent where the income exceeds five thousand four hundred dollars.

(2) An employee is entitled to a proportionate share in the income derived from investing the funds of the plan established by the employer.

Act No.46 of 1977

(3) The share to which the employee is entitled shall be calculated on the amount contributed by him, on the employer's contribution and on the interest accruing in respect of such contributions.

(4) The Trustees of a plan shall on or before 31st December in each year -

(a) submit to the Board accounts of revenue and expenditure in respect of the plan; and

(b) furnish to each employee who is a member of the plan a statement showing the amounts -

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<sup>112</sup> BIR Note: Prior to 1995, fifty persons. Change effective 29th March, 1995

- (i) contributed by the employee,
- (ii) of interest to which the employee is entitled in respect of his contribution,
- (iii) of the employer's contribution,
- (iv) of interest to which the employee is entitled in respect of the employer's contribution, and
- (v) withdrawn by the employee.

**41.** (1) An employee may, without being liable to tax, at any time withdraw -

Withdrawal of contributions  
Act No.46 of 1977

- (a) all or part of the contribution made by him to the plan and the interest accruing in respect thereof;
- (b) all or part of the interest accruing in respect of the employer's contribution.

(2) An employee or his personal representative, as the case may require, may, without being liable to tax, withdraw the employer's contribution -

- (a) on the death of the employee;
- (b) on the termination of the employee's employment by virtue of redundancy;
- (c) on the retirement of the employee at any time after he has attained the age of fifty; or
- (d) on the retirement of the employee before he has attained the age of fifty, where such retirement is on the grounds of ill health or infirmity.

(3) Where an employee withdraws the employer's contribution in circumstances other than those specified in subsection (2) the amount of the contribution withdrawn shall be treated as income for the year of income during which the contribution was withdrawn.

Deleted by Finance Act, 1989  
Act No.46 of 1977



(4) An employee who ceases to be in the employ of a particular employer may, without being liable to tax, transfer from one plan to another the contribution made by him to the plan and the employer's contribution and any interest accruing on such contributions and the amount so transferred shall be deemed not to have been withdrawn.

<sup>113</sup>(5) For the purposes of this section and of sections 38, 39 and 40 -

"employer" means a company, a partnership or a sole trader each of which has in its employ at least fifteen persons; Act No.5 of 1995

"employees' savings plan" or "plan" means an arrangement whereby the contributions made by an employer and an employee in accordance with this Act are held by trustees in order to encourage savings and investment by employees.

(6) Deleted by Finance Act, 1989

**41A.** Deleted by Finance Act, 1989

**41B.** Deleted by Finance Act, 1989

**42.** (1) In this section and in sections 43 to 46 "Minister" means the Minister responsible for Housing; and "prescribed" means prescribed by regulations made under the Housing Act. Income Tax Exemptions

(2) Notwithstanding any of the provisions of this Act, there shall be exempted from income tax -

(a) Deleted by Finance Act, 1989

(b) subject to subsection (7), premiums and rents derived from the letting of any newly constructed house whether constructed on, before or after 31st December 1978, of the class specified in section 43; Act No. 1 of 1979

(c) gains or profits derived from the initial sale of newly constructed houses of the class specified in section 43 by any person registered in the prescribed manner as a trader in such houses;

(d) interest on and any service charge payable under a loan granted by an approved mortgage company for the construction of a house and interest on a loan secured by, and any service charge payable under, a mortgage held by an approved mortgage company, if the rate of interest charged in respect of the loan does not in either case exceed the prescribed tax free interest rate; Act No.19 of 1980  
Amended by Act No 18 of 1989

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<sup>113</sup> BIR Note: Prior to 1995, fifty persons. Change effective 29th March, 1995

(e) interest on a loan secured by, and any service charge payable under, any mortgage on a newly constructed house, if the loan is of not less than ninety per cent of the value of the house and if the rate of interest charged in respect of the loan does not exceed the prescribed tax free interest rate.

~~(3)~~

Deleted by Finance Act, 1989

(4) Subsection (2) does not apply in respect of a newly constructed house that was constructed by way of rental mortgage or aided self-help projects to which public funds of Trinidad and Tobago have been contributed by way of subsidizing any such project and not merely by way of a loan from the public funds.

Act No.25 of 1981

(5) The exemption provided under subsection 2(e) applies in respect of a newly constructed house the cost of construction of which, inclusive of the cost or value whichever is the less of the land, in the opinion of the National Housing Authority, having regard to normal building costs prevailing at the time of its construction would not exceed -

Act No.14 of 1976

Amended by Act No.18 of 1989

(a) twenty-five thousand dollars, where construction commenced after 31st December 1967, but not later than 31st December 1973;

Act No.14 of 1976

(b) forty thousand dollars, where construction commenced after 31st December 1973, but not later than 31st December 1975;

(c) sixty thousand dollars where construction commenced after 31st December 1975, but not later than 31st December 1976;

(d) eighty thousand dollars where construction commenced after 31st December 1976, but not later than 31st December 1979; or

Act No.46 of 1977

(e) two hundred and fifty thousand dollars where construction commenced after 31st December 1979.

Amended by Act No.18 of 1989

(6) For the purposes of subsection (2)(e), "service charge" means a service charge prescribed by the Minister as the charge for administering a mortgage, that is not a guaranteed mortgage.

Act No.14 of 1976

<sup>114</sup>(7) The exemption as to rent referred to in subsection (2)(b) shall not be granted where the monthly rental income, whether payable to the owner or to any other person, in any month of the year of income -

Act No.1 of 1979

(a) in respect of an unfurnished letting, exceeds seven hundred and fifty dollars;

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<sup>114</sup> BIR Note: Effective 1st January, 1979

(b) in respect of an unfurnished letting, in connection with which services are provided, exceeds eight hundred and twenty-five dollars;

(c) in respect of a furnished letting, exceeds nine hundred dollars; or

(d) in respect of a furnished letting in connection with which services are provided, exceeds nine hundred and seventy five dollars.

<sup>115</sup>(8) In subsection (7) -

Act No.1 of 1979

"furnished letting" means a house rented with furniture consisting of a stove, a refrigerator, a bed, and living and dining room furniture;

"services" includes any utility for which the landlord pays the supplier of that utility.

43. (1) The exemptions provided under sections 42(2)(b) and (c) apply in respect of a house the cost of construction of which, exclusive of the cost or value of the land, in the opinion of the Minister, having regard to normal building costs prevailing at the time of its construction, would not exceed -

Limitation on Tax Exemptions  
Amended by Act No.18 of 1989

(a) twenty thousand dollars, where construction commenced after 31st December 1957 but not later than 31st December 1967; Act No.14 of 1976

(b) twenty-five thousand dollars, where construction commenced after 31st December 1967, but not later than 31st December 1972;

(c) thirty thousand dollars, where construction commenced after 31st December 1972 but not later than 31st December 1973;

(d) forty thousand dollars, where construction commenced after 31st December 1973 but not later than 31st December 1975;

(e) sixty thousand dollars where construction commenced after 31st December 1975 but not later than 31st December 1976;

(f) eighty thousand dollars, where construction commenced after 31st December 1976 but not later than 31st December 1979; or Act No.19 of 1980

(g) two hundred and fifty thousand dollars where construction commenced after 31st December 1979. Act No.19 of 1980

(2) The exemption provided under section 42(2)(b) is operative for a period of ten years beginning with the date of the completion of the newly constructed house. Act No.25 of 1981

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<sup>115</sup> BIR Note: Effective 1st January 1979.

(3) The exemption provided under section 42(2)(b) ceases to apply in respect of a house where, in the opinion of the Minister, the cost repairs, alterations or improvements made to the house when added to the cost of construction as determined under subsection (1) exceeds - Act No.14 of 1976

(a) twenty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1957 but not later than 31st December 1967; Act No.14 of 1976

(b) twenty-five thousand dollars, where the repairs, alterations or improvements were made after 31st December 1967 but not later than 31st December 1972;

(c) thirty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1972 but not later than 31st December 1973;

(d) forty thousand dollars, where the repairs, alterations or improvements were made after 31st December 1973 but not later than 31st December 1975;

(e) sixty thousand dollars where the repairs, alterations or improvements were made after 31st December 1975 but not later than 31st December 1976;

(f) eighty thousand dollars where the repairs, alterations and improvements were made after 31st December 1976 but not later than 31st December 1979; or Act No.46 of 1977

(g) two hundred and fifty thousand dollars where the repairs, alterations or improvements were made after 31st December 1979. Act No.19 of 1980

(4) Subsection (3) does not apply where the Minister has, before the repairs, alterations or improvements are made authorised the making thereof. Act No.14 of 1976

(5) The Minister of Finance may from time to time by Order amend - Act No.14 of 1976

(a) section 42(5) and subsection (1), by specifying the cost of construction of newly constructed houses in respect of which exemptions under section 42(2) would apply and the date after which construction of the house should commence; and

(b) subsection (3), by specifying the cost of construction of a house built after a specified date, and of repairs, alterations or improvements made thereto, in respect of which exemption under section 42(2) would cease to apply.

44. (1) Nothing in section 42 creates any exemption from liability to income tax in respect of income derived from the exercise of the trade or profession of a builder;

and if a question arises under that section as to whether any amount ought properly to be regarded as profit derived from a transaction of sale or as being wholly or in part attributable to the exercise of the trade or profession of a builder, the question shall be determined by the Board.

Builder excluded from Tax Exemptions

(2) A person aggrieved by a determination under sub-section (1) may appeal in the manner herein provided.

(3) In this section "builder" means a person who builds houses for sale or for rent.

**11645.** Sections 10, 11 and 12 have effect in relation to premiums and rents referred to in section 42(2)(b) and interest, referred to in section 42(2)(d) and (e) as if section 42 and paragraph 1 of the Fifth Schedule of the Corporation Tax Act had not been enacted.

Amended/Deleted by Finance Act, 1989  
Application of sections 10, 11 and 12  
Act No.11 of 1988  
Act No. 25 of 1992

**45A(1)** In this section -

"relevant authority" means in the case of -

(a) residential properties, the Minister with responsibility for Housing;

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(b) industrial and commercial properties, the Minister with responsibility for Industry, after consultation with the Industrial Development Corporation;

"residential property" has the same meaning as is assigned to "house" in Section 2 of the Housing Act.

(2) Notwithstanding any of the provisions of this Act, there shall be exempt from income tax until the year of income 2000 -

(a) subject to subsection (4), premiums and rents derived from the letting of any residential, industrial and commercial properties the construction of which begins after 1st January, 1993 and is completed by 31st December, 1996;

Act No.3 of 1994

(b) gains or profits derived from the initial sale of such properties.

(3) The income tax exemption given under subsection (2)(a) is granted to the owner of the property, whether such owner is the builder or a subsequent owner thereof.

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<sup>116</sup> BIR Note: Section 45A introduced by Act No. 25 of 1992, effective 1st January, 1993

(4) The income tax exemption given under subsection (2) shall not be granted -

(a) in respect of a residential property unless the cost of construction, exclusive of the cost or value of the land, in the opinion of the relevant authority, having regard to normal building costs prevailing at the time of construction in respect of that property exceeds two hundred and fifty thousand dollars; and

(b) unless a certificate from the relevant authority is produced in support of the claim for exemption.

(5) The certificate referred to in subsection (4)(b) shall certify -

(a) the date of commencement of construction;

(b) the date of completion of construction;

(c) that the property is eligible for an income tax exemption under this section; and

(d) the date of the initial sale of the property.

(6) The relevant authority shall maintain a register of properties which qualify for an exemption under subsection (2) and may on request by a subsequent owner issue a certificate to him.

(7) Sections 10, 11 & 12 have effect in relation to premiums and rents referred to in section 45A (2)(a) and gains or profits referred to in section 45A (2)(b) as if section 45A had not been enacted.

Finance Act, 1993

<sup>117</sup>**45B.** A company that is in receipt of income or profits that are exempt from income tax under section 45A may, provided separate accounts are kept of such income or profits -

Dividends paid out of profits exempted under Section 45A similarly exempted

(a) within eight years after the date of completion of construction of the property, if the premiums and rents would be exempt from tax under the said section; or

(b) within two years after the date of sale of the property, if the gains or profits would be exempt from income tax under the said section,

distribute sums not exceeding in the aggregate the exempt income or profit to the members of the company and those sums when so distributed are exempt from income tax in the hands of the members of the company.

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<sup>117</sup> BIR Note: Effective 1st January, 1993

- 46.** In assessing the chargeable income of a person under this Act, the Board may, as a condition precedent to applying any of the provisions of sections 42 to 45 to the assessment of income, require that person to produce a certificate in the prescribed form from the Minister to the effect that in the opinion of the Minister the provisions of sections 42 to 45 inclusive, may properly be so applied

Board to require certificate of exemption

### TEMPORARY RESIDENTS

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

Temporary Residents

### RATE OF TAX

- 48.** There shall be levied and paid on the chargeable income of every person tax at the rates set forth in Part I of the Third Schedule.

Rates as per Third Schedule

**48A.** Deleted

Deleted by Finance Act, 1989

Deleted by Finance Act, 1989

### TAX CREDITS

- 11848A.** Upon due claim and subject to such evidence as the Board may require, there shall be allowed against the amount of the tax assessed, in respect of each year of income for which tax is assessed, any tax credit to which a person is entitled under this Act, but so that the sum of the tax credits allowed shall not exceed the amount of the tax assessed.

Finance Act, 1989

Certain tax credits to be allowed

**11948B.** Deleted

Finance Act, 1989

Personal tax credit

**48C.** Deleted

Finance Act 1997

Spouse tax credit

Finance Act 1997

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<sup>118</sup> BIR Note: Effective 1st January 1989

<sup>119</sup> BIR Note: Effective 1st January 1989

**48D** Deleted

Child tax credit  
Finance Act 1997

**48E.** Deleted

Tax credit for purchase of shares  
Amended by Finance Act 1997

**120 48F.** (1) An individual over the age of sixty years who is resident in Trinidad and Tobago and who, in a year of income receives –

Tax Credit on Interest paid by mutual funds

(a) a dividend as a beneficiary under a trust operated by a financial institution carrying on a unit trust business and licensed under the Financial Institutions Act;

(b) the amount or value of a distribution paid by the Unit Trust Corporation of Trinidad and Tobago,

out of interest in respect of which tax has been deducted under section 3B of the Corporation Tax Act, is entitled in relation to that year of income tax to a tax credit equivalent to the tax deducted on that portion of the interest that relates to the dividend or distribution received by the individual.

(2) The tax credit referred to in subsection (1) shall not be granted unless a certificate from the trust or the Unit Trust Corporation of Trinidad and Tobago is produced in support of the claim relief.

(3) The certificate shall state the amount of tax deducted on that portion of the interest that relates to the dividend or distribution received.

Finance Act, 1996

(4) Notwithstanding the repeal of section 3B of the Corporation Tax Act by the Provisional Collection Taxes of (No. 2) Order, 1996, this section will continue to have effect for the purposes of subsection (5) as though section 3B of the Corporation Tax Act had not been repealed.

1997

Finance Act

(5) Notwithstanding section 48A, where a person is in relation to the year of income ending 31st December 1996 entitled to a tax credit under subsection (1) which exceeds the amount of tax for which he is assessed in respect of that year of income, he shall be entitled in relation to that year of income to a refund equivalent to the difference between the amount of the tax credit and the amount of the tax assessed.

Finance Act 1997

**121 48 G.** Deleted

Reliefs for certain investors

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<sup>120</sup> BIR Note: Effective 8th May, 1996



122 **48H** Deleted

Additional tax credit  
Finance Act 1997

**48I.** Deleted

Further tax credit to persons over sixty years  
Finance Act 1997

**48J.** Repealed

Tax credit on TTMF Co. Ltd. Bonds  
Finance Act 1994

**12348K.** (1) In this section ;

Act 22 of 1994

"Administrator" means the Administrator of venture capital companies appointed under section 3 of the Venture Capital Act;

Tax credit for shares in venture capital company

"marginal rate percentage" means the percentage equivalent to the highest marginal rate of tax for individuals in a year of income;

"tax credit certificate" means a tax credit certificate issued by the Administrator under the Venture Capital Act in respect of shares issued by a venture capital company;

"venture capital company" means a company registered as a venture capital company under section 5 of the Venture Capital Act.

(2) Subject to this section, an individual who is resident in Trinidad and Tobago and who obtains a tax credit certificate under the Venture Capital Act in respect of shares issued by a venture capital company is entitled to a tax credit equivalent to the marginal rate percentage of the amount received by the venture capital company for those shares.

Finance Act 1997

(3) The tax credit is allowed only -

(a) to the original purchaser of the shares issued by the venture capital company; and

(b) for the year of income in which the shares were purchased.

(4) Notwithstanding subsection (3) and section 48A, where the amount of the tax credit as computed under subsection (2) cannot be wholly set-off against the tax assessed for the individual, the amount of the unclaimed tax credit may be

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<sup>121</sup> BIR Note: This section was previously numbered section 13A and was re-numbered by the Finance Act 1989

<sup>122</sup> BIR Note: Section 48H renumbered 48H(1) - effective 29th March 1995  
Subsections (1) and (2) repealed and substituted Finance Act, 1996  
Effective 1st January, 1996

<sup>123</sup> BIR Note: Effective 1st December, 1994

carried forward by the individual and set-off against his tax assessed for succeeding years of income.

(5) The amount of the unclaimed tax credit may be set-off as far as possible against the tax assessed for the individual in the first succeeding year of income, and in so far as it cannot be so set-off, then against the tax assessed for the next succeeding year of income and so on.

### TAX ON DISTRIBUTIONS AND OTHER PAYMENTS

**49.** (1) In relation to any company "distribution" means - Meaning of Distribution

- (a) any dividend paid by the company including a capital dividend;
- (b) any other distribution of the assets of the company (whether in cash or otherwise) in respect of shares of the company, except so much as represents the repayment of share capital, or is equal in amount or value to any new consideration given on the distribution;
- (c) any redeemable share capital or security issued by the company in respect of shares in the company, to the extent that such share capital or security is not issued for a new consideration;
- (d) any interest or other distributions out of assets of the company in respect of securities of the company (except so much if any, of any such distribution as represents the principal thereby secured) where the securities are either -
  - (i) securities issued as mentioned in paragraph (c),
  - (ii) subject to subsection (2), securities convertible directly or indirectly into shares of the company,
  - (iii) securities under which a consideration given by the company for the use of the principal secured is to any extent dependent on the result of the company's business or any part of it, under which the consideration so given represents more than a reasonable commercial return on the use of that principal, or
  - (iv) securities issued by the company to a non-resident company, where the former is a subsidiary of the latter or both are subsidiaries of a third company;

(e) any such amount as is required to be treated as a distribution by subsection (5) or (6).

124(2) Subsection (1)(d)(ii) does not apply to securities by a company, not being a private company within the meaning of section 28 (1) of the Companies Ordinance, by means of a prospectus where the issue of such securities had been approved by the Minister after being satisfied -

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(a) as to the period within which and the price at which such securities may be converted into shares of the company;

(b) as to the rate of interest payable on such securities;

(c) as to the total value of such securities in relation to the issued share capital of the company;

(d) as to the absence of any control by the company over the transfer ability of such securities;

(e) that in the issue of such securities preference was given to citizens of Trinidad and Tobago and to bodies of persons established in Trinidad and Tobago; and

(f) of such other matters as he thinks fit.

125(3) Notwithstanding subsection (2), any interest paid during the period commencing on the 1st day of January 1971 and ending on the 31st day of December 1973, on securities referred to in that subsection, shall be deemed to be a distribution for the purposes of the dividend income allowance provided by section 56.

(4) In sub-paragraph (1)(d)(iv), a body corporate shall be deemed to be a subsidiary of any other body corporate if and so long as not less than half its share capital of all classes of stock, or half of the total combined voting power in respect of all classes of that stock is owned by that other body corporate, whether directly or through any other body corporate, or other bodies corporate, or partly through any other body corporate or other bodies corporate.

(5) Where on a transfer of assets or liabilities by a company to its members or to a company by its members the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the difference.

(6) Where, after the first day of January 1966 a company -

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<sup>124</sup> BIR Note: Effective 1st January 1971

<sup>125</sup> BIR Note: Effective 1st January 1971.

(a) repays any share capital, or has done so at any time after the commencement of the accounting period for the year of income 1966; and

(b) at or after the time of that repayment (but not before the year of income 1966) issues as paid up otherwise than by the receipt of a new consideration any share capital, not being redeemable share capital,

the amount so paid up shall be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of the share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as a distribution.

(7) Where -

(a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after the commencement of the accounting period for the year of income 1966; and

(b) any amount so paid up does not fall to be treated as a distribution,

then for the purposes of subsections (1) to (6), distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

(8) In subsection (7) "relevant distributions" means so much of any distribution made in respect of shares representing the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.

(9) For the purposes of subsections (7) and (8) all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

(10) In this section "whole-time service director" has the same meaning as in the

Third Schedule of the Corporation Tax Act.

(11) In this section, "new consideration" means consideration not provided directly or indirectly out of assets of the company and in particular does not include amounts retained by the company by way of capitalizing a distribution, so however, that where share capital has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up the share capital shall be treated as new consideration also for that share capital.

(12) A distribution shall be treated under this section as made, or consideration as provided, out of assets of a company if the cost falls on the company.

(13) The following kinds of expenditure when paid by a close company to a participator shall be treated as distributions -

(a) interest, or other consideration paid or given by the company to a participator who is also a director (other than a whole-time service director) or an associate of such participator for the use of money advanced by any person, or to a person who is an associate of such director for the use of money so advanced;

(b) any annuity or other annual payment other than interest;

(c) any rent, royalty or other consideration paid for the use of property other than money.

(14) For the purposes of subsection (13)(c) in the case of tangible property or copyrights, the excess only over what the Board may consider to be reasonable consideration therefor shall be treated as a distribution.

**50.** (1) There shall be levied and paid income tax, in this Act referred to as withholding tax, at the rate set out in Part II of the Third Schedule Rates of withholding tax  
Third Schedule

(a) on any distribution made to any person not resident in Trinidad and Tobago and to every non-resident company;

(b) on any payment made to any person not resident in Trinidad and Tobago or to any person on behalf of such non-resident person, and to every non-resident company (where such person or company is not engaged in trade or business in Trinidad and Tobago), so however that in the case of a payment arising outside Trinidad and Tobago to such a person or company withholding tax shall not be payable.

(1A) Subsection (1) shall not apply to –

(a) any distribution made by the Export Import Bank to any non-resident company or non-resident international agency for a period of ten years commencing from the date of the initial injection of private sector funds into the Export Import Bank;

(b) <sup>126</sup>the interest payable on funds borrowed by the Export Import Bank from any institutions outside Trinidad and Tobago. Act 36 of 2000

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<sup>126</sup> BIR Note: Effective 29th September 2000

(2) Where, after 1st January 1966, a person or company makes any payment or distribution to any such person as is mentioned in subsection (1), or to any non-resident company, the person or the company shall under this subsection, within thirty days, account for and pay withholding tax in respect of the payment or distribution aforesaid at the rate referred to in subsection (1).

(2A) For the purposes of subsection (1) payment made to a person not resident in Trinidad and Tobago for services rendered to an approved enterprise in connection with an approved activity carried on in a free zone under the Trinidad and Tobago Free Zone Act is a payment outside Trinidad and Tobago. Finance Act, 1991

<sup>127</sup>(2B) For the purposes of subsection (1), a payment made to a non-resident company pursuant to a lease agreement made by the non-resident company to let aircraft and related equipment to BWIA International Airways Limited, shall be treated as a payment arising outside Trinidad and Tobago to such non-resident company. Finance Act 1995

(2C) Notwithstanding subsection (1), payments made over a period of two years from January 1, 2007 to a non-resident company pursuant to the lease agreement to let aircraft and related equipment to Caribbean Airlines Limited, shall be exempt from withholding tax in each of such years in an amount not exceeding two million dollars in the currency of the United States of America.

(2D) Subsection (2C) shall be deemed to have come into effect on January 1, 2007.

Finance Act 24 of 2008

(3) Where the payment or distribution is made to a person who is not resident in Trinidad and Tobago or to a non-resident company, and such person or company is resident in a country with which there is a double taxation agreement or Order under section 93, the person or company making the payment shall, nevertheless, deduct tax at the rate specified in Part II of the Third Schedule, unless the person or company making the payment satisfies the Board that a reduced rate of withholding tax applies under or by virtue of the double taxation agreement, or Order under section 93.

(4) A person liable under subsection (2) to account for and pay over withholding tax to the Board who fails to do so is guilty of an offence, and the provisions of section 99(4) shall apply accordingly.

(5) Notwithstanding the provisions of section 5, where a payment or distribution that is subject to withholding tax is made to any person not resident in Trinidad and Tobago or to any non-resident company, income tax under section 5 or corporation tax shall not be payable in respect of such payment or distribution.

(6) Where an office or a branch or agency of any non-resident company engaged in trade or business in Trinidad and Tobago, remits or is deemed to remit any part of the profits of such non-resident company accruing in or

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<sup>127</sup> BIR Note: Effective 29th March, 1995

derived from Trinidad and Tobago, such office or branch or agency of the non-resident company shall be liable to account for and pay over withholding tax in respect of such profits in accordance with the provisions of this section as if the remitting of such profits was a distribution.

(7) For the purpose of subsection (6) an office or a branch or agency of a non-resident company shall be deemed to have remitted all the profits thereof, except to the extent that the office or the branch or agency has reinvested to the satisfaction of the Board such profits or any part thereof in Trinidad and Tobago, other than in the replacement of fixed assets.

128(8) In subsections (6) and (7) "profits" means -

(a) in relation to any company charged to tax under the Petroleum Taxes Act, profits computed by applying ordinary accounting practices in accordance with section 28 of that Act, after deducting, however any petroleum profits tax, refinery throughput tax and any unemployment levy and national recovery impost paid in respect of such profits, so however that any such profits shall be deemed to include any amount authorised to be deducted as submarine well allowance or submarine production allowance by the Income Tax (In Aid of Industry) Act in ascertaining the taxable profits of any company for the purposes of the petroleum profits tax, and all such amounts shall be included accordingly;

Deleted by Finance Act, 1989  
Acts 5 of 1981 & 11 of 1988

(b) in relation to any other company, the chargeable profits of that company, for each year of income, after deducting however any corporation tax paid in respect of such profits.

Amended by Finance Act No: 11/88 and No: 6/89

**51.** In sections 49 to 56 -

Meaning of "payment"

"payment" means a payment without any deductions whatsoever other than a distribution, not being a payment to which Section 99 applies, with respect to -

- (a) interest, discounts, annuities or other annual or periodic sums;
- (b) rentals;
- (c) royalties;
- (d) management charges or charges for the provision of personal services and technical and managerial skills;

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128 BIR Note: Effective 5th May, 1988

(e) premiums (other than premiums paid to insurance companies and contributions to pension funds and schemes), commissions, fees and licenses;

(f) such other payment as may from time to time be prescribed.

**52.** (1) Subject to subsection (2), where, after 1st January 1966, a close company, otherwise than in the ordinary course of its business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator the amount of such loan or advance shall be deemed to be a distribution made in the year of income in which the loan was made unless the loan is repaid within one year after the end of such year of income and it is established that the repayment was not made as part of a series of loans and repayments.

Loans to directors of close companies

(2) Where in any subsequent year of income a participator or associate repays any part of a loan deemed to be a distribution made under subsection (1), relief shall be given to such participator or associate by setting off against the tax payable on his chargeable income for the year the tax attributable to the proportionate part of the loan which was included in his chargeable income for the year in which the loan was deemed to be a distribution.

**53.** Any income which by virtue of any settlement made directly or indirectly by a close company may accrue to or may be received by a participator of the company or an associate of a participator shall be deemed to be a distribution by the company to such participator or associate as the case may be.

Settlements in favour of participators of close companies

**54.** Where a person or a company is liable under section 50 to account for withholding tax deducted or withheld in respect of any payment or distribution made by them, the person or company shall as against any person entitled to the payment or distribution, be acquitted and discharged of so much money as is represented by the withholding tax as if that sum had actually been paid.

Discharge of liability for withholding

tax

**55.** (1) Where, after 1st January 1966 (that is, the date of the commencement of the Finance Act 1966), a person or a resident company makes any payments or distribution which is subject to withholding tax, the payer shall furnish to the recipient of the payment or distribution a statement in writing showing the gross amount of the payment, the amount of the withholding tax and the actual amount paid.

Certificate for deduction of tax



(2) The duty imposed by subsection (1) shall be enforceable at the suit or instance of the person entitled to the statement.

**12955A.**(1) Deleted

Chargeability of distributions made by listed resident companies  
Finance Act 1995, 1996

(2) With effect from 1st January 1995, there shall be charged upon the income accruing in a year of income to a resident individual in respect of a preference dividend payable by a listed resident company, a tax at the rate of fifteen percent of the preference dividend actually paid and the dividend so paid shall be deemed not to be the income of the individual for the purposes of the Act.

(2A) Subsection (2) applies to an unlisted resident company;

Finance Act 1996

(3) A resident company shall, at the time when a preference dividend is paid to a resident individual, deduct therefrom a tax at the rate of fifteen per cent of the amount of the preference dividend actually paid and the tax so deducted shall on or before the fifteenth day of the month following that in which the tax was deducted, be remitted to the Board on account of the liability of the individual to the tax; Finance Act 1996

Finance Act 1995, 1996

(4) The provisions of section 34A (2), (4) and (6) apply *mutatis mutandis* to this section.

(5) For the purposes of this section, 'listed resident company' means a resident company whose securities have been admitted for quotation on the Trinidad and Tobago Stock Exchange under the Securities Industry Act.

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Finance Act 1995

Finance Act 1996

**56.** (1) Repealed

Dividend income allowance

Fourth Schedule

Act No. 6 of 1984

Finance Act 1996

**57.** Repealed

No set-off of tax

Finance Act 1996

**13057A.** (1) An exporter who has paid consolidated special levy and is eligible for a tax credit under section 24(7) of the Finance Act, 1988, may claim in his return of income the tax credit computed in accordance with section 24(9) and (10) of that Act.

Export Tax credits

Act No.11 of 1988

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<sup>129</sup> BIR Note: Section 55A introduced by Finance Act, 1995  
Subsections (1) (4) and (5) effective 29th March, 1995  
Subsections (2) and (3) effective 1st January 1995

<sup>130</sup> BIR Note: Effective 1st January 1988.

(2) If it is proved to the satisfaction of the Board that the amount of the tax credit claimed is properly due to the claimant in respect of the goods exported during the period for which the return relates, the Board may set off the amount of the tax credit against the tax payable for the year of income for which the return is furnished.

(3) Where, in setting off the amount of the tax credit against the tax payable for any year of income, the amount of the tax credit exceeds the tax payable, the excess shall, subject to sections 90 and 92, be refunded.

**58.** (1) Where, before 27th September 1966 (that is, the date of passing of the Finance Act 1966) any company acting under the former provisions of this Act has deducted from the amount of any dividend paid to any shareholder tax at the rate payable by the company on the income out of which the dividend was paid, and that dividend is included in the chargeable income of such shareholder for the year of income 1966, the net amount received in respect of the dividend shall, for all purposes of this Act, be deemed to be the gross amount of the dividend notwithstanding that such dividend, by virtue of the former provisions of this Act, is deemed to represent income of such an amount as would, after deduction of tax, be equal to the net amount received.

Transitional provisions in respect of deduction of tax from dividends

(2) In this section, the expression "former provisions of this Act" means sections 23, 23A and 23B of the Income Tax Ordinance which were repealed by section 20 of the Finance Act 1966.

Ch.33:01  
Act No.29 of 1966

#### TRUSTEES, AGENTS, ETC.

**59.** (1) Subject to subsection (2), a receiver, trustee, guardian, curator or committee 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 Act for the purpose of assessment and payment of tax.

Chargeability of trustees, etc.

(2) 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.

**60.** (1) A person not resident in Trinidad and Tobago (hereinafter 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 Trinidad and Tobago 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, agent, receiver, branch or manager.

Chargeability of agent of person residing out of Trinidad and Tobago

(2) Where a non-resident person carries on business with a resident person, and it appears to the Board 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 Board by whom the assessment is made, or to the Appeal Board 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 Board or Appeal Board may, if it 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 provision of this Act 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, and 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 Board, be subject to an appeal to the Appeal Board as provided by section 87.

(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 subsections (2) and (3) 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 subsections (2) and (3) 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 Trinidad and Tobago 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 Board or, in the case of an appeal, to the Appeal Board, 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 Board or Appeal Board of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

**61.** 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 Act for the assessment of the income of any person for whom he acts and for the payment of the tax chargeable thereon.

Acts, etc, to be done by trustees, etc.

**62.** (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 Act of or belonging to any other person who is chargeable in respect thereof, or would be so chargeable if he were resident in Trinidad and Tobago and not an incapacitated person, shall, whenever required to do so by any notice from the Board, prepare and deliver within the period mentioned in such notice a list in a form approved by the Board, signed by him, containing -

Lists to be prepared by representative or agent

(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.

**63.** 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 Act for the assessment of such body and for payment of the tax.

Manager of corporate bodies of persons

- 64.** Any resident agent, trustee, mortgagor or other person who pays or transmits any dividend, interest, rent, loan, royalty, management charge or other income derived from any source within Trinidad and Tobago to a non-resident person shall be deemed to be the agent of such non-resident person and shall, subject to section 50 be assessed and pay the tax accordingly.

Agents, etc. of non-residents to be assessed

- 65.** (1) Every person answerable under this Act 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 Act.

Indemnification of representative

(2) For the purposes of this section, every person who is liable under any contract to pay money to a non-resident shall be deemed to be the person having the control of money and to be acting in a representative capacity for the payment of income tax belonging to the non-resident, and all money due by him under the contract shall be deemed to be money which comes to him on behalf of the non-resident.

- 66.** (1) Subject to subsection (2) and section 89(2) and (3) when any person dies during the year of income, and such person would, but for his death, have been chargeable to tax for the year of income, or when any person dies during the year of income or within six 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 Act.

Deceased persons

(2) In the case of a person dying during the year of income, if his personal representative distributes his estate before the commencement of the year of income, such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate.

#### MISCELLANEOUS PROVISIONS AS TO ASSESSMENT OF TAX

- 67.** (1) Where the Board is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious, or that full effect has not, in fact, been given to any disposition or settlement, within the meaning of section 72 the Board may disregard any such transaction or disposition or settlement, within the meaning of section 72, and the persons concerned shall be assessable accordingly.

Artificial transactions, transfers to minors and in trust

(2) Where, under or by virtue of a disposition made directly or indirectly by any disponent, the whole or any part of what would otherwise have been the income of that disponent is payable to or for the benefit, whether present or future and whether on the fulfillment of a condition or the happening of a contingency, or as the result of the exercise of a power or discretion conferred on any person, or otherwise, of a minor, such income shall be deemed to be the income of the disponent and not the income of any other person during the minority of such minor and subsequent to such minority shall continue to be so deemed unless the Board is satisfied that the disposition was not made for the purpose of avoiding tax.

(3) Where a person transfers property in trust and provides that the corpus of the trust shall revert either to the donor or to such persons as he may determine at a future date, or where a trust provides that during the lifetime of the donor, no disposition or other dealing with the trust property shall be made without the consent, written or otherwise, of the donor, such person shall nevertheless be liable to be taxed on the income derived from the property transferred in trust, or from property substituted therefor, as if such transfer had not been made.

(4) Subsection (1) shall have effect whether the transaction or disposition was effected or made before or after the commencement of this Act.

(5) Subsection (2) shall have effect (whether the disposition was effected or made before or after the commencement of this Act) in regard to assessments made in respect of the year of assessment 1951 and each succeeding former year of assessment and subsequent years of income.

(6) Subsection (3) shall apply to all transfers made or trusts created after 4th December 1941.

(7) In this section, "disposition" includes any settlement, trust, grant, covenant, agreement, arrangement or transfer of assets, and "minor" means a person under the age of twenty-one years.

(8) A discretion conferred on the Board by this section may be exercised, on appeal under section 87, by the Appeal Board.

(9) Nothing in this section shall prevent any income under any disposition from being treated for the purpose of tax as the income of the person making the disposition in any case in which this section does not apply.

**68.** Any income which, by virtue of any settlement made directly or indirectly by any person, may accrue to or may be received by, any other person for a period which cannot exceed six years, shall be deemed for all the purposes of this Act to be the income of the settlor, if living, and not to be the income of any other person.

Settlements

- 69.** (1) All income which in any year of income accrued to or was received by any person under a revocable settlement shall be deemed to be income of the settlor for such year of income and not income of any other person.

Revocable Settlements

(2) Where in any year of income the settlor, or any relative of the settlor, or any person under the direct or indirect control of the settlor or of any of his relatives, by agreement with the trustees of a settlement in any way, whether by borrowing or otherwise, makes use of any income arising, or of any accumulated income which has arisen under such settlement to which it is not entitled thereunder, then the amount of such income or accumulated income so made use of shall be deemed to be income of such settlor for such year of income and not income of any other person.

(3) For the purposes of this section, a settlement shall be deemed to be revocable if under its terms the settlor -

(a) has a right to re-assume control, directly or indirectly, over the whole or any part of the income arising under the settlement or of the assets comprised therein;

(b) is able to have access, by borrowing or otherwise, to the whole or any part of the income arising under the settlement or of the assets comprised therein; or

(c) has power, whether immediately or in the future and whether with or without the consent of any other person, to revoke or otherwise determine the settlement and in the event of the exercise of such power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property comprised in the settlement or to the income from the whole or any part of such property,

but a settlement shall not be deemed to be revocable by reason only that under its terms the settlor has a right to re-assume control directly or indirectly over any income or assets relating to the interest of any beneficiary under the settlement in the event that such beneficiary should predecease him.

- 70.** (1) Where income under a settlement may accrue to or may be received by any person other than the settlor, then unless under the settlement the income either accrues to or is received by -

When income of settlement not income of settlor

(a) an individual who is not in the service of the settlor, or accustomed to act as the solicitor or agent of the settlor;

131(b) Repealed Finance Act 35/98\*

(c) Repealed Finance Act 35/98\*

the income shall be deemed to be the income of the settlor and not the income of any other person.

(2) Repealed Finance Act 35/98\*

132(3) Notwithstanding subsection (1) where income which has accrued to any person is assigned by that person under a deed of covenant or other instrument of assignment to his or her spouse, such income shall be deemed to be the income of the assignor and not the income of the spouse.

Act No.14 of 1976

71. (1) Repealed Deleted by Finance Act, 1989

133(2) Repealed Finance Act 35 of 1998

72. In sections 68 to 71 - Interpretation of sections 68 to 71

"relative" means a husband, wife, ancestor, lineal descendant, brother or sister;

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

"settlor", in relation to a settlement, includes any person by whom the settlement was made.

73. Sections 68 to 72 have effect from 5th December 1962. Commencement of sections 68 to 72

74. (1) Repealed Deleted by Finance Act, 1989  
Limitations on certain settlements  
Finance Act, 35/98\*

(2) Deleted by Finance Act, 1989

(3) Deleted by Finance Act, 1989

134(4) Repealed Amended by Act No. 25 of 1992  
Finance Act No. 35 of 1998\*

(5) In this section -

131 \* S70(1) (b), (c) and S70(2) effective 1<sup>st</sup> January 1997

132 BIR Note: Effective 1st January 1974.

133 BIR Note: Effective 1st January 1997

134 BIR Note: Amendment Effective 1st January, 1993



"disposition" has the same meaning as in section 67(7) and includes a settlement as defined by section 72;

"disponer", in relation to a disposition includes any person by whom the disposition was made;

"total income" means the aggregate amount of the income of the disponer from the sources specified in section 5 before making any deductions allowed by any provision of this Act other than sections 10, 11, and 16 and the Income Tax (In Aid of Industry) Act.

75. Where under or by virtue of any disposition (as defined by section 74) made directly or indirectly by any person any income may accrue to or may be received by any other person, such income shall, to the extent that it is not otherwise directed to be regarded by any provision of this Act be treated as the income of the disponee and not as the income of any other person.

Deductions for settlements

### RETURNS - BY WHOM TO BE MADE

- 13576** (1) Every person liable to furnish a return of income in respect of any year of income either personally or in a representative capacity, shall furnish a return in such form as may be approved by the Board within four months after the end of that year of income.

Returns of income  
Act No.66 of 1975

- (2) The return shall be signed by the person liable to furnish the return of income or by an agent authorised to sign on his behalf and shall contain -

- (a) a calculation of the tax payable in respect of the chargeable income, if any, disclosed therein; and
- (b) an address for service of notices.

- (3) For the purposes of this section, "every person liable to furnish a return of income" includes -

- (a) every person liable to pay tax under this Act;
- (b) every partnership;

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135 Notwithstanding section 76 of the Act every person (other than a company), liable to furnish a return of income in respect of the year of income 1975 shall furnish such return on or before 30th June 1976.

Act No. 14 of 1976 Section 15

(c) every person who in that or any previous year of income has made a loss in respect of which he may be entitled to claim a deduction in the year of income or any subsequent year of income;

(d) subject to subsection (4), every person who derives any income from any source specified in section 5, irrespective of the amount of such income; and

(e) every person who derives any income which would be charged to tax under this Act but for the provisions of any other written law which exempts such income from the charge to tax.

Act No.66 of 1975

(4) Notwithstanding subsection (3) -

136(a) an individual who is resident in Trinidad and Tobago, whose sole source of income is from an office or employment or

Amended by Finance Act, 1995

Finance Act No. 35 of 1998\*

Act 91 of 2000\*\*

(b) a person not resident in Trinidad and Tobago, whose income derived from Trinidad and Tobago consists only of income to which the provisions of section 50 other than subsection (6) thereof apply, shall be relieved of the obligation of furnishing a return of income under subsection (1).

(5) Any person liable to furnish a return of income in respect of any year of income who fails, neglects or refuses to do so is guilty of an offence.

137(6) Any person who fails, neglects or refuses to furnish a return of income for the year of income 1987 and subsequent years after six months from the time required to file the return, shall thereafter in addition to any other penalty provided in this Act, unless the Board otherwise directs, be liable to a penalty of one hundred dollars for every six months or part thereof during which such failure, neglect or refusal continues.

Act No.11 of 1988

Finance Act 2 of 2002\*

138(7) Any person who has not furnished a return of income for any year of income preceding the year of income 1987 and fails, neglects or refuses to furnish any such return on or before 31st October 1988 shall in addition to any other penalty

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<sup>136</sup> BIR Note: Formerly \$3,000. Changed to \$12,000 effective 29th March 1995. \$50,000 effective 1/1/99.

\* effective 1<sup>st</sup> January 1999, \*\* effective 1<sup>st</sup> January 2001

<sup>137</sup> BIR Note: Effective 1st January 1988; \* effective 1<sup>st</sup> January 2003

<sup>138</sup> BIR Note: Effective 1st January 1988

provided in the Act, be liable to a penalty of one hundred dollars in respect of any such return for every six months or part thereof during which such failure, neglect or refusal continues.

**76A.** (1) Notwithstanding any other law, any person who makes an application to or is issued any permission, licence, authority or any such other document by any -

Board of Inland Revenue file number  
Act No.17 of 1985

- (a) Government Department;
- (b) Public Authority including a local authority;
- (c) Public Corporation or other State Agency; or
- (d) the Central Bank,

may be required to furnish the person processing the application or issuing the document with his Board of Inland Revenue file number (hereinafter referred to as "the B.I.R. file number").

(2) Where any person referred to in subsection (1) fails to furnish the B.I.R. file number when required to do so, the Central Bank or Public Agency referred to in subsection (1) shall not process the application or issue the document.

(3) In this Act "the Board of Inland Revenue file number" means the Board of Inland Revenue file number assigned by the Board to a tax-payer for the purpose of processing an income tax return under section 76.

**76B.** Every employee or officer from whose emoluments tax was deducted by the employer shall furnish his employer with his B.I.R. file number, and the employer shall record that number on the certificate issued by him under regulation 12 of the Income Tax (Employment) Regulations.

Employee or officer to furnish B.I.R. file number to employer

**76C.** The following persons are exempted from compliance with the provisions of section 76A -

Exemptions

- (a) any person of the age of sixteen years and under;
- (b) any person specified in section 8(1)(a) and (b) of the Act but only in respect of emoluments or pension referred to in that section;
- (c) temporary residents in Trinidad and Tobago not in receipt of income where the total period of residence in Trinidad and Tobago does not exceed six weeks;
- (d) a person who satisfies the Board that he is not in receipt of income or not required to furnish a return of income under section

76(4), and who is in receipt of a certificate issued by the Board to that effect in respect of a year of income.

77. (1) Notwithstanding section 76(4), the Board 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 Trinidad and Tobago, to make returns under this Act within the time specified in such notice.

Power of Board to require returns  
139 Finance Act 2 of 2002

(2) Any person who, after being required by the Board 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.

### PARTNERSHIPS

78. (1) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the income of any partner from the partnership for the year of income shall be deemed to be the share to which he is entitled in the income of the partnership for that year (such income being ascertained in accordance with the provisions of this Act) and shall be included in the return of income to be made by such partner under the provisions of this Act. Partnerships

(2)(a) The precedent partner, that is to say, the partner who of the partners resident in Trinidad and Tobago -

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

(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 Act 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;

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139 BIR Note: Effective 1<sup>st</sup> January 2003

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

(6) Any person who refuses, fails, or neglects to deliver any return required under this section is guilty of an offence.

### PAYMENT OF TAX

**79.** (1) Subject to this section, every person shall pay to the Board on or before 31st March, 30th June, 30th September and 31st December respectively, in each year of income, an amount equal to one-quarter of the tax as estimated by him at the rates set out in Part I of the Third Schedule on his estimated chargeable income for the year and, on or before 30th April in the next year, the remainder of the tax, as estimated by him.

Payments of tax by instalments  
Third Schedule

(2) For the purposes of subsection (1), the estimated chargeable income of any person for a year of income shall be taken to be the chargeable income as disclosed in his return, if any, of total income for the preceding year of income.

(3) Where the estimated chargeable income of any person for the year of income as provided for by subsection (2) is, in the opinion of such person, likely to be less than the chargeable income of the preceding year, on an application by such person for the purpose, the Board may revise the estimated chargeable income of that person and the amount of tax chargeable thereon, and the provisions of subsection (1) shall apply accordingly.

<sup>140</sup>(3A) Where the estimated chargeable income of any person for a year of income is likely to exceed or exceeds the chargeable income of the preceding year of income, the quarterly installments by that person shall be paid on the basis of the estimated chargeable income of the year of income.

Act No.11 of 1988

<sup>141</sup>(3B) Where a person to whom subsection (3A) applies had paid quarterly installments which amount to less than the tax liability disclosed in the return of the year of income, such person shall, with effect from 1st January, 1992, pay interest under section 103 on the difference between -

Act No. 25 of 1992

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<sup>140</sup> BIR Note: Effective 1st January 1988.

<sup>141</sup> BIR Note: Effective 1st January 1992

(a) the tax liability on the chargeable income of the previous year of income plus 80 per cent of the increase in the tax liability of the current year on the previous year of income; and

(b) the total amount paid by the end of the fourth quarter.

<sup>142</sup>(4) The Board may estimate the amount of tax payable by any person where

(a) that person fails to make the return required by section 76(1);

(b) no tax was payable in the immediately preceding year of income;

and, upon making demand therefor in writing of such person, subsection (1) shall apply accordingly, as if the Board's estimate was the estimate of such person.

(5) Where an individual is in receipt of emoluments within the meaning of section 100 in a year of income, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in the year of income, but the installment of tax payable under subsection (1) shall be at the highest rates as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(6) Where amounts have been deducted or withheld under section 99(1) from the emoluments received by an individual in a year of income, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year, are equal to or greater than three-quarters of his total income for the year, he shall on or before 30th April in the next year, pay to the Board the remainder of his tax for the year as estimated by him.

(7) Where the income of an individual for a year of income consists solely of income from emoluments within the meaning of section 100 that individual shall, on or before 30th April in the next year, pay to the Board the remainder of his tax, if any, as estimated by him.

**80.** (1) Notwithstanding section 79, but subject to this section, every person shall for the year of income 1963 pay to the Board on or before 30th June an amount equal to one-half and on or before 30th September and 31st December respectively an amount equal to one-quarter of the tax at the rates in the Third Schedule on his estimated chargeable income for 1963, and on or before 30th April in the next year, the remainder of the tax, if any.

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<sup>142</sup> BIR Note: The following subsections relate only to the Petroleum Taxes Act:

(c) tax for a full financial year was not payable in the immediately preceding year or financial year as the case may be;

Act No.22 of 1974

(d) notwithstanding subsection (2), in the opinion of the Board the taxable profits for the financial year are likely to be more than the taxable profits for the immediately preceding financial year,

(2) For the purposes of subsection (1), the estimated chargeable income of any person for the year of income 1963 shall be taken to be the chargeable income as disclosed in his return, if any, of total income for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed.

(3) Where an individual is in receipt of emoluments within the meaning of section 100 in the year of income 1963, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in that year of income, but the installment of tax payable under subsection (1) shall be at the highest rates, as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(4) For the purposes of subsection (1), where -

(a) any person has failed to make the return referred to in subsection (2);

(b) no tax was payable for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed,

the Board may estimate the amount of tax payable by such person, and upon making demand therefor in writing of such person, the provisions of subsection (1) shall apply accordingly, and tax shall be paid on such estimate.

(5) Where amounts have been deducted or withheld under section 99 from the emoluments received by an individual in the year of income 1963, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year are equal to or greater than three-quarters of his total income for the year, he shall, on or before 30th April 1964 pay to the Board the remainder of tax, if any.

(6) Where the income of an individual for the year of income 1963 consists solely of income from emoluments within the meaning of section 100, that individual shall, on or before 30th April 1964, pay to the Board the remainder of his tax, if any, as estimated by him.

**81.** (1) Every person shall, within thirty days from the day of the service on that person of the notice of assessment, pay to the Board any part of the tax stated in the notice to be payable by him, any interest and any penalties then remaining unpaid in respect of the remainder.

Payment of assessed tax

(2) Where any person disputes an assessment under subsection (1), such person shall nevertheless within the time limited by subsection (1) pay to the Board the

part of the tax stated in the notice to be payable by him and any interest and any penalties then remaining unpaid that is not in dispute.

(3) Notwithstanding anything in this section to the contrary, where in the opinion of the Board any person is attempting to avoid payment of tax the Board may direct that all taxes, penalties and interest be paid forthwith upon assessment.

**82.** (1) Every person required by this Act to deliver a return of the income of any other person for a year of income shall, within thirty days from the date of service on such person of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that person to the extent that he has or had, at any time since the year of income, in his possession or control property belonging to that person or his estate and shall thereupon be deemed to have made that payment on behalf of that person.

Payments on behalf of others

(2) Every assignee, liquidator, administrator, executor, a trustee in bankruptcy and other like person, before distributing any property under his control, shall obtain a certificate from the Board certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property.

Certificate before distribution  
<sup>143</sup>Finance Act 35 of 1998

(2A) Every assignee, liquidator, administrator, executor, trustee in bankruptcy and other like person shall submit to the Board full details of the assets and property distributed within three months of such distribution.

<sup>144</sup>Finance Act.35 of 1998

(3) Distribution of property without a certificate required by subsection (2) shall render the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties.

Liability

<sup>145</sup>**82A** For the purposes of sections 79 to 82, 86, 87 and 89, where the tax payable by a person-

(a) as stated in a notice of assessment or additional assessment;

(b) upon the variation of an assessment after the determination of an objection or appeal in accordance with this Act,

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<sup>143</sup> Effective 1<sup>st</sup> January 1999

<sup>144</sup> Effective 1<sup>st</sup> January 1999

<sup>145</sup> Effective 1<sup>st</sup> January 2008



does not exceed one hundred dollars, the tax so payable shall be deemed to be nil;

Relief from payment of tax  
Finance Act No. 30 of 2007

### ASSESSMENTS

**83.** (1) The Board shall proceed to assess every person chargeable with the tax as soon as may be after the day prescribed for delivering the returns.

Board to make assessments

(2) Where a person has delivered a return, the Board may -

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

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

Refusal of return

(3) Where a person has not delivered a return and the Board is of the opinion that such person is liable to pay tax, it may, according to the best of its 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.

Assessment in default of return

(4) Subject to sections 89(2) and (3), if at any time within the year of income or within six years after the expiration of the year of income or three years from the date the tax return is filed whichever is later, the Board makes an assessment which results in a person being charged to tax for the year of income in respect of a total chargeable income in excess of the chargeable income disclosed in the return of income rendered by such person, the Board may (unless the person assessed proves to the Board's satisfaction that the omission or incorrectness of the return did not amount to fraud, covin, art or contrivance, or gross or willful neglect) charge such person, in addition to the total tax otherwise charged in the assessment, further tax not exceeding the amount of tax charged in respect of the excess.

F.A. 35/98\*

Additional tax on increased chargeable income  
146 Finance Act. 35 of 1998

(5) If any person neglects or refuses to render a return of income as required by this Act the Board may (unless such person proves to the

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<sup>146</sup> Effective 1<sup>st</sup> January 1999

Board's satisfaction that such neglect or refusal was for reasonable cause and ought fairly to be excused) charge such person additional tax equal to treble the amount of tax which would have been payable if this subsection had not been enacted.

Additional tax for non-return of income

(6) Nothing in subsections (1) to (5) shall be construed as derogating from any other provisions of this Act.

(7) The provisions of this Act shall apply to any additional tax charged by virtue of this section as they do to tax ordinarily chargeable under this Act.

(8) Without prejudice to the powers conferred by section 124, the Board may for reasons which may appear to it sufficient at any time remit in whole or in part any additional tax charged under this section.

Board may remit additional tax

(9) A discretion to charge additional tax vested in the Board by this section may be exercised, on appeal under section 87 by the Appeal Board; but if the Appeal Board confirms the decision of the Board to charge additional tax and finds that the additional tax imposed by the Board did not exceed the maximum additional tax which could properly be charged, the appeal as regards the additional tax shall be dismissed.

Appeal Board's discretion re additional tax

**84.** (1) For the purposes of facilitating the assessment of the income of persons residing in the United Kingdom, the President may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Board in respect of any such person as may apply to be dealt with through such agent and shall ascertain and report to the Board the amount of the chargeable income of such person in accordance with this Act, and shall forward to the Board the accounts and computations upon which his report is based. The Board, on receipt of the report, shall enter the amount reported in the assessment list.

Appointment of agent in the United Kingdom

(2) If it appears to the Board that any error has occurred in the accounts or computation it may refer the report back for further consideration.

(3) Nothing in this section shall prevent the appeal to the Appeal Board in Trinidad and Tobago conferred by section 87.

### ASSESSMENT LISTS

**85.** (1) After completing its assessment, the Board shall prepare lists of persons liable to tax.

Lists of persons assessed and notices of assessment

(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 the tax payable by him and such other particulars as may be necessary.

### NOTICES OF ASSESSMENTS

**86.** (1) The Board shall cause to be served on 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 subsection (2).

Notices to be served on persons assessed

(2) If any person disputes the assessment he may apply to the Board by notice of objection in writing delivered to the Board 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.

(3) An application under subsection (2) may be made out of time if the Board is satisfied that there was a reasonable excuse for not making the application within the time limited and that the application was made thereafter without unreasonable delay.

(4) Where the Board disallows an objection for the reason that it is not satisfied under subsection (3), an appeal shall lie to the Appeal Board from such a decision in accordance with section 87.

(5) On receipt of a notice of objection duly made, the Board shall reconsider the assessment and may vacate or vary the assessment, or confirm the assessment and disallow the objection.

(5A)(1) Where, in reconsidering an assessment for the purposes of an objection –

<sup>147</sup>Finance Act 35 of 1998

(a) the Board exercises its powers under section 97 by requiring, within a specified time, the person objecting to the assessment –

(i) to furnish such particulars as the Board may consider necessary with respect to the assessed income; and

(ii) to produce all books and other documents in the custody or under the control of that person, relating to that income; and

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<sup>147</sup> Effective 1<sup>st</sup> January 1999

(b) the person objecting to the assessment, without lawful excuse, refuses or neglects to furnish the particulars or to produce the books or other documents within the specified time,

the notice of objection delivered by that person shall cease to have effect and the assessment shall be final and conclusive.

(2) Where new information arises in reconsidering an assessment the Board may raise any new issue at that stage and may increase such assessment.

148 Finance Act 35 of 1998

(6) The Board shall serve on the objector notice of its decision under subsection (5).

(7) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Board 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; but in the event of any person who under subsection (2) has applied to the Board for a revision of the assessment made upon him failing to agree with the Board as to the amount at which he is liable to be assessed, his right of appeal to the Appeal Board under this Act, against the assessment made upon him shall remain unimpaired.

149(8) Where, within twenty-four months after the service of the notice of objection, the Board fails to determine the objection, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly. Act No.1 of 1986

(9) Where, upon the expiration of twelve months after the service of the notice of objection the Board fails to determine the objection, the person who has disputed his assessment may, notwithstanding section 7(2) of the Tax Appeal Board Act appeal to the Appeal Board within twelve months of such expiration.

Act No.1 of 1986 Ch.4:50

(10) Where an objection against an assessment has been made before 27th September 1966 (that is, the day of the passing of the Finance Act 1966) and proceedings in respect of that objection are subsequent to the date of the coming into operation of the said Act still pending before the Board then unless such objection is determined by the Board within one year from the passing of the Act, the objection shall be deemed to have been determined in favour of the person who has disputed his assessment and the assessment shall be amended accordingly.

(11) Upon the expiration of the time for giving notice of appeal to the Appeal Board under section 7 of the Tax Appeal Board Act, the person who has disputed his

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148 Effective 1<sup>st</sup> January 1999

149 BIR Note: Effective 1st January 1986.

assessment, shall, if no appeal is then pending, within thirty days, pay to the Board of Inland Revenue any part of the tax that was in dispute and any interest and penalties remaining unpaid as is determined by the Board.

Ch.4:50

### APPEALS AGAINST ASSESSMENT

- 87.** Any person who has disputed his assessment by notice of objection under this Act, and who is dissatisfied with the decision of the Board may appeal to the Appeal Board in accordance with the provisions of the Tax Appeal Board Act.

Rights of appeal against Board decision  
Ch.4:50

### ERRORS IN ASSESSMENTS AND NOTICES

- 88.** (1) Liability for tax under this Act shall not be affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Liability not affected by inaccurate or incomplete assessments,  
absence of assessments, errors of form or description

(2) The Board shall not be bound by a return or information supplied by or on behalf of a person chargeable to tax and in making an assessment may, notwithstanding a return or information so supplied or if no return has been filed, assess the tax payable.

(3) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act 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 Act or any written law 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.

(4) 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,
- (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

89. (1) Subject to this section, where it appears to the Board 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 Board may, within the year of income or within six years after the expiration of the year of income or three years from the date the tax return is filed whichever is later, assess such person at such amount or additional amount as according to its judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal and other proceedings under this Act shall apply to such assessment or additional assessment and to the tax charged thereunder.

Assessments, additional assessments, etc.

<sup>150</sup>Finance Act 35 of 1998

(2) Where any fraud or any gross or willful neglect has been committed by or on behalf of any person in connection with or in relation to -

- (a) any tax for the former years of assessment or for any subsequent year of income; or
- (b) any claim, deduction, relief, exemption or other matter having or that might have had a direct or indirect effect upon the amount of tax for the former years of assessment or for any subsequent year of income,

an assessment or additional assessment, as the case may be, may, for any such former year of assessment or year of income, be made at any time on that person under subsection (1) or, section 83 or, subject to subsection (3), on the personal representative of that person under subsection (1) or section 66 and section 83.

(3) In the case of an assessment or an additional assessment made upon the personal representative of a deceased person in respect of any income of that deceased person that would but for his death have been assessed and charged to tax on him, the time allowed pursuant to subsection (1), sections 66 and 83 for the making of the assessment or additional assessment, as the case may be, shall not extend beyond the expiration of a period of three years after the former year of assessment or the year of income in which the deceased person died.

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<sup>150</sup> BIR Note: Effective 1st January 1999

(4) Subsections (1) and (3) have effect for the former years of assessment 1961 and 1962 and subsequent years of income but do not render invalid any assessment, objection or appeal made or pending under this Act before 20th April 1965 (that is, the date of commencement of the Income Tax [Amendment] Act 1963).

### REPAYMENT OF TAX

**90.** (1) If it be proved to the satisfaction of the Board that any person for any year of income has paid tax 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 six years from the end of the year of income to which the claim relates. The Board shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Comptroller of Accounts shall cause repayment to be made in conformity therewith

Circumstances under which repayment may be made

(2) The extension of the time within which such claim for repayment shall be made has effect for the former years of assessment 1961 and 1962, and subsequent years of income.

(3) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of income 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 Board that such failure or neglect to deliver a true and correct return did not proceed from any fraud or willful act or omission on the part of that person.

**91.** Notwithstanding any provision of section 90 to the contrary, where, after the assessment has been made in accordance with the provisions of this Act, any amount collected as required by section 99 is found to be in excess of the amount of tax shown to be payable in an assessment, the excess shall be refunded as soon as practicable thereafter to the person from whose emoluments the tax was deducted or withheld.

Refund of excess of tax collected under Section 99

**92.** (1) For the purposes of sections 79 and 82, but subject to section 90, if any person shall deliver a return of his income for a year of income within two years from the end of the year, the Board -

Refunds

(a) may, upon serving the notice of assessment for the year, refund, without application therefor, any overpayment made on account of the tax; and

(b) shall make such a refund after serving the notice of assessment if application therefor has been made in writing by that person within twelve months from the day on which the overpayment was made or the day on which the notice of assessment was served.

(2) Instead of making a refund that might otherwise be made under this section, the Board may, where the person is liable or about to become liable to make another payment under this Act or any other written law administered by the Board<sup>151</sup>, apply the amount of the overpayment to that other liability and notify such person of that action.

Finance Act 5 of 2004

(3) For the purpose of this section "overpayment" means the aggregate of all amounts paid on account of tax less all amounts payable under this Act or an amount so paid where no amount is so payable.

(4) Where an amount in respect of an overpayment is refunded or applied under this section to other liability, interest at the rate of four per cent per annum shall be paid or applied thereon for the period commencing with the latest of -

(a) the day when the overpayment arose;

(b) the day on or before which the return of the income in respect of which the tax was paid was required to be filed; or

(c) the day when the return of income was actually filed,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than one dollar, in which event no interest shall be paid or applied under this subsection.

### RELIEF IN CASES OF DOUBLE TAXATION

**93.** (1) If the President by Order declares that arrangements specified in the Order have been made with the Government of any country with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, then subject to section 95, the arrangements shall notwithstanding anything in any written law have effect in relation to income tax in so far as -

Relief from double taxation

(a) they provide for relief from tax; or

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<sup>151</sup> Effective 1<sup>st</sup> January 2004.



(b) they provide for -

(i) charging the income arising from sources in Trinidad and Tobago to persons not resident in Trinidad and Tobago,

(ii) determining the income to be attributed to such persons and their agencies, branches or establishments in Trinidad and Tobago, or

(iii) determining the income to be attributed to persons resident in Trinidad and Tobago who have special relationships with persons not so resident.

(2) Part I of the Fifth Schedule shall have effect where arrangements which have effect by virtue of this section provide that tax payable under the laws of the country concerned shall be allowed as a credit against tax payable in Trinidad and Tobago. Fifth Schedule

(3) The President may by regulations, subject to negative resolution, add to, vary or amend the provisions of the Fifth Schedule.

(4) Where, under any arrangements which have effect by virtue of this section, relief may be given either in Trinidad and Tobago or in the country with the Government of which the arrangements are made, in respect of any income, and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such assessment may be made as is necessary to ensure that the total amount of the income assessed and the proper credit, if any, is given in respect thereof, and, where the income is entrusted to any person in Trinidad and Tobago for payment, any such assessment may be made on the recipient of the income under this Act.

(5) Any arrangements to which effect is given under this section may include provision for relief from tax for periods before the commencement of this section or before the making of the arrangements and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.

(6) Any Order made under this section may be revoked by a subsequent Order and such revoking Order may contain such transitional provisions as appear necessary and expedient.

**94.** Where under an arrangement to which section 93 refers provision is made whereby income, gains or profits are to be treated as arising in Trinidad and Tobago, such income, gains or profits shall, for all the purposes of this Act be deemed to be the income, gains or profits of the person entitled thereto.

Certain income deemed to be income for purposes of Act

95. (1) To the extent appearing from the following provisions of this section and Parts II and III of the Fifth Schedule, relief from income tax shall be given in respect of income tax payable under the law of any country outside Trinidad and Tobago by allowing the last mentioned tax as a credit against income tax payable in Trinidad and Tobago, notwithstanding that there are not for the time being in force any arrangements under section 93 providing for such relief.

Unilateral relief  
Fifth Schedule

(2) (a) The said relief (hereinafter referred to in this section and in Parts II and III of the Fifth Schedule as "Unilateral Relief") shall be such relief as would fall to be given under Part I of the Fifth Schedule if arrangements with the Government of the foreign country containing such provision as appears in so much of Part II of the Fifth Schedule as applies to that country were in force by virtue of section 93 and any reference occurring in the said Part I which imports a reference to relief under arrangements for the time being in force by virtue of section 94 shall be deemed to import also a reference to unilateral relief;

(b) the total credit to be allowed by way of unilateral relief in the case of any income shall not, if the country is within prescribed commonwealth countries, exceed one-half and in any other case one quarter of the sum of the limits specified in regulations 5 and 6(1) of Part I of the Fifth Schedule; and

(c) Part I of the Fifth Schedule shall, as respects unilateral relief, have effect subject to the provisions set out in Part III of the Schedule.

(3) Where unilateral relief may be given in respect of any income and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief, any such assessment may be made as is necessary to ensure that the total amount of income is assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in Trinidad and Tobago for payment, any such assessment may be made on the recipient of the income under this Act.

(4) References in this section and in Parts II and III of the Fifth Schedule to tax payable or tax paid under the law of a country outside Trinidad and Tobago include only references to taxes which are charged on income or profits and correspond to income tax in Trinidad and Tobago, and, without prejudice to the generality of the preceding words, a tax which is payable under the law of a province, state or other part of a country, or which is levied by or on behalf of a municipality or other local body, shall not be deemed for the purposes of this subsection to correspond to income tax.

- 96.** (1) If the President by Order so provides, the rate of withholding tax shall be reduced to the extent so provided as respects any person, notwithstanding that there are not for the time being in force any arrangements under section 93 providing for such relief. Power to vary withholding tax

(2) Until arrangements are made with the Commonwealth countries set out in Part IV of the Fifth Schedule, the provisions in Part V of that Schedule shall continue to have effect for the purpose of double taxation relief with respect to those countries; and subsection (1) shall have effect for the purposes of withholding tax.

### GENERAL POWERS OF THE BOARD

- 97.** (1) The Board may, by notice in writing, require any person to furnish it within a specified time with a schedule containing such particulars as it may require for the purposes of this Act with respect to the income of such person. Power of the Board to require schedule of particulars

(2) Any person who fails or neglects duly to furnish such schedules is guilty of an offence.

(3) The Board may, by not less than fourteen days' notice in writing, require any person to attend before it 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. Power of the Board to require persons to attend before it

(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 willfully gives any false evidence under this section, is guilty of an offence.

### COLLECTION AND RECOVERY OF TAX

**98.** (1) Subject to the provisions of this section, every person, whether an employee or the holder of an office to whom any payment is made at any time during the year 1958 or any year thereafter of or on account of any emoluments shall, for the purpose of enabling any deductions which may be made under section 99 to be calculated with reference to the

allowances to which such person may be entitled under regulations made under section 125, file with the person making the payment a declaration in a form approved by the Board containing such particulars as may be prescribed by regulations made under the said section 125, but a declaration shall not be filed by a person resident outside Trinidad and Tobago.

Declaration by persons to whom emoluments are paid

(2) (i) The Board may declare that such of the persons to whom subsection (1) applies as may be specified in a notice published in the manner prescribed by regulations made under section 125 shall, notwithstanding subsection (1), file the declaration referred to in the said subsection with the Board in a form approved by the Board.

(ii) A person who -

(a) fails to file a declaration as required by this section; or

(b) files a declaration in contravention of this section, is liable on summary conviction to a fine of three thousand dollars.

<sup>152</sup>Finance Act 35 of 1998

(3) For the purposes of this section and of section 99, the expression "employment" means the position of an individual in the service of some other person (including the State or the Government of Trinidad and Tobago); and the expression "office" means a position, not being an employment or place entitling the holder thereof to a fixed or ascertainable stipend or remuneration, and includes the office of a Minister of the State, the office of a member of the Senate or the House of Representatives of Trinidad and Tobago, a member of a Municipal or County Council, and any other office the holder of which is elected by popular vote or is elected or appointed in a representative capacity and also includes the position of a company director.

**99.** (1) Notwithstanding any provision of this Act to the contrary, where emoluments arise or accrue in or are derived from or received in Trinidad and Tobago in a year of income for the benefit of an employee or the holder of an office, tax shall, subject to and in accordance with any regulations made under section 125, be deducted or withheld by the person providing the emolument.

(1A) If any question arises as to whether –

(f) an amount is an emolument in respect of which tax shall be deducted or withheld pursuant to this section;

(g) an allowance claimed pursuant to section 98 should be admitted;

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<sup>152</sup> Effective 1<sup>st</sup> January 1999

- (h) the quantum of the emolument is in dispute; or
- (i) the tax deducted or withheld from the emoluments of an employee is in accordance with the provisions of this Act or any other regulations made under section 125;

such question shall be determined by the Board in writing subject to the provisions of this section relating to objections and appeals against the determination of the Board.

Deduction and payment of emoluments

<sup>153</sup>Deleted and substituted by Act 91 of 2000

<sup>154</sup> Amended by Act 5 of 2004

<sup>155</sup> (1B) Where the Board is of the opinion that an amount is an emolument and that the correct taxes have not been deducted or withheld, it shall-

- (a) cause to be served on the person providing the emolument, notice of its determination under subsection (1A), demanding the amount of tax to be deducted or withheld by that person; and
- (b) inform the person of his right to object.

Finance Act 5 of 2004

(1C) Where a person providing an emolument under this section disputes the determination of the Board, he may apply to the Board by notice of objection in writing delivered to the Board, to review its determination and such application shall-

- (a) state precisely the grounds of his objection; and
- (b) be made within fifteen days from the date of service of the notice of determination.

Finance Act 5 of 2004

(1D) The provisions of section 86(3), (4), (5), (5A), (6), (7), (8) and (11) and section 87 of this Act relating to objections and appeals shall apply *mutatis mutandis* to this section, except in relation to the period of twenty-four months stated in section 86(8), which shall for the purposes of this section be read as twelve months. Finance Act 5 of 2004

(2) The tax deducted or withheld as required by subsection (1) shall, subject to and in accordance with any regulations made under section 125, be paid to the Board by the person deducting or withholding the same at such time or times and by such date or dates as may be prescribed by such regulations, and on the payment thereof

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<sup>153</sup> Effective 1<sup>st</sup> January 2001

<sup>154</sup> Paragraphs (c) and (d) inserted; effective 30<sup>th</sup> January 2004

<sup>155</sup> S 99(1B),1(C) and 1(D) inserted; effective 30<sup>th</sup> January 2004

the Board shall send to such person a receipt which shall to the extent of the amount referred to therein be a good and sufficient discharge of the liability of such person for any amount deducted or withheld as required by this section.

(3) Subject to subsection (10), where an amount has been deducted or with held under subsection (1) from the emoluments of any person, it shall, for the purposes of this Act, be deemed to have been received by such person at the time of the deduction or withholding thereof.

(4) If any person fails -

(a) to deduct or withhold any amount required to be deducted or withheld by him by subsection (1); or

(b) to remit or pay to the Board any amount which he is required by subsection (2) to pay to the Board by such date or dates as may be prescribed by regulations made under section 125,

<sup>156</sup>he is guilty of an offence; and in addition to such amount there shall become payable by such person to the Board, unless the Board otherwise directs, a sum of <sup>157</sup>twenty-five per cent of such amount, or forty dollars, whichever is the greater and he shall pay interest at the rate of twenty per cent a year on such amount and on such additional sum, unless the Board otherwise directs, from the day on or before which he was required to make the payment to the day of payment as if the same was tax payable by such person on the date when such amount was required to be deducted, withheld, remitted or paid, as the case may be, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and the recovery of any such sum or amount.

Finance Act 91 of 2000\*

Finance Act 2 of 2002\*\*

Amended/Finance Act 30 of 2007\*\*\*\*

(5) All amounts deducted or withheld by any person pursuant to the provisions of subsection (1) shall be deemed to be held in trust by such person for Trinidad and Tobago whether or not they have in fact been kept separate and apart from such person's own monies and shall not be subject to attachment in respect of any debt or liability of the said person and in the event of any liquidation, assignment or bankruptcy the said amounts shall form no part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Board before any distribution of the property is made.

Finance Act 35 of 1998\*\*\*

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<sup>156</sup> BIR Note: In this section penalty and interest rates on late remittance of PAYE were increased to 50% and 15% respectively. Effective 8th January 1988. \* effective 1<sup>st</sup> May 2001; \*\* effective 1<sup>st</sup> January 2003.;\*\*\* Effective 1<sup>st</sup> January 1999.,

<sup>157</sup> Effective 1<sup>st</sup> January 2008, reduced from 100%.

(6) Every person who shall have deducted or withheld any tax pursuant to subsection (1), shall deliver personally or send by post within such time or times as may be prescribed by regulations made under section 125 to the person from whose emoluments the tax was deducted or withheld or to such other person as may be prescribed by the said regulations such certificate of account relating to the amount of tax deducted by him as may be prescribed by the said regulations.

(7) Any person who fails to comply with the provisions of subsection (6) or who fails to deliver or send to the Board within such time or times as may be prescribed by regulations made under section 125 any return, account or certificate or any copy thereof which he may be required by the said regulations to deliver or send to the Board for the purpose of rendering him accountable to the Board for any tax deducted or withheld by him pursuant to this section, is liable on summary conviction to a fine of seventy-five dollars for every day during which such failure continues; but it shall be a good and sufficient defence to any complaint brought under this subsection that any such failure was not due to the willful neglect or default of the defendant or of any person acting on his behalf.

158<sub>Act 35 of 1998</sub>

(8) No action shall lie against any person for deducting or withholding any sum of money in compliance or intended compliance with subsection (1).

(9) Where by this Act any obligation is imposed on any person to deduct or withhold any tax pursuant to subsection (1) any agreement made by any such person not to withhold or deduct such tax shall be void and of no force or effect whatsoever.

(10) Every person from whose emoluments any amount shall be deducted or withheld pursuant to subsection (1) shall upon the amount being so deducted or withheld be deemed to have paid the same and shall thereupon cease to be liable for tax to the extent of the amount so deducted.

(11) The provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from emoluments payable to a tax-payer shall apply to the State and to the Government of Trinidad and Tobago.

(12) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the precedent partner of the partnership as defined in section 78(2)(a) shall be personally liable for the performance of the duties by the preceding provisions of this section required to be performed by the person making the payment or by the person deducting or withholding any amount of tax; and where a trade, business, profession or vocation is carried on by a

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158 Effective 1<sup>st</sup> January 1999

company, the managing director and the secretary of the company shall each, in addition to the company itself, be personally liable for the performance of the said duties.

**100.** For the purposes of sections 98, 99, 125(1)(a) and 125(2)(a), the expression "emoluments" means all salary, wages, overtime, bonus, remuneration, perquisites including the value of board and lodging, stipend, commission or other amounts for services, directors' fees, retiring allowances or pension, arising or accruing in or derived from or received in Trinidad and Tobago and which are assessable to income tax, but does not include any salary or share of profits arising from a trade, business, profession or vocation carried on by any person either by himself or in partnership with any other person.

Definition of emoluments

**101.** The Board shall from time to time as occasion may require prepare tax tables, a copy whereof shall be made available to any person required by this Act or any regulations made under section 125 thereof to deduct or withhold tax pursuant to section 99(1), for the purpose of enabling such person to calculate, subject to and in accordance with any regulations made under the said section 125, the amount of any tax to be so deducted or withheld.

tax tables

Board to prepare

**102.** (1) If any tax is not paid on or before the prescribed date, a sum equal to five per cent of the amount payable shall be added thereto, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

Penalty for non-payment of tax and enforcement of payment

(2) Subsection (1) applies only in respect of tax which becomes payable on or before 1st December 1957.

(3) If any tax which becomes payable on or after 1st January 1958 is not paid on or before the prescribed date, a sum shall be added thereto calculated at the rate of twelve per cent a year of the amount of such tax remaining unpaid, and if any amount of such tax is not paid within twelve months after the prescribed date, at the rate of fifteen per cent a year of the amount of such tax remaining unpaid, and the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum.

(4) Subsection (3) applies only in respect of tax payable for the former years of assessment of 1958 to 1962.

**103.**<sup>159</sup> (1) Where the amount paid on account of tax payable by any person for a year of income on or before the expiration of the time allowed for filing the

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<sup>159</sup> BIR Note: Effective 1st January 1987.



return of that person's income is less than the amount of tax payable for the year, the person liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for filing the return of income to the day of payment at the rate of twenty per cent a year unless the Board, on being satisfied that the difference between those two amounts did not result from the tax-payers own default, directs any reduction in the rate of interest payable.

Interest  
Act No.14 of 1987  
Act 91 of 2000+

<sup>160</sup>(2) In addition to the interest payable under subsection (1) where any person, being required by this Act to pay a part or installment of tax, has failed to pay all or any part thereof as required, he shall, on payment of the amount he failed to pay, unless the Board otherwise directs, pay interest at twenty per cent a year from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection.

(1) whichever is earlier.

Act No 11 of 1988  
Act 91 of 2000\*  
Finance Act 2002\*\*

(3) The rate of interest referred to in subsections (1) and (2) shall come into effect on 1<sup>st</sup> May 2001.

Act 91 of 2000\*

<sup>161</sup>(4) Notwithstanding subsections (1) and (2), the amount of interest a person is liable to pay on account of the tax 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.

(5) The Board shall, by notice in writing, inform the person that interest shall not be calculated in accordance with subsection (1) or (2) as the case may be where the person pays the interest calculated in accordance with subsection (4) on or before a date stipulated in the notice.

(6) Where the interest so calculated by the Board under subsection (4) remains unpaid after the date stipulated in the notice, the person shall be liable to pay interest calculated in accordance with subsections (1) and (2);

Finance Act No. 30 of 2007

**162**~~103A~~.(1) Notwithstanding any written law to the contrary, there shall be a waiver of the following liabilities:

Waiver of liabilities

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<sup>160</sup> BIR Note: Interest in respect of tax instalment payments has been increased from 12% to 15% with effect from 8<sup>th</sup> January, 1988; \* effective 1<sup>st</sup> May 2001; \*\* 20% effective 1<sup>st</sup> January 2003.

<sup>161</sup> BIR Note: Effective 1<sup>st</sup> January 2008, subsections (4), (5) and (6) inserted.

<sup>162</sup> BIR Note: Effective 21<sup>st</sup> August 2007.

- (a) interest on outstanding income tax, further tax, additional tax, withholding tax and business levy due and payable for the years of income up to and including the year 2006, where such taxes or levy are paid during the period 21<sup>st</sup> August, 2007 to 30<sup>th</sup> April, 2008;
- (b) outstanding interest charged on any income tax, further tax, additional tax, withholding tax and business levy due and payable for the years of income up to and including the year 2006, where such taxes and levy have been paid prior to 21<sup>st</sup> August, 2007;
- (c) penalties due and payable on the outstanding income tax and withholding tax for the years of income up to and including the year 2006, where such taxes are paid during the period 21<sup>st</sup> August, 2007 to 30<sup>th</sup> April, 2008;
- (d) penalties in respect of income tax and withholding tax due and payable for the years of income up to and including the year 2006 and paid prior to 21<sup>st</sup> August, 2007, where such penalties have not been paid;
- (e) penalties on outstanding income tax returns for the years of income up to and including the year 2006, where such returns are filed during the period 21<sup>st</sup> August, 2007 to 30<sup>th</sup> April, 2008; and
- (f) penalties with respect to income tax returns for the years of income up to and including the year 2006 and filed prior to 21<sup>st</sup> August, 2007, where such penalties have not been paid.

<sup>163</sup>Act 91 of 2000

<sup>164</sup>Finance Act No. 30 of 2007

(2) For the avoidance of doubt, the waiver granted in this section shall not-

- (a) affect any liability to income tax, further tax, additional tax, withholding tax or business levy due and payable by a person under this Act; or
- (b) apply to any interest and penalties paid prior to 21<sup>st</sup> August, 2007.

<sup>165</sup>Act 91 of 2000

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<sup>163</sup> BIR Note: Effective 28<sup>th</sup> August 2000

<sup>164</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>165</sup> BIR Note: Effective 28<sup>th</sup> August 2000

<sup>166</sup>Finance Act No. 30 of 2007

- (3) Where any income tax returns, income tax, withholding tax and business levy remain outstanding after 30<sup>th</sup> April, 2008, the interest and penalties, which would have been payable on such returns, taxes and levy shall be revived and become payable as if the waiver in subsection (1) had not been granted.

<sup>167</sup>Act 91 of 2000

<sup>168</sup>Finance Act 30 of 2007

- 104.** (1) If upon demand made by the Board a person neglects or refuses to pay any tax or any portion thereof that has become payable, the Board by warrant under its hand, in the form given in the Sixth Schedule, may authorise any person hereinafter referred to as an "authorised person" to distrain the person charged by his goods and chattels.

Distrain by Board  
Sixth Schedule

- (2) For the purpose of levying any such distress, the authorised person may break open, in the day-time, any house or premises, calling to his assistance any constable. Every such constable shall, when so required, aid and assist the authorised person in the execution of the warrant and in levying the distress in the house or premises.

- (3) A distress levied by the authorised person shall be kept for seven days, at the costs and charges of the person neglecting or refusing to pay.

- (4) If the person aforesaid does not pay the sum due, together with the costs and charges, within the said seven days, the distress shall be sold by public auction by the authorised person or any person deputed by him for payment of the sum due and all costs and charges. The costs and charges of taking, keeping and selling the distress shall be retained by the authorised person or any person deputed by him and any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the owner of the goods distrained.

- (5) In this section "constable" includes any member of the police service and any member of supplemental bodies of police established by the Supplemental Police Act or the Special Reserve Police Act.

Ch.15 No.2

Ch.15 No.3

- 105.** (1) No goods or chattels whatever, belonging to any person at the time any tax becomes in arrears, shall be liable to be taken by virtue of any execution or other process, warrant or authority whatever, or by virtue of any agreement or

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<sup>166</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>167</sup> BIR Note: Effective 28<sup>th</sup> August 2000

<sup>168</sup> BIR Note: Effective 21<sup>st</sup> August 2007

assignment, on any account or pretence whatever, except at the suit of the landlord for rent, unless the person at whose suit the execution of seizure is made or to whom the assignment was made, pays or causes to be paid to the Board before the sale or removal of the goods or chattels, all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made; but where tax is claimed for more than one year, the person at whose instance the seizure has been made, may, on paying to the Board the tax which is due for one whole year, proceed in his seizure in like manner as if no tax had been claimed.

Priority of claim for tax

(2) In case of neglect or refusal to pay the tax so claimed or the tax for one whole year, as the case may be, the authorised person shall distrain the goods and chattels notwithstanding the seizure or assignment, and shall proceed to the sale thereof, as prescribed by this Act for the purpose of obtaining payment of the whole of the tax charged and claimed, and the reasonable costs and charges attending such distress and sale, and the authorised person so doing shall be indemnified by virtue of this Act.

**106.** (1) Warrants shall be executed by the respective persons to whom they are directed in any part of Trinidad and Tobago. Execution of warrants

(2) Constables shall aid in the execution of this Act.

**107.** Any person who, by himself or by any person in his employ, obstructs, molests or hinders - Obstruction of officers

(a) an authorised person or any person employed in relation to any duty of tax in the execution of his duty, or of any of the powers or authorities by law given to the authorised person or any other person; or

(b) any person acting in the aid of an authorised person or any person so employed,

is guilty of an offence.

**108.** (1) Any surplus moneys arising on any sales under this Act shall be paid to the person entitled thereto. Surplus on sale

(2) The Board may, if it thinks fit, pay any such surplus moneys into Court; and the High 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

**109.** (1) Where the Board has reason to believe that a person may leave Trinidad and Tobago, the Board may before the day otherwise fixed for payment, serve a notice of assessment upon such person, demanding payment of all taxes, interest and penalties for which the person is liable or would be liable if the time for payment had arrived, and the same shall be paid forthwith notwithstanding any other provision of this Act.

Persons leaving Trinidad and Tobago or defaulting

(2) A person upon whom a demand has been made under subsection (1) may give security to the satisfaction of the Board for the payment of the tax assessed.

(3) Any person who has paid the tax in accordance with the demand made by the Board or who has given security for such payment under subsection (2) shall have the right of objection and appeal conferred by sections 86 and 87 and the amount paid by him shall be adjusted in accordance with the results of any objection or appeal.

(4) The provisions of this section shall not affect the powers conferred on the Board by section 89.

**110.** (1) Where -

(a) the amount of any tax for the time being due and payable under any assessment does not exceed three thousand dollars;

(b) the tax under any assessment is payable by installments and the sum for the time being due and payable in respect of any of those installments does not exceed twelve hundred dollars,

the tax shall, without prejudice to any other manner of recovery, be a sum enforceable as a civil debt by proceedings commenced in the name of the Board.

Provisions as to recovery of tax and penalties

(2) All or any of the sums due in respect of tax from any person and payable to the Board (being sums which are by law sums enforceable as a civil debt) may, whether or not they are due under one assessment, be included in the same complaint, summons, order, warrant or other document required by law to be laid before a Magistrate or to be issued by a Magistrate, and every document as aforesaid shall as respects such sum be construed as a separate document and its invalidity as respects any one such sum shall not affect its validity as respects any other such sum.

(3) A written statement as to the wages, salaries, fees and other emoluments paid for any period to the person against whom proceedings under this section are brought, purporting to be signed by his employer for that period or by any responsible person in the employment of the employer shall, in any such proceedings be prima facie evidence that the wages, salaries, fees and other emoluments therein stated to have been paid to the person charged have in fact been so paid.

(4) Where a penalty other than a fine, is imposed by or under this Act in addition to tax, the penalty shall be added to the assessment, and collected and recovered in like manner as any tax included in such assessment may be collected and recovered.

(5) Any tax that is by this section a sum enforceable as a civil debt, may be recovered as if it was a simple contract debt in any court of competent jurisdiction.

(6) For the avoidance of doubt it is hereby declared to be the law that any tax charged under the provisions of this Act is a debt due to the State and may without prejudice to any other manner in which the same may at any time be lawfully recovered, be sued for and recovered from the person charged therewith in the manner provided in the State Liability and Proceedings Act. Ch.8 No.2

(7) Any person who in the opinion of the Court may be able to give information concerning the property or goods of the person charged may lawfully be summoned to give evidence in any civil or criminal proceedings.

**111.** (1) Where any amount payable to the Board under section 99 or under any other provision of this Act has not been paid within thirty days after payment thereof became due, the Board may make out a certificate in such form as may be prescribed stating the amount payable and the name, the trade or profession and the usual or last known place of abode of the person by whom such amount is payable.

Certificate

(2) On production thereof to the Registrar of the Supreme Court, a certificate made under this section shall be registered by him in the High Court and when so registered shall have the same force and effect, and all proceedings may be taken thereon, as if the said certificate were a judgment for the State obtained in the said Court for a debt of the amount specified in the certificate together with any interest required to be paid by this Act to the day of payment.

(3) Rules of Court may be made under section 77 of the Supreme Court of Judicature Act providing for the procedure to be followed upon the registration of such certificates.

Ch.4:01

(4) All reasonable costs and charges attendant upon the registration of the certificate shall be recoverable in like manner as if they had been included in such certificate.

**112.** (1) When the Board has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Act, it may, by registered letter or by a letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to it on account of the liability of the second-mentioned person under this Act. Garnishments

- (2) The receipt of the Board for moneys paid as required under this section shall to the extent of the payment be a good and sufficient discharge of the original liability -
- (a) of the person who pays such moneys to the Board to the person liable to make a payment of tax under this Act;
  - (b) of the person liable to make a payment of tax under this Act to the Board.
- (3) Where the Board, under this section, has required an employer to pay to it on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement shall be applicable to all future payments by the employer to the employee in respect of remuneration until the liability of the employee under this Act is satisfied and shall operate to require payments to the Board out of each payment of remuneration due to the employee of such amount as may be stipulated by the Board in the registered or other letter.
- (4) Every person who has discharged any liability to a person liable to make a payment of tax under this Act without complying with a requirement under this section shall be liable to pay to the Board as a debt due to the State an amount equal to the liability discharged or the amount which he was required under this section to pay to the Board whichever is the less.
- (5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.
- Service of Garnishees
- (6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

#### NOTICES

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

(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 is shown.

**114.** (1) Notice may be served on a person either personally or by being sent by post to his last known business or private address; but service by post in the case of a notice requiring the attendance of any person or witness before the Board shall be by registered post.

(2) A notice sent by post shall be deemed to have been served, in the case of persons resident in Trinidad and Tobago 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

**115.** (1) If a person neglects or refuses to pay the tax charged upon him by virtue of this Act and no sufficient distress can be found whereby the same may be levied, the President may, by warrant under his hand and the Public Seal of Trinidad and Tobago, 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.

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

(2) The President may issue his warrant to the Commissioner of Prisons directing the liberation of any defaulter and, on receipt thereof, the Commissioner 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.

Release

#### GENERAL



<sup>169</sup>116. (1) Every person engaged in any trade, business or profession, and every person who is required by or pursuant to this Act to deduct or withhold and to pay taxes or other amounts shall keep in the English Language and in the currency of Trinidad and Tobago proper records and books of account (including an annual inventory) at his place of business or residence in Trinidad and Tobago or at such other place as may be approved by the Board, and in such form as required by the Board and containing such information as in the opinion of the Board will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or paid to be determined.

Traders, etc, to keep accounts books and records in English Language

(2) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Board may require him to keep such records and the books of accounts as it may specify and that person shall thereafter keep records and books of account as so required.

(3) Every person required by this section to keep records and books of account shall retain every such record or book of account and every account or voucher necessary to verify the information in any such record or book of account for a period of at least six years from the year of income or three years from the date the tax return is filed whichever is later to which the records or books relate, so however, that where the Board by notice in writing so requires, a person shall retain any such record or book of account and every such account or voucher as aforesaid until written permission for their disposal is obtained from the Board.

Finance Act 35 of 1998

(4) Any person who fails to keep such records, books of account and every account or voucher as may be required to be so kept by this section is guilty of an offence.

117. (1) The Board may for any purpose related to the administration or enforcement of this Act require any person, except a person engaged in confidential professional relationship with such person, to give it information in such manner and detail and at such time as the Board may from time to time require by notice in writing with respect to his income or assessment or assets or the income or assessments or assets of any other person or to permit it or any person duly authorised by it in writing to inspect any record of any monies, funds or other assets held by that person on his own behalf or which may be held by him for, or of any monies due by him to, any other person.

Powers of inspection of records

(2) Notwithstanding any rule of law to the contrary, but subject to this section, the Board may, for the purpose of determining any objection to an assessment require by writing any bank or any officer thereof to furnish in formation in writing or may

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<sup>169</sup> BIR Note: The following section relates only to the Petroleum Taxes Act -

Section 116 of the Act shall be read and construed as requiring books of account and other records of a person carrying on any of the several separate businesses specified in this Act to keep those accounts and other records separately as far as possible with respect to each separate business and in accordance with any directions given by the Board. Act No. 22 of 1974. \* effective 1<sup>st</sup> January 1999.

summon any such officer to appear before it to give evidence respecting the assessment or to furnish statements of accounts and affairs verified in the manner specified by it, and the Board may examine such officer on oath or otherwise.

(3) Where the Board proposes to exercise the powers conferred on it under subsection (2) it shall give notice of its intention to do so, to the person who has disputed his assessment and shall inform such person of his rights under this section.

(4) If the person who has disputed his assessment is aggrieved by the proposal of the Board to exercise its powers under subsection (2), he may, within seven days of receipt of notice thereof from the Board, apply to a Judge in Chambers for a declaration of his rights in the matter, and the Judge shall hear and determine such application and shall make such order as the justice of the case requires.

(5) A person is guilty of an offence who -

(a) fails to give to the Board any information in accordance with the provisions of this section; or

(b) fails to produce for the inspection of the Board or any person duly authorised by it any records which he may be required by the Board or such duly authorised person to produce.

(6) For the purposes of giving effect to a declared agreement within the meaning of the Tax Information Exchange Agreements Act the Board is deemed to have the powers set out in subsection (2) notwithstanding the absence of an assessment or objection, and subsections (3), (4) and (5) shall apply *mutatis mutandis*.

Income Tax (Amendment) (No.2) Act, 1989

**118.** (1) Subject to this section and to section 117, the Board or any person authorised by it for any purpose related to the administration or enforcement of this Act may, at all reasonable times, enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or where records are or are required to be kept pursuant to this Act, and

Powers of entry for certain purposes

(a) audit or examine the books and any account, voucher, letter, telegram or other document, which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;

(b) examine property described by an inventory or any property, process or matter the examination of which may, in its opinion, assist it in determining the accuracy of an inventory or in ascertaining the information that is or is required to be contained in the books or records or the amount of any tax payable under this Act;

(c) require the owner or manager of the property or business and any other person on the premises or place to give it all reasonable assistance with its audit examination and to answer all questions relating to the audit or examination either orally, or if it so requires, in writing, on oath or by statutory declaration and, for that purpose require the owner or manager to attend at the premises or place with it;

(d) search, if necessary with the assistance of any police officer, any building, receptacle or place or documents, books, records, papers or things which may afford evidence as to the violation of any provision of this Act or the regulations;

(e) if, during the course of the audit or examination, it appears to it that there has been a violation of this Act or the regulations, seize and take away any of the records, books of account, vouchers, letters, telegrams and other accounts and retain them until they are produced in any proceedings.

(2) Admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier, so however, that if any person is aggrieved by any such notice he may, within the said period of twenty-four hours, so inform the Board in writing, and thereupon section 117(4) shall apply as if the reference to subsection (2) occurring therein was a reference to subsection (1) of this section.

(3) If it is shown to the satisfaction of a Magistrate on sworn information in writing

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(a) that admission to any premises has been refused, or that refusal is apprehended, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1),

the Magistrate may by warrant under his hand authorise the Board by any authorised officer to enter the premises, if need be by force, except that such a warrant shall not be issued unless the Magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the giving of such notice would defeat the object of the entry. Where it is shown to the satisfaction of the Magistrate that the giving of the notice would defeat the object of the entry, the provisions of this subsection shall apply notwithstanding anything to the contrary in subsection (2).

(4) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary.

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(6) Any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or work-place, discloses to any person any information obtained by him in the factory or work-place with regard to any manufacturing process or trade secret, is, unless such disclosure was made in the performance of his duty, liable to a fine of fifteen thousand dollars or to imprisonment for twelve months. <sup>170</sup>Finance Act 35 of 1998

(7) Any person who hinders or molests or interferes with any person doing anything that he is authorised to do or prevents or attempts to prevent any person from doing any such thing and any person who unless he is unable to do so fails or refuses to do anything he is required by or pursuant to this section to do is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years. <sup>171</sup> Finance Act 35 of 1998

**119.** (1) Any person who - Offence in respect of fraud  
Act No.17 of 1985

(a) knowingly or recklessly makes or participates in or assents to or acquiesces in the making of false or deceptive statements or representations in a return, certificate, statement, declaration or answer made under this Act or any regulations; Amended/Deleted Finance Act, 1991

(b) with intent to evade payment of a tax imposed by this Act, destroys, alters, mutilates, secretes or otherwise disposes of any records or books of account;

(c) knowingly or recklessly makes or assents to or acquiesces in the making of false or deceptive entries, or omits or assents to or acquiesces in the omission to enter a material particular in any records or books of account;

(d) willfully in any manner evades or attempts to evade, compliance with this Act or payment of taxes imposed by this Act;

(e) with intent to deceive, furnishes the Central Bank or Public Agency under section 76A(1) with a B.I.R. file number which is not his own;

(f) being an employee or an officer, and who, with intent to deceive, furnishes his employer under section 76B, with a B.I.R. file number which is not his own;

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<sup>170</sup> Effective 1<sup>st</sup> January 1999

<sup>171</sup> Effective 1<sup>st</sup> January 1999

(g) being an employer, and who knowingly or recklessly records under section 76B, a B.I.R. file number of an employee or officer which is different from the number furnished by that employee or officer;

(h) conspires with any person to commit an offence described in paragraphs (a) to (g),

is guilty of an offence, and in addition to any penalty otherwise provided is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for three years.

<sup>172</sup>Finance.Act. 35 of 1998

(2) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Act, may notwithstanding anything to the contrary in that law, be taken at any time within three years from the date of the commission of the offence or within twelve months from the date on which evidence sufficient in the opinion of the Board to justify the proceedings come to the knowledge of the Board whichever period last expires, or where the person in question was outside Trinidad and Tobago at the date last mentioned, within twelve months from the date on which he first arrives in Trinidad and Tobago thereafter.

<sup>173</sup>Amended by Act 5 of 2004

(3) For the purposes of this section a certificate of the Board as to the date on which such evidence as aforesaid come to the knowledge of the Board shall be conclusive evidence thereof.

**120.** Any person who fails or neglects to perform any duty required to be performed under this Act is guilty of an offence.

Failure to perform required duty

**121.** (1) Any person guilty of an offence under this Act is, unless some other penalty is specifically provided for any such offence, liable on summary conviction to a fine of thirty thousand dollars or to imprisonment for two years or both.

Offences and penalties  
Act No.11 of 1988

<sup>174</sup> Finance Act 35 of 1998

(2) Where a person is guilty of an offence under this Act, the Court may, in addition to any penalty which it may impose, make an order for the immediate payment of any tax or for the penalty imposed or for both such tax and such penalty and the Court may make such order for imprisonment in default for any period not exceeding two years as it may consider fit.

**121A** (1) Subject to this Act, an offence under this Act may be prosecuted and

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<sup>172</sup> Effective 1<sup>st</sup> January 1999

<sup>173</sup> Effective 30<sup>th</sup> January 2004

<sup>174</sup> Effective 1<sup>st</sup> January 1999

any penalty or forfeiture imposed by this Act may be sued for, prosecuted and recovered summarily, and all sums whatsoever payable may be recovered and enforced in the manner prescribed by Summary Courts Act, or as near thereto as the circumstances of the case will permit, on the complaint of the Board.

Ch. 4:20

Prosecution of offenders

(2) A person authorized in writing by the Board may prosecute and conduct any complaint or other proceedings under this Act in respect of any offence or penalty.”

F. A. 1996

**122.** (1) Proceedings for the recovery of any fine or penalty incurred under this Act in connection with or in relation to tax may be commenced at any time within seven years next after the date on which it was incurred.

Time limit for proceedings to recover fines and penalties

(2) The time limited by subsection (1) for commencing proceedings for the recovery of any fine or penalty from any person in connection with or in relation to any tax covered by any assessment shall, where any form of fraud or willful default has been committed by him or on his behalf in connection with or in relation to that tax, be extended so as to authorise the commencement of such proceedings at any time within three years from the final determination of the amount of tax covered by the assessment.

(3) For the purposes of subsection (2) the amount of the tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied or revised, whether by the Board of Inland Revenue or by the Appeal Board or by the order of any Court.

(4) Nothing in subsection (2) shall extend the time for the bringing of any proceedings against the personal representatives of any person by whom or on whose behalf any form of fraud or willful default has been committed.

**123.** The provisions of this Act shall not affect any criminal proceedings under any other written law.

Saving for criminal proceedings

**124.** The President may remit or refund the whole or any part of the tax payable or paid, as the case may be, by any person if he is satisfied that it would be just and equitable to do so.

President may remit tax

**125.** (1) The President may make regulations generally for carrying out the provisions of this Act or of any other Act which confers on the Board powers to administer any tax on income or profits similar to those conferred in this Act and may, in particular, by those regulations provide-

Regulations  
Act No.11 of 1988

(a) for the collection, recovery and refund of tax in respect of emoluments and with respect to any matter for which by any provision of this Act regulations may be made under this section;

- (b) for the payment of tax by monthly or other installments;
- (c) for any such matters as are authorised by this Act 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 Act into execution.

(2) Without prejudice to the provisions of subsection (1), regulations made under this section may, in particular, include provision -

- (a) for requiring any person, including the State and the Government of Trinidad and Tobago, making any payment of, or on account of, any emoluments, at the time of making the payment to make a deduction of tax calculated by reference to the tax tables prepared by the Board under section 101 and for rendering persons who are required to make any such deduction accountable to the Board;
- (b) prescribing the allowances which may be included in a declaration for the purposes of section 98(1) and which may be admitted for the purposes of calculating the amount of tax to be deducted or withheld pursuant to section 99(1);
- (c) for the production to and inspection by the Board or any person authorised by it of wages sheets and other documents and records for the purpose of satisfying the Board that tax has been and is being deducted and accounted for in accordance with the regulations;
- (d) for appeals with respect to matters arising under the regulations which would not otherwise be the subject to appeal;
- (e) for regulating the times when, the dates on which or the periods within which declarations may be filed under section 98;
- (f) for the purpose of safeguarding the collection of tax.

(3) Regulations made under subsection (1) may prescribe in respect of any contravention of or failure to comply with any provision thereof a penalty on summary conviction of a fine of five thousand dollars or imprisonment for three months. <sup>175</sup>Finance Act 35 of 1998

(4) Any regulations made under the provisions of this section shall not affect any right of appeal to the Appeal Board which a person would have apart from such regulations.

The Appeal Board

**126.** (1) Notwithstanding anything contained in this Act, but subject to the provisions of this section, income tax on all emoluments arising or accruing in or

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<sup>175</sup> Effective 1<sup>st</sup> January 1999

derived from or received in Trinidad and Tobago during the year 1957 is hereby discharged Transitional provisions

(2) Income Tax shall not be discharged as aforesaid unless the person entitled to any emoluments arising or accruing in or derived from or received in Trinidad and Tobago during the year 1957 is at some time during the year 1958 in receipt of emoluments arising or accruing in or derived from or received in Trinidad and Tobago during the year 1958 from which deductions are made in accordance with the provisions of section 99 of this Act.

(3) If any person is in receipt for part only of the year 1958 of emoluments arising or accruing in or derived from Trinidad and Tobago during that year the amount of income tax to be discharged shall be an amount that bears to the full amount of income tax which would but for the provisions of this subsection be discharged the same proportion that the part of the year 1958 during which he is in receipt of such emoluments bears to the whole of that year.

(4) Where any person in the same employment or holding the same office during the years 1956 and 1957 received in respect of the year 1957 any emoluments by virtue of that employment or office and such emoluments are in excess of the emoluments received by him by virtue of that employment or office in respect of the year 1956 by reason wholly or in part of -

- (a) an additional amount being granted on or after 1st January 1957;  
or
- (b) a change in the conditions of service attaching to that employment or office being effected on or after 1st January 1957,

income tax on so much of the amount of the excess as is attributable to either such reason shall not be discharged: but this subsection shall not apply to any increase of emoluments arising from -

- (a) promotion in the ordinary course of events, or the ordinary application of an incremental scale of emoluments; or
- (b) overtime paid at ordinary rates.

(5) For the purposes of subsection (4) the income tax on the amount of the excess which shall not be discharged shall be an amount that bears to the difference between the income tax on the emoluments received in respect of the year 1957 and the income tax on the emoluments received in respect of the year 1956 the same proportion that the amount of the excess of emoluments in respect of which income tax is not discharged as provided for in the said subsection (4) bears to the difference between the emoluments received in respect of the year 1957 and the emoluments received in respect of the year 1956.

(6) For the purpose of determining the amount of income tax on any emoluments which form a part only of the total income assessed to income tax pursuant to the provisions of



this Act the amount of income tax on such emoluments shall be an amount that bears to the full amount of income tax so assessed the same proportion that the emoluments bear to the total income.

(7) For the purposes of this section the expressions "employment", "office" and "emoluments" shall have the respective meanings assigned to those expressions by section 98 or section 100.

**127.** (1) Notwithstanding anything contained in this Act, other than the provisions of section 126, but subject to this section, income tax on all income (other than income tax on all emoluments within the meaning of section 100), that would have been chargeable to tax for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed, is hereby discharged.

Discharge of tax for 1962

(2) Where the tax payable by any person for the year of income 1963 is less than the tax that would have been payable for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed, the amount of tax to be discharged shall not exceed the amount of tax assessed and paid for the year of income 1963, if -

(a) such person was in receipt of income for part only of the year of income 1963; or

(b) such person was in receipt of income for part or the whole of the year of income 1963, but the income -

(i) did not include income from such of the sources from which the total income for what would have been the year of assessment 1963, had the said Act not been passed, was derived, as the Board may in any case determine, or

(ii) was income arising, accruing in, derived from or received in Trinidad and Tobago in respect of a business, trade, profession or vocation that, in the opinion of the Board, has been voluntarily curtailed or reduced by such person.

(3) For the purpose of determining the amount of income tax to be discharged where the total income of an individual includes emoluments within the meaning of section 100, the tax to be discharged shall be an amount that bears to the full amount of income tax assessed in accordance with this Act the same proportion that the income from sources other than emoluments bears to the total income without any deductions allowable under sections 17, 18 or 31 but allowing deductions under section 12 other than an allowance in respect of an annual payment under section 12(f).

(4) Notwithstanding the provisions of this Act no loss that may have been allowed to be set off in computing the chargeable income of any person (who carried on any trade,

business, profession or vocation either solely or in partnership) for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed, may be set off in computing the chargeable income of that person for any year of income.

(5) Nothing in subsection (4) shall prevent any loss incurred during a former year of assessment that is permitted under this Act to be set off in a subsequent year from being so set off in a year of income in computing the chargeable income of such person for that year of income.

(6) Where the amount of tax to be discharged as determined by subsection (2) is less than the tax that would have been payable for what would have been the year of assessment 1963, had the Income Tax (Amendment) Act 1963 not been passed, the remainder of the tax that would have been so payable shall be deemed to be tax payable in respect of the year of income 1963.

**128.** (1) Notwithstanding the provisions of this Act assessments on all emoluments as defined in section 100 for the former years of assessment 1959 to 1962 inclusive shall be deemed to have been assessments for the former years of assessment 1958 to 1961 respectively, and tax paid or payable in respect to the former years of assessment 1959 to 1962 inclusive shall be deemed to have been paid or to be payable in respect of those years at the then prevailing rates.

Assessments deemed to be those of previous years

(2) Amounts deducted in the year 1962 from emoluments, as defined in section 100 earned in that year on account of tax which would have been assessable on such emoluments in what would have been the year of assessment 1963 had the Income Tax (Amendment) Act 1963 not been passed, shall be deemed to have been chargeable and deductible on account of tax for the former year of assessment 1962 at the then prevailing rates and the remainder of such tax, on such emoluments if any shall be deemed to be chargeable and payable in respect of tax for the said former year of assessment 1962 at the then prevailing rates.

(3) Nothing in subsections (1) and (2) shall be construed as permitting adjustments to be made that would not otherwise have fallen to have been made if this section had not been enacted.

**129.** Notwithstanding that any assessment has been made upon any person before the Income Tax (Amendment) Act 1963 was passed in respect of his chargeable income for what would have been the year of assessment 1963 had that Act not been passed, the provisions of this Act shall have effect in relation to that income and the Board may refund the amount paid, if any, in respect of the tax discharged by this Act, or instead of making a refund, may, where the person is liable or about to become liable to make a payment under this Act for the year of income 1963 apply any part of that amount to that other liability and refund any balance to such person and notify such person of that action.

Assessments already made for 1963

MISCELLANEOUS POWERS OF THE BOARD

**130.** (1) Subject to subsections (2) and (3), every person carrying on a trade or business either on his own behalf or who, in the ordinary course of the operations thereof, receives or retains money in such circumstances that interest becomes payable thereon which is paid or credited, and in particular, every person carrying on the trade or business of banking shall, if required to do so by notice from the Board, make and deliver to the Board within the time specified in the notice, a return of all interest paid or credited by him as aforesaid during a year specified in the notice in the course of his trade or business or any such part of his trade or business as may be so specified, giving the names and addresses of the persons to whom the interest was paid or credited and stating in each case, the amount of interest.

Power to obtain information as to interest paid or credited without deduction of tax

(1A) Every person required by subsection (1) to make a return in accordance with that subsection shall obtain from a person to whom is paid or credited interest in the sum of two hundred and fifty dollars or to whom interest becomes payable in respect of a deposit exceeding ten thousand dollars (in this section referred to as "depositor to whom this section applies") the Board of Inland Revenue file number of such person and shall enter such file number in the return made and delivered under the subsection.

Act No.14 of 1987

(1B) A depositor to whom this section applies shall, at the request of a person required by subsection (1) to make a return in accordance with the provisions of that subsection supply his Board of Inland Revenue file number to such person.

Act No.14 of 1987

(1C) Subject to subsection (1D), a person required by subsection (1) to make a return in accordance with that subsection who fails to obtain or to enter the Board of Inland Revenue file number in accordance with subsection (1A), is guilty of an offence but it is a good defence to a complaint brought under this subsection that any such failure was not due to the willful neglect or default of the person so required to obtain or to enter the said file number.

<sup>176</sup>(1D) A depositor to whom this section applies who fails to supply his Board of Inland Revenue file number in accordance with subsection (1B) is guilty of an offence and liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for one year. <sup>177</sup> Finance Act 35 of 1998

(2) No interest paid or credited to any person shall be required to be included in any such return if the total amount of the interest paid or credited to that person which would otherwise have fallen to be included in the return does not exceed two hundred and fifty dollars.

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<sup>176</sup> BIR Note: Effective 1st January 1987

<sup>177</sup> BIR Note: Effective 1st January 1999

(3) The year specified in a notice under subsection (1) shall not be a year ending more than three years before the date of the service of the notice.

(4) Without prejudice to the generality of so much of subsection (1) as enables different notices to be served thereunder in relation to different parts of a trade or business, separate notices may be served under that subsection as respects the transactions carried on at any branch or branches respectively specified in the notices, and any such separate notice shall if served on the manager or other person in charge of the branch or branches in question, be deemed to have been duly served on the person carrying on the trade or business; and where such a separate notice is so served as respects the transactions carried on at any branch or branches, any notice subsequently served under the said subsection (1) on the person carrying on the trade or business shall not be deemed to extend to any transaction to which the said separate notice extends.

(5) This section shall, with any necessary adaptations, apply in relation to the Post Office Savings Bank as if it were a trade or business carried on by the Postmaster General.

(6) Subsection (5) shall have effect notwithstanding anything in section 15 of the Post Office Savings Bank Act, but save as aforesaid that section shall remain in full force and effect.

(7) This section shall apply to interest paid or credited on or at any time after 31st December 1962.

(8) This section shall apply only to money received or retained in Trinidad and Tobago, and if a person to whom any interest is paid or credited in respect of any money received or retained in Trinidad and Tobago by notice in writing served on the person paying or crediting the interest -

(a) declares that the person who was beneficially entitled to that interest when it was paid or credited was not then ordinarily resident in Trinidad and Tobago; and

(b) requests that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include that interest in any such return.

<sup>178</sup>(9) This section does not apply to interest paid or credited to a resident individual.

Act No.11 of 1988

**131.** (1) The Board may, in relation to any particular matters or class of matters by writing under their hand delegate to a Commissioner or other person all or any of its powers or functions under this Act, except this power of delegation, so that the delegated

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<sup>178</sup> BIR Note: Effective 8th January 1988.

powers or functions may be exercised by the Commissioner or other person with respect to the matters or class of matters specified in the instrument of delegation.

Delegation by Board

(2) Every delegation under this section shall be revocable at will, but any delegation shall not prevent the exercise of any power or function by the Board.

(3) Any delegation under this section may be made subject to a power of review and alteration, within the period specified in the instrument of delegation, by the Board of any act done in pursuance of the delegation and the decision given upon such review or alteration shall be deemed to be that of the Board.

**132.** The Board, a Commissioner or any officer acting under its authority shall be indemnified against any liability with respect to any act or thing performed or done by it or in its name in connection with any duty imposed by this Act.

Indemnity for liability

#### EXPENSES ALLOWANCES TO DIRECTORS AND OTHERS

**133.** (1) Subject to sections 134 to 141, any sum paid in respect of expenses by a company to any of its directors or to any person employed by it in an employment to which these sections apply shall be treated as a requisite of the office or employment of that director or employee and included in the emoluments as defined in section 100, of such director or employee; and chargeable to income tax accordingly; but nothing in this subsection shall prevent a claim for deduction being made under this Act in accordance with section 10(1)(a)

Amended/Deleted by Finance Act, 1989  
Expenses allowances, etc.

(2) In this section, and in relation to any director or person employed in an employment to which sections 134 to 141 apply, in so much of section 76 as requires employers in certain cases to give particulars of payments to directors and employees in respect of expenses, any reference to a sum paid in respect of expenses includes a reference to any sum put by a company at the disposal of a director or employee and paid away by him.

**134.** (1) Subject to sections 135 to 141, where a company incurs expense in or in connection with the provisions, for any of its directors or for any person employed by it in an employment to which sections 133 to 141 apply, of living or other accommodation, of entertainment, of domestic or other services or of other benefits or facilities of whatsoever nature, and, apart from this section the expense would not be chargeable to tax as income of the director or employee, so much of the said expenses as is not made good to the company by the director or employee shall be chargeable to tax under the provisions of this Act as if the expense had been incurred by the director or employee and the amount thereof had been refunded to him by the company by

means of a payment in respect of expenses, and section 76 and subsection (2) of this section shall have effect in relation thereto.

Benefits in kind to be taken into account

(2) If the director or employee is wholly, exclusively and necessarily obliged to incur and defray out of the emoluments of his employment or office (within the meaning of section 100), the expenses of traveling in the performance of the duties of the employment or office, or of keeping or maintaining means of transport to enable him to perform the same, there may be deducted in computing the chargeable income of the director or employee, the expenses so wholly, exclusively and necessarily incurred and defrayed.

Amended/Deleted by Finance Act, 1989

(3) Subsection (1) shall not apply to expense incurred by the company in or in connection with the provision for a director or employee in any of its business premises, of any accommodation, supplies or services provided for the director or employee himself and used by him solely in performing the duties of his office or employment.

(4) Subsection (1) shall not apply to expense incurred by the company in or in connection with the provisions of living accommodation for an employee in part of any of its business premises which include living accommodation if the employee is, for the purposes of enabling him properly to perform his duties, required by the terms of his employment to reside in the accommodation and either -

(a) the accommodation is provided in accordance with a practice which commonly prevails in trades of the class in question as respects employees of the class in question; or

(b) it is necessary, in the case of trades of the class in question, that employees of the class in question should reside on the premises of the class in question,

but this subsection shall not apply where the employee is a director of the company in question or of any other company over which that company has control or which has control over that company or which is under the control of a person who also has control over that company.

(5) Subsection (1) shall not apply to expense incurred by the company in or in connection with the provision of meals in any canteen in which meals are provided for the staff generally.

(6) Subject to subsection (6A), subsection (1) shall not apply to expense incurred by the company in or in connection with the provision for a director or employee himself or for his spouse, children or dependents, of any pension, annuity, lump sum, gratuity or other like benefit to be given on his death or retirement. Act No. 25 of 1992

<sup>179</sup>(6A) Subsection (6) shall not apply where the employer contributes to a fund or contracts with any person to provide the benefit referred to in that subsection unless the fund or contract is approved by the Board.

(6B) The Board shall not approve a fund or contract to provide such benefit where -

(a) the total of -

(i) the contributions made in respect of the director or employee to the fund or under the contract, as the case may be; and

(ii) any contributions made by the director or employee to an approved pension fund plan or approved deferred annuity plan,

<sup>180</sup>exceed one third of the chargeable income of the employee or twenty per cent of the emolument income of such employee, whichever is the greater.

<sup>181</sup>Finance Act 5 of 2004

Act 2 of 2006

(b) the fund or contract -

Act No.6 of 1993

(i) allows for the issuance of a loan in respect of such fund or contract;

(ii) allows for such fund or contract to be used as a security for a loan; or

(iii) except in accordance with paragraphs (c) or (d), allows for the commutation in whole or in part, the surrender or the assignment of the benefits to be derived from such fund or contract.;

(c) a lump sum or gratuity is payable before the employee attains the age of fifty other than on the death of the employee

(d) the lump sum or gratuity payable on retirement exceeds twenty-five percent of the capitalized value of the annual pension or gratuity.

<sup>182</sup>Finance Act 5 of 2004

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<sup>179</sup> BIR Note: Sections 6A and 6B effective 1st January, 1993

<sup>180</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Previous limit was 1/3 of chargeable income.

<sup>181</sup> BIR Note: Amended, effective 30<sup>th</sup> January 2004 to include 'director'.

<sup>182</sup> BIR Note: Amended; effective 30<sup>th</sup> January 2004 .

(6C) Subsection (6A) shall not apply to contributions made by an employer to a group life insurance policy.

183(6CA) A trustee, trust corporation or insurer which manages a fund or contract referred to in subsection (6A) may, at the request of a director or employee, transfer the value of the benefits accrued to the director or employee under such plan or contract to another such fund or contract.

Finance Act 17 of 2007

184(6CB) For the purpose of subsection (6CA), the value of the benefits accrued to a director or employee shall be deemed to include the payment of interest or share of return on investment in accordance with the fund or contract.

Finance Act 17 of 2007

185(6CC) The value of the benefit transferred in accordance with section (6CA) shall be deemed not to have been a payment of a benefit before maturity and shall not be liable to tax.

Finance Act 17 of 2007

(6D) In this section -

"group life insurance policy" means a life insurance policy under which -

(a) the lives of a group of employees are insured under a single insurance policy made between a life insurance company and an employer;

(b) the only benefit payable is a lump sum on death or disability of the life insured; and

(c) the life insurance policy has no cash surrender value;

"life insurance policy" has the same meaning as in section 34(6).

186(6E) Where-

(i) a company provides a loan to any of its directors or to a person employed by it in an employment to which sections 133 to 141 apply; and

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183 BIR Note: Effective 1<sup>st</sup> January 2007

184 BIR Note: Effective 1<sup>st</sup> January 2007

185 BIR Note: Effective 1<sup>st</sup> January 2007

186 BIR Note: Effective 1<sup>st</sup> January 2006



- (ii) the repo rate of interest set by the Central Bank of Trinidad and Tobago as at the 31<sup>st</sup> December of the year immediately preceding a year of income, is more than the rate of interest charged by the company on such loan,

the amount of the additional interest that would have been payable by the director or employee in that year of income had the repo rate referred to in paragraph (ii) been applied to the loan, shall be treated as a perquisite of the office or employment of the director or employee and shall be chargeable to tax as emoluments as defined by section 100.

Act 2 of 2006

187(6F) For the avoidance of doubt, where, prior to January 1, 2006, a company provided a loan to a director or person referred to in subsection (6E) and there remains a balance outstanding on the loan on January 1, 2006, the provisions of subsection (6E) shall apply in ascertaining the income of the director or employee for a year of income.

Act 2 of 2006

188(6G) Subject to subsection (6H), where a loan referred to in subsection (6E) is written-off by the company, the outstanding balance on the loan shall be treated as a perquisite of the director or employee and shall be chargeable to tax as emoluments as defined by section 100.

Act 2 of 2006

189(6H) Subsection (6G) shall not apply where the Board is satisfied that the loan that was written-off cannot be recovered by the company.

Act 2 of 2006

(7) Any reference in this section to expense incurred in or in connection with any matter includes a reference to a proper proportion of any expense incurred partly in or in connection with that matter.

190(8) Where a motor vehicle or any equipment belonging to a company is made available to any of its directors or to any person employed by it in an employment to which sections 133 to 141 apply, and the motor vehicle or equipment is available for the private use of the director or employee such private use shall be treated as a perquisite of the office or employment of the

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187 BIR Note: Effective 1<sup>st</sup> January 2006

188 BIR Note: Effective 1<sup>st</sup> January 2006

189 BIR Note: Effective 1<sup>st</sup> January 2006

190 BIR Note: Effective 1st January 1988

director or employee and included in the emoluments as defined in section 100 of the director or employee and is chargeable to income tax. Act No.11 of 1988

<sup>191</sup>(9) With respect to motor vehicles purchased prior to 1<sup>st</sup> January, 2006, the value per month of the perquisite referred to in subsection (8) is deemed to be one per cent of the cost of acquisition of the motor vehicle or equipment or 33 1/3 per cent of the monthly rental of the motor vehicle or equipment incurred by the company as the case may be.

Act 2 of 2006

<sup>192</sup>(10) With respect to motor vehicles or equipment acquired on or after 1<sup>st</sup> January, 2006, the value per month of the perquisite referred to in subsection (8) is deemed to be fifty per cent of-

- (a) the wear and tear <sup>193</sup>allowance of the motor vehicle or equipment as the case may be; or Finance Act 17 of 2007
- (b) the rental value of the motor vehicle or equipment as the case may be for the period of use.

Act 2 of 2006

<sup>194</sup>(10A) Subsection (10) shall apply to an employee notwithstanding that the employer does not claim the wear and tear allowance on the motor vehicle or equipment.

Finance Act 17 of 2007

<sup>195</sup>(11) For the purposes of subsections (9) and (10), “motor vehicle” has the same meaning assigned to it in section 2 of the Motor Vehicles and Road Traffic Act.

Act 2 of 2006

<sup>196</sup>**134A** (1) Where an amount is payable by a company in respect of a fund or contract approved by the Board under section 134(6B) upon the death of a director or employee by way of refund of premiums, there shall be deducted or withheld, a tax equal to ten percent of the amount payable and the remainder of the amount, when received by the beneficiary of the director or employee, shall be deemed not to be the income of the beneficiary for the purposes of this Act.

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<sup>191</sup> BIR Note: Effective 1st January 1988; amended effective 1<sup>st</sup> January 2006.

<sup>192</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>193</sup> BIR Note: Effective 1<sup>st</sup> January 2007. ‘Allowance’ inserted.

<sup>194</sup> BIR Note: Effective 1<sup>st</sup> January 2007

<sup>195</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>196</sup> BIR Note: Effective 30<sup>th</sup> January 2004

(2) The tax referred to in subsection (1) shall be paid by the company to the Board by the fifteenth day of the month following that in which the refund of premiums was paid.

(3) There shall be payable by the company a penalty of <sup>197</sup>twenty-five percent of the tax owed for failure to pay the tax within the time specified in subsection (2).

Amended/Finance Act No. 30 of 2007

(4) There shall be payable from the due date, interest at the rate of twenty per cent a year on the amount of tax remaining unpaid.

(5) In this section and in section 134, “refund of premiums” has the meaning assigned to it in section 28(1)(M). Act 5 of 2004

**135.** (1) Any expense incurred by a company in the acquisition or production of an asset which remains its own property shall be left out of account for the purposes of section 134. Valuation of benefits in kind

(2) Where the making of any such provision as is mentioned in section 134(1) takes the form of a transfer of the property in any asset of the company, and, since the acquisition or production thereof by the company, the asset has been used or has depreciated, the company shall be deemed to have incurred in the making of the said provision expense equal to the value of the asset at the time of the transfer.

<sup>198</sup>(3) Where in a year of income, the whole or part of property which is owned by a company, is made available as living accommodation for the benefit of any of its directors or employees and the property is not used solely in the performance of the duties of the directors or employees, the provisions of section 133 shall have effect as if the company paid an amount equal to the fair rental value in respect of such property.

Act 2 of 2006

<sup>199</sup>(3A) For the purposes of this section, the expression “fair rental value” means the value of the rent which the property can obtain in the open market between unrelated parties.

Act 2 of 2006

(4) Where an asset which continues to belong to the company is used wholly or partly in the making of any such provision as is mentioned in section 134(1), and the asset is not premises in respect of which the company is

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<sup>197</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>198</sup> BIR Note: Repealed and replaced effective 1<sup>st</sup> January 2006

<sup>199</sup> BIR Note: Effective 1<sup>st</sup> January 2006

assessable under this Act, the company shall be deemed for the purposes of section 134 to incur in addition to any other expense incurred by it in connection with the asset, not being expense to which subsection (1) applies, annual expense in connection therewith of an amount equal to the annual value of the use of the asset; but where any sum by way of rent or hire is payable by the company in respect of the asset -

(a) if the annual amount of the rent or hire is equal to or greater than the annual value of the use of the asset, this subsection shall not apply; and

(b) if the annual amount of the rent or hire is less than the annual value of the use of the asset, the rent or hire shall be left out of account for the purposes of section 134.

(5) Any reference in this section to a company which is assessable under this Act in respect of any premises shall be deemed to include a reference to a company which would be so assessable if a state of affairs which subsists during any part of the year had subsisted for the whole of the year.

**136.** (1) In this section and in sections 133 to 135 and 137 to 141 "director" means - Meaning of "director", "employer" and "employee"

(a) in relation to a company the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body;

(b) in relation to a company the affairs whereof are managed by a single director or similar person, that director or person;

(c) in relation to a company the affairs whereof are managed by the members themselves, a member of the company and includes any person in accordance with whose directions or instructions the directors of a company, defined in accordance with the preceding provisions of this subsection, are accustomed to act: but a person shall not, within the meaning of this subsection, be deemed to be a person in accordance with whose directions or instructions the directors of a company are accustomed to act by reason only that the said directors act on advice given by him in a professional capacity.

(2) In this section "employment" means an employment such that any emoluments thereof would fall to be assessed under this Act, and references to persons employed by, or employees of, a company include any person who takes part in the management of the affairs of the company and is not a director thereof.

(3) (a) Subject to this subsection and subsections (4) and (5), the employments to which sections 133 to 141 apply are employments the emoluments of

which, calculated on the basis that they are employments to which those sections apply, and without any deduction being made in respect of money expended in performing the duties thereof, are at the rate of nine thousand six hundred dollars a year or more.

(b) Where a person is employed in several employments by the same company, and the total of the emoluments of those employments, calculated as aforesaid, is at the rate of nine thousand six hundred dollars a year or more, all those employments shall be treated as employments to which sections 133 to 141 apply.

(c) Where a person is director of a company, all employments in which he is employed by the company shall be treated as employments to which the sections 133 to 141 apply.

(4) All the directors of, and persons employed by a company over which another company has control shall be treated for the purposes of subsection (3)(b) and (c), but not for any other purpose, as if they were directors of, or, as the case may be, as if the employment were an employment by, that other company.

(5)<sup>200</sup>Repealed

Finance Act 21 of 2005

**137.** (1) If a company furnishes to the Board a statement of the cases and the circumstances in which payments of a particular nature are made or things of a particular nature are provided for any of its directors or employees and the Board is satisfied that no additional tax would fall to be paid if sections 133 to 136 and 138 to 141 were to apply in relation to payments made or things provided by the company in accordance with the statement, it shall notify the company accordingly and, where such a notification is given, those sections shall not apply in relation to payments made or things provided by the company in accordance with the statement.

Saving for certain payments and expenses

(2) Notwithstanding subsection (1), the Board may, if in its opinion there is reason to do so, by notice in writing served on the company, revoke any such notification, either as from the date of the making of the notification or as from such later date as may be specified in the notice, and thereupon all such tax shall become chargeable, and all such returns shall be made by the company and by the directors or employees in question, as would have been chargeable or would have had to have been made in the first instance if the notification had never been given, or, as the case may be, if it had ceased to have effect on the specified date.

**138.** (1) Where, for the purposes of a return under section 76, a company apportions expenses incurred partly in or in connection with a particular matter and partly in or

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<sup>200</sup> BIR Note : Effective 22<sup>nd</sup> July 2005. The subsection dealt with employment at an educational establishment.

in connection with other matters, the return shall contain a statement that the sum included in the return is the result of such an apportionment and the company, if required to do so by notice from the Board, shall prepare and deliver to the Board, within the time limited by the notice which shall be not less than four-teen days from the receipt of such notice, a return containing full particulars as to the amount apportioned and the manner in which and the grounds on which the apportionment has been made.

Additional provisions as to information

(2) The provisions of this Act relating to returns under section 76 shall apply in relation to any return required under subsection (1).

**201139.** Repealed

Charities and non-trading bodies

Finance Act 21 of 2005

**140.** (1) In sections 133 to 141 "business premises", in relation to a company, includes all premises occupied by that company for the purpose of any trade carried on by it; but where the reference is expressly to premises which include living accommodation, the said expression does not include so much of any such premises as aforesaid as is used wholly or mainly as living accommodation for any of the directors of the company or for any persons employed by the company in any employment to which those sections apply.

Interpretation

(2) Any reference in sections 133 to 141 to anything provided for a director or employee shall, unless the reference is expressly to something provided for the director or employee himself, be construed as including a reference to anything provided for the spouse, family, servants, dependents or guests of that director or employee, and the reference in subsection (1) to living accommodation for directors or employees shall be construed accordingly.

(3) In sections 133 to 141 "control" in relation to a company means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other company or by virtue of any powers conferred by the articles or association or other document regulating that or any other company, that the affairs of the first mentioned company are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than half of the assets, or of more than one-half of the income, of the partnership.

**141.** (1) Sections 133 to 140 shall apply in relation to a body of persons as they apply in relation to a company, and, in connection with the said sections, the definition of "control" in section 140 shall, with the necessary adaptations, also so apply.

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<sup>201</sup> BIR Note : Effective 22<sup>nd</sup> July 2005

(2) Subject to subsection (3), sections 133 to 141 shall apply in relation to any partnership carrying on any trade, profession or vocation as they would apply in relation to a company carrying on a trade if so much thereof as relates to directors of the company or persons taking part in the management of the affairs of the company were omitted.

(3) In subsection (2) -

Construction of references in Act

(a) "control" has, in relation to a partnership, the meaning assigned to it by section 140 in relation to a partnership;

(b) where such a partnership as aforesaid has control over a company to which sections 133 to 140 apply -

(i) any employment of any director of that company by the partnership shall be an employment to which those sections apply, and

(ii) all the employments of any person who is employed both by the partnership and by the company being employments by the partnership or the company, shall, for the purpose of determining whether those employments or any of them are employments to which those sections apply, be treated as if they were employments by the company.

(4) Subsections (2) and (3) apply in relation to individuals as they apply in relation to partnerships; but nothing in subsection (3) shall cause an individual to be treated in any circumstances as under the control of another person.

**142.** (1) Notwithstanding any written law to the contrary, where under any written law conferring exemption from income tax with respect to distributions or payments of interest made to members of a company that is exempt from income tax the period during which such company may distribute profits that are exempt from tax is limited, such company may nevertheless distribute the exempt profits at any time thereafter and every such sum when so distributed is exempt from the payment of income tax in the hands of such members, if a special account showing the distribution and payments of interest made by the exempt company is maintained by the company to the satisfaction of the Board.

General as to exemption

(2) Where by any written law conferring exemptions from income tax with respect to the distributions or payments of interest made to members of a company that is itself exempt from tax, a member of such a company is another company, then that other company is entitled at any time to distribute a sum equal to the exempt distributions or payments of interest received by it to its members, and every such sum when so distributed is exempt from the payment of income tax in the hands of such members, if a special account showing the distribution and payments of

interest received from the exempt company is maintained by the other company to the satisfaction of the Board.



**FIRST SCHEDULE**

**CAPITAL GAINS (SUPPLEMENTARY PROVISIONS) RULES**

**INTERPRETATION**

**1. (1) In these Rules -**

"allowable loss" means any loss that is permitted to be deducted in computing the chargeable gains of any person for a year of income under rules 3 and 5;

"assets" means all forms of property whether situated in Trinidad and Tobago or not, including -

(a) options, debts and incorporeal property generally;

(b) any currency other than the currency of Trinidad and Tobago;

(c) any form of property created by the person disposing of it, or otherwise coming to be owned without being acquired;

"branch or agency" means any factorship, agency, receivership, branch or management;

"chargeable gains" means every gain accruing on the disposal of an asset after 1st January 1966 (that is, the commencement of the Finance Act 1966) except so far as otherwise expressly provided by these rules;

"control" shall be construed in accordance with rule 3 of the Third Schedule of the Corporation Tax Act;

"disposal" except as otherwise expressly provided by these rules has the meaning assigned to that expression in rule 4;

"legatee" includes any person taking under a testamentary disposition or on an intestacy or partial intestacy, whether he takes beneficially or as trustee, and a donation mortis causa shall be treated as a testamentary disposition and shall not be treated as a gift;

"market value" in relation to any asset means subject to rule 7 the price which that asset might reasonably be expected to fetch on a sale in the open market;

"non-resident company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act in section 2 thereof;

"part disposal" has the meaning given by sub-rule (2);

"person" includes a company;

"personal representative" means an executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties, includes any person who takes possession of, or inter-meddles with, the property of the deceased person without the authority of the personal representative or the Court;

"principal" means, in relation to a branch or agency, the person, by whatever name called, managing or in charge of the branch or agency;

"resident company" has the meaning assigned to that expression for the purposes of the Corporation Tax Act in section 2 thereof;

"short-term capital gains" means chargeable gains accruing on a disposal of an asset within twelve months of its acquisition;

"trading stock" in relation to any trade, means any property of any description whether real or personal being either -

(a) property such as is sold in the ordinary course of the trade or would be so sold if it were mature, or if its manufacture, preparation or construction were complete;

(b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a).

(2) For the purposes of these Rules -

(a) references to a disposal of an asset include references to a part disposal of the asset;

(b) there is a part disposal of an asset where an interest or right in or over the asset is created by the disposal, as well as where it subsists before the disposal, and generally, there is a part disposal of an asset where, on a person making a disposal, any description of property derived from the asset remains undisposed of.

(3) In the case of a disposal within the meaning of rule 4(1)(a), (b) and (c), the time of the disposal shall be the time when the right to the capital sum is derived as described in that sub-rule.

(4) A hire purchase or other transaction under which the use and enjoyment of an asset is obtained by a person for a period at the end of which the property in the

asset will or may pass to that person shall be treated for the purposes of these Rules, both in relation to that person and in relation to the person from whom he obtains the use and enjoyment of the asset, as if it amounted to an entire disposal of the asset to that person at the beginning of the period for which he obtains the use and enjoyment of the asset, but, subject to such adjustments of tax, whether by way of repayment or discharge of tax or otherwise, as may be required, where the period for which that person has the use and enjoyment of the asset terminates without the property in the asset passing to him.

## PART I

### CHARGE TO TAX

#### General

2. Where a person is not resident and not ordinarily resident in Trinidad and Tobago the tax shall be so charged on chargeable gains accruing on the disposal of assets that are immovable property situate in Trinidad and Tobago.

#### Computation of Chargeable Gains

3. In ascertaining the chargeable gains accruing to any person chargeable with tax in a year of income, there may be deducted any allowable loss accrued to that person in that year of income and, (so far as such loss has not been allowed as a deduction in ascertaining chargeable gains accruing in any previous year of income), any allowable loss accruing to that person in any previous year of income not earlier than the year of income 1966.

#### Disposal of Assets

4. (1) Subject to sub-rule (4), and to the exceptions in these Rules, there is for the purposes of these Rules a disposal of assets by their owner where the right to any capital sum is derived from assets notwithstanding that no asset is acquired by the person paying the capital sum, and this sub-rule applies in particular to the right to -
  - (a) capital sums by way of compensation for any kind of damage or injury to assets or for the loss, destruction or dissipation of assets or for any depreciation or risk of depreciation of an asset;
  - (b) capital sums under a policy of insurance of the risk of any kind of damage or injury to, or the loss or depreciation of, assets;
  - (c) capital sums in return for forfeiture or surrender of rights, or for refraining from exercising rights.

(2) Subject to the provisions of these Rules, a person's acquisition of an asset and the disposal of it to him shall for the purpose of these Rules be deemed to be for a consideration equal to the market value of the asset -

(a) where he acquires the asset otherwise than by way of a bargain made at arm's length and in particular where he acquires it by way of gift or by way of distribution from a company in respect of shares in the company;

(b) where he acquires the asset wholly or partly for a consideration that cannot be valued, or in connection with his own or another's loss of office or employment or diminution of emoluments or otherwise in consideration for or in recognition of his or another's services or past services in any office or employment or of any other service rendered by him or another; or

(c) where he acquires the asset as trustee for creditors of the person making the disposal.

(3) In relation to assets held by a person as nominee for another person, or as trustee for another person absolutely entitled as against the trustee, or for any person who would be so entitled but for being an infant or other person under disability (or for two or more persons who are or would be jointly so entitled), these Rules shall apply as if the property were vested in and the acts of the nominee or trustee in relation to the assets were the acts of, the person or persons for whom he is the nominee or trustee (acquisitions from or disposals to him by that person or persons being disregarded accordingly).

(4) In this rule "capital sum" means any money or money's worth which is not excluded from the consideration taken into account in the computation under these Rules.

### Losses

5. (1) Except as otherwise expressly provided, the amount of a loss accruing on a disposal of an asset shall be computed in the same way as the amount of a gain accruing on a disposal.

(2) Except as otherwise expressly provided, all the provisions of these Rules which distinguish gains which are chargeable gains from those which are not, or which make part of a gain a chargeable gain, and part not, shall apply also to distinguish losses which are allowable losses from those which are not, and to make part of a loss an allowable loss and part not and references in these Rules to an allowable loss shall be construed accordingly.

(3) Subject to these Rules, the occasion of the entire loss, destruction, dissipation or extinction of an asset shall, for the purposes of these Rules, constitute a disposal of the asset whether or not any capital sum by way of compensation or otherwise is received in respect of the destruction, dissipation or extinction of the asset.

(4) For the purposes of sub-rules (1) and (3), a building and any permanent or semi-permanent structure in the nature of a building, may be regarded as an asset separate from the land on which it is situated, but where either of those sub-rules apply in accordance with this sub-rule, the person deemed to have made the disposal of the building shall be treated as if he had also sold, and immediately re-acquired the site of the building or structure (including in the site any land occupied for purposes ancillary to the use of the building or structure) for a consideration equal to its market value at that time.

(5) A loss accruing to a person in a year of income shall not be an allowable loss for the purposes of these Rules unless, he would be chargeable to income tax in respect of a chargeable gain if there had been a gain instead of a loss on that occasion.

(6) In no case shall any allowable loss be deducted from income other than short-term capital gains, nor shall any loss under this Act be deducted in computing short-term capital gains.

#### Exemptions

6. (1) Rights and winnings obtained by participating in pool betting or lotteries or games with prizes lawfully carried on under or by virtue of the provisions of the Gambling and Betting Act 1963 shall not be chargeable assets and no chargeable gain or allowable loss shall accrue on their disposal.

(2) No chargeable gain shall accrue -

(a) upon the disposal by an individual of currency of any description acquired by him for personal expenditure outside Trinidad and Tobago of himself or his family or dependents (including expenditure on the provision or maintenance of any residence outside Trinidad and Tobago);

(b) from sums obtained by way of compensation or damages for any wrong or injury suffered by an individual in his person or in his profession or vocation;

(c) from winnings from betting lawfully carried on under or by virtue of the provisions of the Gambling and Betting Act including pool betting and lotteries or games with prizes;

(d) on the disposal of an asset by an individual or a company which is under the provisions of this Act or of the Corporation Tax Act, exempt from tax;

(e) on the disposal of any security in Trinidad and Tobago;

(f) private motor-cars, household goods and owner-occupied houses disposed of for five thousand dollars or under.

(3) In this paragraph "security" includes any loans, stock or similar security whether of the Government of Trinidad and Tobago or any other Government, or of any

public or local authority in Trinidad and Tobago or elsewhere, or of any company, or whether secure or unsecured.

### Valuation

7. (1) In any case where it considers it proper the Board may determine the market value of any asset.
- (2) In estimating the market value of any assets no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole of the assets is to be placed on the market at one and the same time.
- (3) If and so far as the question in dispute on any objection to or appeal against an assessment to tax on chargeable gains, or against a decision on a claim under this Schedule is a question of the value of any land, or of a lease of land then the question shall be determined by the Appeal Board.
- (4) If and so far as any such appeal involves the question of the value of any shares or securities in a resident company, that question shall be determined by the Appeal Board.

## PART II

### COMPUTATION

#### General

8. The following provisions of these Rules shall have effect for computing for the purposes of this Act the amount of a gain accruing on the disposal of an asset.

#### Expenditure - General Provisions

9. (1) Subject to the following provisions of these Rules, the sum allowable as a deduction from the consideration in the computation under these Rules of the gain accruing to a person on the disposal of an asset shall be restricted to -
  - (a) the amount or value of the consideration in money or money's worth, given by him or on his behalf wholly and exclusively for the acquisition of the asset, together with the incidental cost to him of the acquisition or, if the asset was not acquired by him, any expenditure wholly and exclusively incurred by him in providing the asset;
  - (b) the amount of any expenditure wholly and exclusively incurred on the asset by him or on his behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature

of the asset at the time of the disposal, and any expenditure wholly and exclusively incurred by him in establishing, preserving or defending his title to, or to a right over, the asset;

(c) the incidental costs to him of making the disposal.

(2) For the purposes of this rule and for the purposes of all other provisions of this Part the incidental costs to the person making the disposal, of the acquisition of the asset or of its disposal shall consist of expenditure wholly and exclusively incurred by him for the purposes of the acquisition or, as the case may be, the disposal, being fees, commission or remuneration paid for the professional services of any surveyor or valuer or auctioneer or accountant or agent or legal adviser and costs of transfer or conveyance (including stamp duty) together -

(a) in the case of the acquisition of an asset, with costs of advertising to find a seller; and

(b) in the case of a disposal, with costs of advertising to find a buyer and costs reasonably incurred in making any valuation or apportionment required for the purposes of the computation under these Rules, including in particular expenses reasonably incurred in ascertaining market value where required by this Part.

#### Part Disposal

**10.** (1) Where a person disposes of an interest or right in or over an asset and, generally wherever on the disposal of an asset any description of property derived from that asset remains undisposed of, the sums which under rule 9(1)(a) and (b) are attributable to the asset shall, both for the purposes of the computation under these Rules of the chargeable gain accruing on the disposal and for the purpose of applying these Rules in relation to the property which remains undisposed of, be apportioned.

(2) This rule shall not be taken as requiring the apportionment of any expenditure which, on the facts, is wholly attributable to what is disposed of or wholly attributable to what remains undisposed of.

#### Premiums Under Policies of Insurance

**11.** There shall be excluded from the sums allowable as a deduction in the computation under these Rules of the gain accruing to a person on the disposal of an asset any premiums or other payments made under a policy of insurance of the risk of any kind of damage or injury to, or loss or depreciation of, the asset.

#### Consideration Due After Time of Disposal

12. (1) If the consideration, or part of the consideration, taken into account in the computation under these Rules is payable by installments, the chargeable gain (or allowable loss) accruing on the disposal shall as regards the whole of the consideration be treated for all the purposes of this Part as accruing at the time when the disposal was made, so however that the amount of tax payable on the chargeable gain so accruing shall be paid to the Board in proportionate parts to the proportions of the amounts of the installments of consideration payable in the respective years of income.

(2) In the computation under these Rules consideration for the disposal shall be brought into account without any discount for postponement of the right to receive any part of it, and, in the first instance, without regard to a risk of any part of the consideration being irrecoverable or the right to receive any part of the consideration being contingent; and if any part of the consideration so brought into account is subsequently shown to the satisfaction of the Board of Inland Revenue to be irrecoverable, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.

#### Contingent Liabilities

13. (1) In the first instance no allowance shall be made in the computation under these Rules -

(a) in the case of a disposal by way of assigning a lease of land or other property, for any liability remaining with, or assumed by the person making the disposal by way of assigning the lease which is contingent on a default in respect of liabilities thereby or subsequently assumed by the assignee under the terms and conditions of the lease;

(b) for any contingent liability of the person making the disposal in respect of any covenant for quiet enjoyment or other obligation assumed as vendor of land, or of any estate or interest in land, or as a lessor;

(c) for any contingent liability in respect of a warranty or representation made on a disposal by way of sale or lease of any property other than land.

(2) If it is subsequently shown to the satisfaction of the Board of Inland Revenue that any such contingent liability has become enforceable, and is being or has been enforced, such adjustment, whether by way of discharge or repayment of tax or otherwise, shall be made as is required in consequence.



Foreign Tax

14. Subject to the provisions of this Part as regards double taxation relief the tax chargeable under the law of any country outside Trinidad and Tobago on the disposal of an asset which is borne by the person making the disposal shall be allowable as a deduction in the computation under these Rules.

Supplemental

15. (1) No deduction shall be allowable in a computation under these Rules more than once from any sum or from more than one sum.
- (2) For the purposes of any computation under these Rules any necessary apportionments shall be made of any consideration or of any expenditure and the method of apportionment adopted shall, subject to the express provisions of these Rules, be such method as appears to the Board of Inland Revenue or on appeal to the Appeal Board to be just and reasonable.

Appropriations to and from Stock in Trade

16. (1) Subject to sub-rule (3), where an asset acquired by a person otherwise than as trading stock of a trade carried on by him is appropriated by him for the purposes of the trade as trading stock (whether on the commencement of the trade or otherwise) and, if he had then sold the asset for its market value, a gain or loss would have accrued to him, he shall be treated as having thereby disposed of the asset by selling it for its then market value.
- (2) Where an asset forming part of the trading stock of a person's trade is appropriated by him for any other purpose, or is retained by him on his ceasing to carry on the trade, he shall be treated as having acquired it for a consideration equal to the amount brought into the accounts of the trade in respect of it for tax purposes on the appropriation or on his ceasing to carry on the trade, as the case may be.
- (3) Sub-rule (1) shall not apply in relation to a person's appropriation of an asset for the purposes of a trade if he is chargeable to income tax or corporation tax in respect of the profits of the trade and elects that instead the market value of the asset at the time of the appropriation shall, in computing the profits of the trade for purposes of tax, be treated as reduced by the amount of the gain or increased by the amount of the loss referred to in that sub-rule, and where that sub-rule does not apply by reason of such an election, the profits of the trade shall be computed accordingly, except that if a person making an election under this sub-rule is at the time of the appropriation carrying on the trade in partnership with others, the election shall not have effect unless concurred in by the others.

Transactions Between Connected Persons

17. (1) This rule shall apply where a person acquires an asset and the person making the disposal is connected with him.

(2) Without prejudice to the generality of rule 4(2) the person acquiring the asset and the person making the disposal shall be treated as parties to a transaction otherwise than by way of a bargain made at arm's length.

(3) If on the disposal a loss accrues to the person making the disposal, it shall not be deductible from a chargeable gain accruing to him on some other disposal of an asset.

#### Husband and Wife

**18.** If, in any year of income and in the case of a woman who in that year of income is a married woman living with her husband the man disposes of an asset to the wife or the wife disposes of an asset to the man, both shall be treated as if the asset was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

#### Connected Persons

**19.** (1) Any question whether a person is connected with another shall for the purposes of this Part be determined in accordance with the following sub-rules (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's husband, or is a relative, or the husband or wife of a relative of the individual or of the individual's husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor.

~~SECOND SCHEDULE~~

~~Amended/Deleted Finance Act, 1989~~

**THIRD SCHEDULE**

**PART 1**

**RATE OF TAX**

**202**<sup>1</sup>. The rate of tax payable on the chargeable income of a person other than a company shall be twenty-five cents for every dollar.

Finance Act, 1992

Finance Act, 1995

Finance Act, 1996  
Finance Act 2002  
Act 2 of 2006

**PART II**

Section 50

**RATES OF WITHHOLDING TAX**

**203**<sup>2</sup>The rates of withholding tax shall be -

Finance Act, 1995

**204**<sup>(i)</sup> on any distribution made - 10 per cent: but where such distribution is made to a parent company the rate shall be 5 per cent;

Amended/Finance Act 30 of 2007

**205**<sup>(ii)</sup> on any payment made to a person other than a company - 15 per cent;

Amended/Finance Act 30 of 2007

**206**<sup>(iii)</sup> on any payment made to a company - 15 per cent:

Amended/Finance Act 30 of 2007

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<sup>202</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Previous rates were 25% and 30% effective 1<sup>st</sup> January 2003.

<sup>203</sup> BIR Note: The Finance Act, 1995 effectively changed withholding tax rates from 30% to 20%, from 25% to 15% and from 15% to 10%. Effective 29th March 1995.

<sup>204</sup> BIR Note: Effective 1<sup>st</sup> January 2008. Previous rates were 15% and 10% respectively.

<sup>205</sup> BIR Note: Effective 1<sup>st</sup> January 2008. Previous rate was 20%.

<sup>206</sup> BIR Note: Effective 1<sup>st</sup> January 2008. Previous rate was 20%.

but where there is a Double Taxation Agreement in force or where an Order is made under section 96 of this Act, the rate of withholding tax shall be such lesser rate as may be therein provided.

**FOURTH SCHEDULE**

Section 56

**DIVIDEND INCOME ALLOWANCE**

Repealed  
Finance Act 1992  
Finance Act 1994  
Finance Act 1995  
Finance Act 1996

**FIFTH SCHEDULE**

Sections 93, 95 and 96

**DOUBLE TAXATION REGULATIONS**

**PART I**

**PROVISIONS AS TO RELIEF FROM INCOME TAX BY WAY OF CREDIT  
IN RESPECT OF FOREIGN TAX**

1. (1) In this Part of these Regulations - Interpretation

"Trinidad and Tobago tax" means Income Tax;

"foreign tax" means in relation to any country, arrangements with the Government of which have effect by virtue of section 93 of this Act any tax chargeable under the laws of that country for which credit may be allowed under the arrangements;

"foreign income tax" means any foreign tax which corresponds to income tax;

"total income" means the aggregate amount of the income of any person from the sources specified in section 5 of this Act for a year of income.

(2) Where arrangements having effect by virtue of the said section 93 of this Act provide for any tax chargeable under the laws of the country concerned being treated as income tax, that tax shall, notwithstanding anything contained in this regulation be treated as foreign income tax or foreign tax other than foreign income tax as the case may be.

(3) Any reference in these Regulations to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the country with the Government of which the arrangements were made.

**GENERAL**

2. (1) Subject to the provisions of these Regulations where, under the arrangements, credit is to be allowed against Trinidad and Tobago tax chargeable in respect of any income, the amount of the Trinidad and Tobago taxes so chargeable shall be reduced by the amount of the credit.

(2) Nothing contained in this regulation authorises the allowance of credit against any Trinidad and Tobago tax against which credit is not allowable under the arrangements.

Requirement as to residence

3. Credit shall not be allowed against tax for any year of income unless the person in respect of whose income the tax is chargeable is resident in Trinidad and Tobago for that year.

Limit on total credit

4. The credit shall not exceed the amount which would be produced by computing the amount of the income of the person in question in accordance with provisions of this Act, and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 93 of this Act) on the total income by the amount of the total income.
5. Without prejudice to the provisions of regulation 4, the total credit to be allowed to a person against income tax for any year of income for foreign tax under all arrangements having effect by virtue of section 93 of this Act shall not exceed the total tax payable by him for that year.

Effect on computation of income of allowance of credit

6. (1) In computing the amount of the income -
  - (a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);
  - (b) where the income tax chargeable depends on the amount received in Trinidad and Tobago, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income;
  - (c) where the income includes a dividend and under the arrangement foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit,

but notwithstanding anything in the preceding provisions of this sub-regulation a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(2) Paragraphs (a) and (b) of sub-regulation (1) (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in regulation 4 and shall apply thereto in relation to all income in the

case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 93 of this Act.

7. (1) Where, in the case of any dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, to be taken into account in considering whether any, if so what, credit is to be given against income tax in respect of the dividend, the foreign income tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

(2) For the purposes of sub-regulation (1), the relevant profits are -

(a) if the dividend is paid for a specified period, the profits of that period;

(b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits;

(c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable.

Provided that if, however, in a case falling under paragraph (a) or paragraph (c) of this sub-regulation, the total dividend exceeds the profits available for distribution of the period mentioned in the said paragraph (a) or the said paragraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profit previously distributed or previously treated as relevant for the purposes of this sub-regulation) as equal to the excess; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

8. Where -

(a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or, indirectly, not less than one-half of the voting power in the company paying the dividend, credit



shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

### Miscellaneous

9. Credit shall not be allowed under the arrangements against Trinidad and Tobago tax chargeable in respect of the income of any person if he elects that credit shall not be allowed in respect of that income.
10. Subject to regulation 11, any claim for an allowance by way of credit for foreign tax in respect of any income shall be made not later than six years from the year of income and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.
11. Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Trinidad and Tobago or under the law of any other country, nothing in this Act or in any other written law limiting the time for making assessments or claims for relief shall apply to any assessment or claim in which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in Trinidad and Tobago or elsewhere, as are material in determining whether any and if so what credit falls to be given.

## PART II

### PROVISIONS FOR CREDIT BY WAY OF UNILATERAL RELIEF

1. Credit for tax paid under the law of the country outside Trinidad and Tobago in respect of income arising in that country shall be allowed against Trinidad and Tobago tax chargeable in respect of that income; but where arrangements with the Government of the country are for the time being in force by virtue of section 93 of this Act, credit for tax paid under the law of the country shall not be allowable under this regulation in the case of any income if any credit for that tax is allowable under these arrangements in the case of that income.
2. Profits from or remuneration for personal or professional services performed in the country shall be deemed to be income arising in the country for the purpose of regulation 1 of this Part.
3. Where a dividend paid by the company resident in the country is paid to a company resident in Trinidad and Tobago which owns not less than one-quarter of all classes of voting and non-voting stock in the company paying the dividend, tax paid under the law of the country by the first-mentioned company in respect of its profits shall

be taken into account in considering whether any, and if so what, credit is to be allowed in respect of the dividend.

### PART III

#### MODIFICATIONS OF PROVISIONS OF PART I APPLICABLE TO UNILATERAL RELIEF

Notwithstanding anything in regulation 3 of Part I of these Regulations (which provides that relief by way of credit shall be given only where the person is resident in Trinidad and Tobago) credit by way of unilateral relief for tax paid under the law of any country in respect of income from an office or employment or profits the duties whereof are performed wholly or mainly in that country may be allowed against tax chargeable in respect of that income if the person is for the particular year of income, resident either in Trinidad and Tobago or that country.

### PART IV

#### THE PRESCRIBED COMMONWEALTH COUNTRIES

Barbados

Guyana

Jamaica

### PART V

#### SPECIAL PROVISIONS WHICH APPLY TO COMMONWEALTH COUNTRIES PRESCRIBED FOR DOUBLE TAXATION PURPOSES WHICH PROVISIONS WERE FORMERLY CONTAINED IN SECTIONS 47(3), 48 AND 49 OF THE INCOME TAX ORDINANCE CH.33 NO.1 BUT WERE REPEALED BY THE FINANCE ACT 1966 (ACT 29 OF 1966)

1. For the purposes of section 96(2) (in this Part referred to as "the section"), the expression "rate of tax" when applied to tax paid or payable under this Act, means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of any relief granted under this

section) by the amount of the income in respect of which the tax paid or payable under this Act 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 60 on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Board.

Computation of rate of tax

2. If any person resident in Trinidad and Tobago who has paid by deduction or otherwise, or is liable to pay tax, under this Act for any year of income on any part of his income, proves to the satisfaction of the Board that he has paid by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Trinidad and Tobago paid or payable by him on that part of his income at a rate thereon to be determined as follows : -

Relief in respect of Commonwealth income tax - Residents

(a) if the Commonwealth rate of tax does not exceed one half of the rate of tax appropriate to his case under this Act in Trinidad and Tobago; the rate at which relief is to be given shall be the Commonwealth 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 Act.

3. If any person not resident in Trinidad and Tobago who has paid by deduction or otherwise or is liable to pay, tax under this Act for any year of income on any part of his income, proves to the satisfaction of the Board that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year of income in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Act on that part of his income at a rate thereon to be determined as follows -

Non-residents

(a) if the Commonwealth rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be one half of the Commonwealth rate of tax;

(b) if the Commonwealth rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Act, 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 Act exceeds one half of the Commonwealth rate of tax.

4. For the purposes of this Part, the expression "Commonwealth income tax" means any income tax charged under any law in force in any Commonwealth country (other than the United Kingdom or Trinidad and Tobago), 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 Trinidad and Tobago in a manner similar to that provided in the section.

5. For the purposes of the section, the rate of tax under this Act shall be computed in the manner provided by paragraph (1) and the Commonwealth rate of tax shall be computed in a similar manner. Computation of rate of tax

6. Where a person is, for any year of income, resident both in Trinidad and Tobago and in a country in which Commonwealth income tax is charged, he shall, for the purposes of the section, be deemed to be resident where, during that year, he resides for the longer period. Resident defined

7. (a) A claim for relief under sections 93 and 95 shall be made within six years from the end of the former years of assessment or the year of income to which it relates.

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

(b) This paragraph has effect for the former years of assessment 1961 and 1962 and subsequent years of income, but does not render invalid any claim made under the Income Tax Ordinance before the commencement of the Income Tax (Amendment) Act 1963. Ch.33 No.1

**SIXTH SCHEDULE**

Trinidad and Tobago

(Section 104)

The Income Tax Act (Ch.75:01)

Distress Warrant

To.....

I.....

Board of Inland Revenue, by virtue of the power vested in the Board by section 104 of the Income Tax Act (Ch.75:01), do hereby authorise you to collect and recover the several amounts -.....respectively due for tax, and for the recovery thereof I further authorise you, with the assistance of any constable or constables which assistance he or they are hereby required to give, to forthwith levy by distress the said sums. and also the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels or other distrainable things of .....or of any part thereof charged with such tax.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid, to break open any building in the day time.

Given under my hand at ..... this .....day of .....  
19.....

Commissioner.....

**SEVENTH SCHEDULE**

(Section 11A)

## CLASS A (WEAR AND TEAR RATE) 10%

	Rate	
	%	
Adding Machines and Calculators - Manual	10	
<del>207</del> Bakers Plant	<del>10</del>	Finance Act 2002
Billiard Tables	10	
Boats - Barges	10	
Boats - Lighters	10	
Boats - Motor	10	
Boats - Pontoons	10	
Boats - Punts	10	
Boats - Rowing and Sailing	10	
Brick-making Plant - Walls and Windbreak	10	
Buildings (Housing machinery) - Industrial	10	
Buildings (Housing machinery) - Other	10	
208 Building, structures and improvements thereon completed on or after 1 <sup>st</sup> January, 1995	10	Finance Act 17 of 2007
209 Industrial building structures under the Income Tax (In Aid of Industry) Act acquired prior to 1 <sup>st</sup> January, 2006.	10	Finance Act 17 of 2007
Calculating Machines - Hand-operated	10	
Cameras	10	
Cash Registers - Manual	10	
Cigarette - Manufacturing Machinery	10	
Cigarette - Tools and Equipment	10	
Cigarette Papers - Cutting and Folding Plant	10	
Coffee Manufacturing	10	
Cylinders - Gas	10	
Dentists - Fittings	10	
Dentists - Instruments	10	
Dictaphones	10	
Doctors - Instruments	10	
Filing Cabinets	10	

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207 Effective 1<sup>st</sup> January 2003

208 BIR Note: Effective 10<sup>th</sup> July, 2007

209 BIR Note: Effective 10<sup>th</sup> July, 2007

SEVENTH SCHEDULE (Cont'd)

## CLASS A (WEAR AND TEAR RATE) 10%

	Rate %
Fire Extinguishers	10
Fixtures and Fittings	10
Furniture - Household	10
Hydraulic Jacks	10
Ice Company Plant - Refrigerator	10
Irrigation - Water Supply	10
Lighters	10
Medical Practitioners - Instruments	10
Medical Practitioners - Radium Plaques and Needles	10
Motor Boats	10
Newspaper Equipment - Linotype metal	10
Newspaper Equipment - Stereos and Blocks	10
Newspaper Equipment - Type	10
Office Machines and Equipment - Addressograph	10
Office Machines and Equipment - Cash Registers	10
Office Machines and Equipment - Dictaphones	10
Office Machines and Equipment - Proof Machines - Banks	10
Office Machines and Equipment - Telephones	10
PBX Systems	10
Photography Equipment	10
Poultry Farmers - Eggboxes and Fillers	10
Poultry Farmers - Egg Grader	10
Radio Transceiver Sets	10
Road-making Plant - Utensils for drawing	10
Safes	10
Scales - Weighbridge	10
Shop Fittings	10
Sea-craft	10
Vacuum Cleaners	10
Water Tanks and Pumps	10
Weighbridges	10
Wireless Sets	10

## CLASS B (WEAR AND TEAR RATE) 25%

Accounting Machines	25	
Adding Machines and Calculators - Electrical	25	
Aerated Water Plant - Bottling Plant	25	
Air-conditioning Equipment - Large General Unit	25	
Air-conditioning Equipment - Single Units	25	
Aircraft - Commercial - New	25	
Arc and Gas Welding Plant	25	
Automotive Equipment	25	
<sup>210</sup> Bakers' Plant	25	Finance Act 2002
Beverage Coolers	25	
Biscuit-making Plant	25	
Bicycles - Motor	25	
Bicycles - Ordinary - Commercial	25	
Boats - Launches	25	
Boats - Sloops and Streamers Ocean-going	25	
Boats - Tugs	25	
Boilers	25	
Boilers - General Binding Machinery and Plant	25	
Boilers - Engines, Shafting	25	
Bookbinding Plant and Machinery - Boilers	25	
Boot and Shoe-making - Boilers	25	
Boot and Shoe-making - Box (Cardboard) Manufacturers' Machinery	25	
Boot and Shoe-making - General Plant and Machinery	25	
Boot and Shoe-making - Motor Vans and Lorries	25	
Brick-making Plant - Grog Crusher	25	
Brick-making Plant - Railway Siding	25	
Brick-making Plant - Traxcavator	25	
Brick-making Plant - Tunnel Kilns and Dryers	25	
Brewery Plant	25	
Bucket Elevator - Quarrying	25	
Calculating Machines - Electrical	25	
Caravans - Mobile Site Office	25	
Carpets (Cost over \$500)	25	
Cement and Concrete Tile - Manufacturing Plant	25	
Clothing and Millinery - Manufacturing Plant	25	
Clothing and Millinery - Other Plant	25	

SEVENTH SCHEDULE (Cont'd)

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<sup>210</sup> Effective 1<sup>st</sup> January 2003



## CLASS B (WEAR AND TEAR RATE) 25%

	Rate %
Clothing and Millinery - Sewing Machines	25
Coconut Oil Manufacturing Plant	25
Cold Stores and Ice Manufacturing - Ice Cans	25
Cold Stores and Ice Manufacturing - Machinery and Plant	25
Compressors - Air and Oxygen Types	25
Compressors - Ammonia - Horizontal	25
Compressors - Ammonia - Vertical	25
Concrete Mixers	25
Confectioners' Machinery	25
Containers-makers' Plant	25
Copra	25
Cotton Knitting and Spinning Plant	25
Dentists - Carpets	25
Dentists - Electric Motors	25
Dentists - Furniture	25
Dentists - Plant	25
Dies	25
Diesel Engines and Motors	25
Distillery Plant	25
Dredges	25
Drying Kilns	25
Dumpers - Quarrying	25
Electrical Fittings	25
Elevators and Lifts	25
Engineering Works	25
Furniture - Office	25
Generators	25
Hollman Compressors	25
Ice Company Plant - Coils	25
Ice Company Plant - Cold Storage Plant	25
Ice Company Plant - Fabric Inserted Matting	25
Ice Company Plant - Factory Plant and Machinery	25

SEVENTH SCHEDULE (Cont'd)

## CLASS B (WEAR AND TEAR RATE) 25%

	Rate %
Ice Company Plant - Ice Breaker	25
Ice Company Plant - Ice Crusher	25
Ice Company Plant - Water Filter	25
Laundry Plant - General Plant	25
Laundry Plant - Washing Machines	25
Lifts and Elevators	25
Live Network	25
Lorries (Motor)	25
Loudspeakers and Phones	25
Match Factory Plant	25
Medical Practitioners - Diathermy Plant	25
Medical Practitioners - Electro-Cardiograph	25
Medical Practitioners - High-Frequency Current Machines	25
Medical Practitioners - Ophthalmic Surgeon's Plant	25
Medical Practitioners - Other Plant	25
Medical Practitioners - X-Ray Plant	25
Millinery Manufacturing Plant - Other Plant	25
Millinery Manufacturing Plant - Sewing Machines	25
Milk Treatment Plant	25
Mobile Site Office - Caravan	25
Molasses Industry - Concrete Sump and Gear	25
Molasses Industry - Mill Storage	25
Molasses Industry - Pipe Lines	25
Molasses Industry - Pumps	25
Molasses Industry - Punts	25
Molasses Industry - Storage Tanks	25
Motor Cars and Vehicles	25
Neon Signs	25
Newspaper Equipment - Boilers	25
Newspaper Equipment - Engines and Shafting	25
Newspaper Equipment - Printing Machines	25
Office Machines and Equipment - Accounting Machines	25
Office Machines and Equipment - Adding Machines	25

SEVENTH SCHEDULE (Cont'd)

## CLASS B (WEAR AND TEAR RATE) 25%

	Rate %
Office Machines and Equipment - Calculating Machines	25
Office Machines and Equipment - Duplicating Machines	25
Office Machines and Equipment - Typewriters	25
Oxygen Acetylene Plant	25
Oxygen Manufacturing Plant	25
Plastic Extrusion Machine	25
Poultry Farmers - Incubators	25
Printing Press	25
Pumps	25
Quarrying Plant and Machinery	25
RHF Welding Machine	25
Radio Equipment	25
Radios, Radiograms and Phonographs	25
Railway Sidings	25
Refrigerating Plant and Machinery	25
Road-making Plant - Asphalt Plant	25
Road-making Plant - Barbergreen Finisher	25
Road-making Plant - Crawler Loader	25
Road-making Plant - Loader	25
Road-making Plant - Office Machinery	25
Road-making Plant - Motor Dumper	25
Road-making Plant - Rollers and Steam	25
Road-making Plant - Service Cars	25
Road-making Plant - Special Tools	25
Rum Refinery Plant	25
Sewing Machines	25
Ship-building Plant	25
Steel Barrels	25
Stone Crushing Plant	25
Sugar Industry - Boilers, Auxiliaries, Steam Piping	25
Sugar Industry - Distilling Plant	25
Sugar Industry - Drainage and Irrigation Plant	25
Sugar Industry - Factory	25
Television Sets	25
Transformers	25
Typewriters	25
Vulcanizing Machine	25
Water Coolers	25
Welding Units	25

SEVENTH SCHEDULE (Cont'd)

## CLASS C (WEAR AND TEAR RATE) 33.3%

	Rate %
Aerated Water Plant - Bottles and Cases	33.3
Agricultural Machinery - Tractors, Ploughs, Harvesters, etc.	33.3
Audition Unit - Station and Testing Equipment	33.3
Bulldozers	33.3
<sup>211</sup> Computers	33.3 F.A. 35/98
Cranes - Electrical or otherwise	33.3
Cranes - Gantries	33.3
Cutlassing Machine	33.3
Farming Equipment	33.3
Forklift Trucks	33.3
Rigs (Oil)	33.3
Road-making Plant - Jitney	33.3
Road-making Plant - Spray Trucks	33.3

## CLASS D (WEAR AND TEAR RATE) 40%

Aircraft - Engine Props - Rotable Spares	40
Aircraft - Second-hand	40

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<sup>211</sup> Effective 1<sup>st</sup> January 1998

**212“EIGHTH SCHEDULE”**

[Repealed]

Act 35 of 1998

Act 91 of 2000

Act 2 of 2006

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<sup>212</sup> BIR Note: Employment Allowance, repealed effective 1<sup>st</sup> January 2006.

**213“NINTH SCHEDULE”**

[Repealed]

Act 91 of 2000  
Act 20 of 2003  
Act 2 of 2006

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<sup>213</sup> BIR Note: Apprenticeship Allowance repealed effective 1<sup>st</sup> January 2006.

CHAPTER 75:02

CORPORATION TAX ACT

AN ACT TO PROVIDE FOR THE TAXATION OF SHORT-TERM CAPITAL GAINS AND TO MAKE BETTER PROVISIONS FOR THE TAXATION OF COMPANY PROFITS AND FOR MATTERS INCIDENTAL THERETO OR CONSEQUENTIAL THEREON.

29 of 1966

(1st January 1966)

Commencement

1. This Act may be cited as the Corporation Tax Act.

Short title

2. (1) In this part -

Interpretation

"branch or agency" means any factorship, agency, receivership, branch or management;

"chargeable profits" means the aggregate amount of the profits of any company specified in section 3 remaining after allowing the appropriate deductions and exemptions under this Part;

"company" means any body corporate or unincorporated association, but does not include a partnership;

"corporation tax" or "tax" means the tax charged by section 3;

"distribution" has the meaning assigned to it by section 49 of the Income Tax Act;

"investment company" has the meaning assigned to that expression in section 6("new consideration" has in other provisions the same meaning as in section 49(11) of the Income Tax Act;

"marketing licensee" means a person carrying on marketing business to whom a marketing licence, within the meaning of regulation 3(1)(h) of the Petroleum Regulations is issued or to be issued under or in accordance with the Petroleum Act;

Finance Act 1997

"non-resident company" means a company not controlled in Trinidad and Tobago, whether or not such company is -

(i) incorporated in Trinidad and Tobago, or

(ii) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;

“petroleum marketing business” means the business of dealing in petroleum and petroleum products by way of an acquisition and a disposal to a marketing licensee or to a consumer in Trinidad and Tobago or to a person in any other prescribed country, and includes bunkering of ships and aircraft by a marketing licensee, but does not include -

Finance Act 1997

(a) disposal of petroleum by a person carrying on a production business where the petroleum disposed of is produced by such person; or

(b) disposal by a person carrying on refining business of -

(i) petroleum products refined by such person;

(ii) petroleum products acquired and blended with petroleum products refined by such person.  
where any such disposal is made to a marketing licensee, or to the refining business of another, or

(c) bunkering of ships ex-refinery wharf in international trade by a person carrying on refining business;

"petroleum operations" has the meaning assigned to it by section 2(1) of the Petroleum Taxes Act;

Ch.75:04  
Act No.11 of 1988

"preference dividend" means a dividend payable on a preferred share or preferred stock at a fixed gross rate per cent issued by a resident company before 31st January 1966, or, where a dividend is payable on such a preferred share or preferred stock partly at a fixed gross rate per cent and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent;

"profits" means income and includes short-term capital gains;

"resident company" means a company that is controlled in Trinidad and Tobago, whether or not such company is -

(i) incorporated in Trinidad and Tobago, or



(ii) engaged in trade or business or in the pursuit of professional or vocational activities in Trinidad and Tobago;

"royalties" means -

(a) amounts paid as consideration for the use of, or the right to use -

(i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tapes for radio or television broadcasting, or other like properties or rights, or

(ii) information concerning industrial, commercial or scientific knowledge, experience or skill;

(b) royalties, rentals, or other amounts paid in respect of the operation of mines, quarries or other natural resources;

"short-term capital gains" means chargeable gains accruing on the disposal of an asset within twelve months of its acquisition;

"subsidiary company" has the meaning provided for the purposes of section 49(1)(d)(iv) of the Income Tax Act by section 49(4) of that Act;

"withholding tax" has the same meaning as in section 2 of the Income Tax Act;

"a source of income" is "within the charge to" corporation tax or income tax if that tax is chargeable on the income arising from it or would be so chargeable if there were any such income, and references to a person, or to income being within the charge to tax, shall be similarly construed.

(2) In this Act and the Income Tax Act and in any Act passed after this Act "Corporation Tax Acts", except so far as the context otherwise requires, means Part I of this Act (including provisions relating to income tax), together with the provisions of the Income Tax Act as far as it applies for the purposes of corporation tax and any written law relating to corporation tax.

(3) Except as otherwise expressly provided in this Act, the Income Tax Act or any other written law, the provisions of the Income Tax Act shall not apply for the purposes of the Corporation Tax Act, and the provisions of those Acts shall not, subject to this section, affect the operation of the

Income Tax Act as it relates to individuals but the provisions of the Income Tax (In Aid of Industry) Act, the Fiscal Incentives Act, 1979, and any other written law conferring deductions, allowances and exemptions for the purposes of income tax, shall continue to have effect for such purposes as well as for the purposes of the Corporation Tax Acts.

Ch.85:04

Ch.33 No.3 (1950 Ed.)

Amended/Deleted Finance Act 1979

(4) Without prejudice to any other case in which a company is engaged in or carrying on trade or business in Trinidad and Tobago, a company shall be deemed to be engaged in or carrying on trade or business in Trinidad and Tobago if it has an office or place of business in Trinidad and Tobago or has a branch or agency therein.

(5) Except as otherwise provided by this Part and except in so far as the context otherwise requires, expressions used in the Income Tax Act have the same meaning in this Part as in the Income Tax Act; but no provision of this Part as to the interpretation of any expression, other than a provision expressed to extend to the use of that expression in the Income Tax Act, shall be taken to affect its meaning in the Income Tax Act as it applies for the purposes of corporation tax.

(6) For all purposes of the Corporation Tax Act, dividends, including preference dividends, shall be treated as paid on the date when they become due and payable.

(7) Except as otherwise provided by this Part any apportionment to different periods which falls to be made thereunder shall be made on a time basis according to the respective lengths of those periods.

(8) For the purposes of the definition of "resident company" and "non-resident company" the place where such a company is to be regarded as controlled is the place where the mind or management of the company is ordinarily situated.

### IMPOSITION OF CORPORATION TAX

3. Subject to the provisions of this Part, corporation tax shall be payable at the rate specified in the First Schedule for each year of income upon the profits of any company, accruing in or derived from Trinidad and Tobago or elsewhere, and whether received in Trinidad and Tobago or not in respect of -

Charge of corporation tax  
First Schedule

- (a) farming, agriculture, forestry, fishing or other primary activity;

(b) the operation of mines or the exploitation of natural or mineral resources;

(ba) a petroleum marketing business;

Finance Act 1997

(c) any other trade or business;

(d) any profession or vocation or management charges or charges for the provision of personal services and technical and managerial skills;

(e) short-term capital gains;

(f) interest, discounts, annuities or other annual or periodic payments;

(g) rents paid for immovable property and royalties from the operation of mines, quarries or other natural resources and 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 purposes of residence or enjoyment and not for the purpose of gain or profit, the annual value being that assessed in house rates or taxes under the Lands and Building Taxes Act or under the Port of Spain Corporation Ordinance or under the San Fernando Corporation Ordinance or under the Arima Corporation Ordinance<sup>214</sup> ;

(h) rentals and royalties paid for the use or the right to use -

(i) copyrights, artistic or scientific work, patents, designs, plans, secret processes or formulae, trade marks, motion picture films, films or tape for radio and television broadcasting, or other like properties or rights, or

(ii) information concerning industrial, commercial or scientific knowledge, experience or skill;

(i) premiums, commissions, fees and licence charges;

(j) dividends and other income received from non-resident companies, out of profits not derived from or accruing in Trinidad and Tobago, and from persons (including a partnership) not being companies;

(k) preference dividends;

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<sup>214</sup> BIR Note: "or under the Point Fortin Act (Act 12 of 1980) "

(l) profits or amounts deemed to be profits of a company under this Part;

(m) any annual profits not falling under any of the foregoing paragraphs.

<sup>215</sup>**3A.** (1) There shall be levied and paid to the Board a tax to be known as business levy on the gross sales or receipts of a company for each year of income at the rate of <sup>216</sup>0.2 per cent.

Business Levy  
Finance Act 1989  
Finance Act 1993  
Finance Act 1995  
Finance Act 1996  
Finance Act 1997

<sup>217</sup>Finance Act 35 of 1998

<sup>218</sup>Act 91 of 2000

(2) Subsection (1) does not apply to -

<sup>219</sup>(a) companies during the first twelve months following their registration;

(b) companies or statutory corporations exempt from corporation tax under any Act;

(c) the gross sales or receipts of a company which give rise to profits exempt from corporation tax under any Act;

(d) the Deposit Insurance Corporation, the Agricultural Development Bank, the Public Transport Service Corporation and public utilities under the jurisdiction of the Public Utilities Commission or exempted by Order of the President;

(e) companies that are subject to tax under the Petroleum Taxes Act;  
and

Ch. 75:04

(f) the gross sales or receipts of a company whose gross sales or receipts in the preceding year of income do not exceed the sum of two hundred thousand dollars, unless there are reasonable grounds to

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<sup>215</sup> BIR Note: Effective 1st January, 1993

<sup>216</sup> BIR Note: Formerly 0.5%. Change effective 1st January, 1996

<sup>217</sup> BIR Note: Effective 1<sup>st</sup> January 1999

<sup>218</sup> BIR Note: Effective 1<sup>st</sup> January 2001

<sup>219</sup> BIR Note: But see subsection (11) below.

believe that the gross sales or receipts of the company in the particular year will exceed that sum;

Finance Act 1996  
220 Finance Act 35 of 1998

221 (g) Repealed

Finance Act 21 of 2005  
Act 2 of 2006

222(2A) The President may, by order subject to a negative resolution of Parliament, amend subsection (2) (d) by exempting other public utilities from the business levy;

Finance Act (No. 2) 1993

223(3) A company is entitled to a tax credit against its business levy liability for a year of income of any payment made in respect of its corporation tax liability for that year of income up to a maximum of its business levy liability.

Amended/Deleted by Finance Act 5 of 1995

~~(4)~~

Finance Act, 1995

(5) The business levy shall be payable on the gross sales or receipts of each quarter ending on 31st March, 30th June, 30th September and 31st December, in each year of income and the provisions of section 79 of the Income Tax Act shall apply *mutatis mutandis* to this subsection.

(6) Where the Board is satisfied that a company is unable to determine, by the due date for payment in any quarter, the gross sales or receipts for any day in that quarter, the company may, with the approval of the Board, estimate its gross sales or receipts for that day.

Act 3 of 1994

(7) Where a company which estimates its gross sales or receipts for any day in a quarter, determines that its actual sales or receipts for that day are more than the estimated sales or receipts, that company shall pay the business levy due on the difference between the actual sales or receipts and the estimated sales or receipts, no later than the last day of the quarter following the quarter in which the sales or receipts were estimated.

Act 3 of 1994

(8) Where a company to which subsection (6) applies, pays business levy in any quarter amounting to less than ninety per cent of the business levy liability for that quarter, the difference between ninety per cent of the business

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220 Effective 1<sup>st</sup> January 1999

221 BIR Note: Effective 1<sup>st</sup> January 2006.; gross sales or receipts of an approved small company no longer exempt.

222 BIR Note: Effective 1st January, 1993

223 BIR Note: Changes to subsection (3) and (4) effective 29th March, 1995

levy liability and the amount paid by the end of the quarter in which the levy liability arose, shall be subject to interest from the day following the end of that quarter to the date of payment at the rate of fifteen per cent per annum. Act 3 of 1994

<sup>224</sup>(9) For the removal of doubt, it is hereby declared that in ascertaining the chargeable profits of a company, no deduction or allowance shall be made of, or on account of, the levy imposed by this section.

(10) The business levy shall be under the care and management of the Board of Inland Revenue and the provisions of the Income Tax Act in the Table below shall apply in relation to the business levy as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modification and adaptations.

(11) Notwithstanding anything in subsection (1) from 1st January 1999 the Business Levy shall not be levied earlier than the date of expiry of three years from the date of registration of a Corporation which is registered after the aforesaid date. <sup>225</sup>Finance Act 35, 199

## <sup>226</sup>TABLE

### INCOME TAX PROVISIONS APPLIED TO THE BUSINESS LEVY

Section 2 (Interpretation)	Finance Act No. (2) 1993
Sections 3 and 4 (Administration)	
Sections 59 to 65 (Trustees, agents, etc.)	
Section 66 (Deceased persons)	
Section 76, 77 (Returns)	
Section 79 to 82 (Payment of tax by installments)	
Section <sup>227</sup> 82A (Relief from payment of tax)	Finance Act No. 30 of 2007
Sections 83 and 84 (Assessments)	
Section 85 (Assessment lists, etc.)	
Section 86 (Notices of Assessment)	
Section 87 (Appeals)	

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<sup>224</sup> BIR Note: Effective 1st January, 1993

<sup>225</sup> BIR Note: Effective 1st January, 1999

<sup>226</sup> BIR Note: Effective 1st January, 1993

<sup>227</sup> BIR Note: Effective 1<sup>st</sup> January 2008

Sections 88 and 89 (Errors in assessments and additional assessments)

Sections 90(1) and (3) (Repayment of tax)

Section 92 (Refunds)

Section 93 (Relief from double taxation)

Section 94 (Certain income deemed to be income for the purposes of the Income Tax Act)

Section 97 (General Powers of the Board)

Section 103 (Interest for non-payment of tax)

Sections 104 to 108 (Collection)

Sections 109 to 112 (Recovery)

Sections 113 and 114 (Notices)

Section 115 (Imprisonment of defaulters)

Sections 116, 117, 118 to 124 (General Provisions)

Section 125 (Regulations)

Sections 130, 131, 132 (Miscellaneous powers of Board)

The Sixth Schedule

Finance Act No. (3) of 1994

228<sup>3B</sup> Deleted

Act 9 of 1997

4. (1) Subject to any exceptions provided for by this Part, a resident company shall be chargeable to corporation tax on all its profits wherever arising.

General scheme of corporation tax

(2) Where a non-resident company is carrying on a trade or business in Trinidad and Tobago, the profits thereof that are chargeable to corporation tax shall be any income directly or indirectly accruing in or derived from Trinidad and Tobago.

(3) Notwithstanding anything in this Act or any other rule of law to the contrary, where profits arise to a company from any activities on the continental shelf (this expression here having the same meaning as in the Continental Shelf Act) such profits shall for all the purposes of this Act be deemed to have accrued in or to have been derived from Trinidad and Tobago.

Act. No.46 of 1969

(4) A company shall be chargeable to corporation tax on profits accruing for its benefit under any trust or arising under any partnership in any case in which it would be so chargeable if the profits accrue to it directly; and a company shall be chargeable to corporation tax on profits arising in the winding up of the company, but shall not otherwise be chargeable to corpo-

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228 BIR Note: Effective 11<sup>th</sup> January 1996

ration tax on profits accruing to it in a fiduciary or representative capacity except as respects its own beneficial interest (if any) in those profits.

### BASIS OF ASSESSMENT AND EXEMPTIONS

5. (1) Corporation tax shall be charged for each year of income upon the chargeable profits of the company arising in that year; so however, that the provisions of this Part shall be read and construed as imposing the charge to corporation tax on the profits of the company for the year of income 1966 and subsequent years in respect of the profits of the accounting period ending within that year and so for subsequent years of income. Basis of assessment

(2) Except as otherwise provided by this Part, corporation tax shall be assessed upon the full amount of the profits accruing or arising, whether or not received in Trinidad and Tobago, in the year of income without any other deduction than is authorised by this Act.

6. (1) There shall be exempt from corporation tax - Exemptions

(a) distributions, other than preference dividends, received by a company from a resident company;

(aa) distributions received by a resident company from the Export Import Bank over a period of ten years commencing from the date of the initial injection of private sector funds into the Export Import Bank; <sup>229</sup>Act No. 37 of 2000

(b) profits of an investment company;

(bb) gains and profits of an approved tourism project in accordance with the Order made under section 16(1) of the Tourism Development Act, 2000. Act No. 50 of 2000

<sup>230</sup>(c) Repealed

Act 2 of 2006

(d) profits arising from a trade or business carried on by a co-operative society so registered under any written law in force in Trinidad and Tobago;

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<sup>229</sup> BIR Note: Effective 25<sup>th</sup> September, 2000

<sup>230</sup> BIR Note: Effective 1<sup>st</sup> January 2006 ( Profits of local authority)



(e) the profits of any sporting body of persons, that are approved by the President by writing under his hand, derived from public or private subscriptions or donations, whether by deed of covenant or otherwise, or derived from charges for admission to witness sporting events, or from the provision of refreshment, to patrons who witness sporting events;

(f) the profits of a trade union registered under the Trade Unions Act, being a trade union which is precluded by its rules from assuring to any person a gross sum exceeding nine hundred and sixty dollars or an annuity exceeding two hundred and forty dollars per annum in so far as such profits are applicable and is applied solely for the purpose of provident benefits, and for the purposes of this paragraph the expression "provident benefits" shall be taken to include any payment expressly authorised by the rules of the trade union, which is made to a member during sickness or incapacity from personal injury or while out of work or to an aged member by way of superannuation, or to a member who has met with an accident, or has lost his tools by fire or theft, and includes a payment in discharge or aid of funeral expenses on the death of a member, or the wife of a member, or as provision for the children of a deceased member;

Ch.88:02

<sup>231</sup>(g) profits of any ecclesiastical, charitable or educational institution of a public character, approved by the President by writing under his hand, in so far as such profits are not derived from a trade or business carried on by such institution;

(h) profits of the Post Office Savings Bank and any other institution established for the encouragement of thrift which the President may declare to be exempt;

(i) profits arising from investment of any fund or scheme approved by the President under section 27(1)(c) of the Income Tax Act;

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<sup>231</sup> BIR Note: The functions which the President is empowered to perform under this subsection have been delegated to the Minister of Finance and the Economy by Order made under The Interpretation Act, Ch.3: 01, published as Legal Notice No.151 of 1987, quoted here-under:

"THE DELEGATION OF FUNCTIONS (CORPORATION TAX) ORDER, 1987

1. This Order may be cited as the Delegation of Functions (Corporation Tax) Order, 1987.

2. In exercise of the powers conferred upon him by section 52(1) of the Interpretation Act, the President delegates the functions which he is empowered to perform under section 6(1) (g) of the Corporation Tax Act to the Minister to whom responsibility for Finance and the Economy is assigned.

Citation

Delegation of functions

Ch.3: 01

Made this 14th day of August, 1987." Ch.75: 02

(j) profits of any statutory or registered building or friendly society;

(k) interest receivable on any loan charged on the public revenue declared by the President by Order to be so exempt;

232(ka) Repealed Finance Act 35 of 1998  
Act 2 of 2006

(l) profits arising from investment of the Employment Injury Benefit Fund, the Short Term Benefits Fund and the Long Term Benefits Fund established under the National Insurance Act;

Act No.35 of 1971

(m) market development grants within the meaning of the Export Development Corporation Act, 1984.

Ch.32:01

(n) profits of the Trinidad and Tobago Development Finance Company Limited

Act No.3 of 1988

(o) profits of the National Insurance Property Development Company Limited.

Gov't. Notice 94 of 1989

(p) profits of the Trinidad and Tobago Bureau of Standards

LN 65 of 1991

233(q) interest payable on bonds known as TTDFC Industrial Bonds that are issued by the Trinidad and Tobago Development Finance Company Limited.

LN 137 of 1992

(qa) With effect from 1st October 1998, interest payable on bonds issued by the Trinidad and Tobago Mortgage Finance Company Limited for the purpose of providing loans to first time home owners.

Finance Act 35 of 1998\*

234(r) profits of the Small Business Development Company Limited -

Finance Act, 1993

235(s) Repealed.

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<sup>232</sup> BIR Note: Effective 1<sup>st</sup> January 2006 (interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company Limited)

<sup>233</sup> BIR Note: Effective 2nd June, 1989

<sup>234</sup> BIR Note: Effective 1st January, 1993

236(sa) interest accruing on loans granted in furtherance of the University Student (Guarantee Fund) Act, 1994 by financial institutions listed in the Schedule to that Act.

Corporate Tax (Amendment Act, 1994)

<sup>237</sup>Finance Act 35 of 1998

238(t) Repealed.

Finance Act 1994

Act 2 of 2006

239(u) profits accruing to a venture capital company;

Act No 22 of 1994

(v) short term capital gains accruing to a venture capital company;

Finance Act 5 of 1995

240(w) with effect from 1st January 1994 profits accruing to a trust in respect of its unit trust business, being a business of a financial nature as defined in the Financial Institutions Act, 1993, where the trustee is a financial institution licensed under the Financial Institutions Act which sells shares representing interests in the assets of the trust to beneficiaries under the trust;

Finance Act 5 of 1995

241(x) the profits of BWIA International Airways Limited for the period 1st January 1995 to 31st December 2001.

Finance Act 1995

(y) the amount or value of the dividends or other distributions paid to a resident company -

Finance Act, 1996

- (i) by a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, 1993, where the profits of the trust are exempt from corporation tax;

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<sup>235</sup> BIR Note: Effective 1<sup>st</sup> January 2006 ( 50% Interest earned on loan to approved small company)

<sup>236</sup> BIR Note: Effective 1st January, 1993

<sup>237</sup> BIR Note: Effective 1<sup>st</sup> January 1999

<sup>238</sup> BIR Note: Effective 1<sup>st</sup> January 2006 ( 50% Interest earned on loan for commercial farming on approved holding)

<sup>239</sup> BIR Note: (iv) and (v) effective 1st December 1994

<sup>240</sup> BIR Note: Effective 1st January, 1994

<sup>241</sup> BIR Note: Effective 2nd February, 1995

(ii) under the First and Second Unit Schemes of the Trinidad and Tobago Unit Trust Corporation established by the Unit Trust Corporation of Trinidad and Tobago Act; Finance Act 1996

(z) profits of the Export Import Bank for a period of ten years or until its capital reserves and retained earnings equal its initial capital investment of thirty-one and one half million dollars whichever is the lesser, commencing from the date of the initial injection of private sector funds into the Export Import Bank. <sup>242</sup>Act No. 37 of 2000

(2) For the purposes of subsection (1)

"sporting body of persons" means a body of persons established for the purpose of promoting or advancing sporting events, being a body of persons, to a share in the profits of which no member or person other than another sporting body of persons is entitled, and being a body of persons whose profits are applied wholly to the

promotion or advancement of sporting events or to the provision of facilities or amenities for competitors in, or for members of the public who attend, sporting events except that a body of persons shall not cease to be a sporting body of persons by reason only of the fact that a portion of its profits is donated to any charitable or educational institution of a public character; and

"sporting events" means athletics, badminton, basket ball, billiards, amateur boxing, amateur wrestling, cricket, cycling, flying, model aeroplane flying, football, golf, hockey, netball, polo, swimming, tennis, weight lifting, yachting and such other activities as may be prescribed.

(3) For the purposes of this section -

<sup>243</sup>"local authority" means the Port of Spain Corporation, established under the Port of Spain Corporation Ordinance, the San Fernando Corporation, established under the San Fernando Corporation Ordinance and the Arima Corporation, established under the Arima Corporation Ordinance as the case may be;

"investment company" means a resident company that in respect of a year of income satisfies the following conditions-

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<sup>242</sup> BIR Note: Effective 25<sup>th</sup> September 2000

<sup>243</sup> BIR Note: Include "the Point Fortin Corporation, established under the Point Fortin Act (12 of 1980) ".

- (a) 100 per cent of the assets thereof are situated in Trinidad and Tobago;
- (b) at least 80 per cent of its property owned throughout the year was shares, bonds, marketable securities;
- (c) not less than 90 per cent of its profits was derived from shares, bonds or marketable securities;
- (d) not more than 50 per cent of its gross revenue for the year was from interest;
- (e) at no time in the year did more than 10 per cent of its property consist of shares, bonds, marketable securities of any one company or debtor, other than those of the Government;
- (f) at no time in the year was the number of shareholders of the company less than fifty, none of whom at any time in the year held more than 25 per cent of the shares or the capital of the company;
- (g) 90 per cent or more of its profits (other than dividends or interest received in the form of shares, bonds, or other securities that had not been sold before the end of the year of income) was distributed to its shareholders within six months following the end of the accounting period for that year of income.

(3A) For the purposes of subsection (1)(s) and (t) -

"approved agricultural holding" has the same meaning assigned to it as under section 14(6) of the Income Tax Act;

"financial institution" means a company which carries on all or any aspects of banking business or business of a financial nature;

"Minister" means the Minister to whom responsibility for agriculture is assigned;

Finance Act 1994

(4) The President may, by Order subject to a negative resolution of Parliament, amend subsection (1) by extending, reducing or otherwise altering the list of exemptions.

(5) Sections 10, 11 and 12 of the Income Tax Act have effect in relation to interest referred to in paragraphs (s) and (t) as if paragraphs (s) and (t) had not been enacted.

244 (6) Notwithstanding the repeal of subsection (1) (ka), (s) and (t) where, on or before 31<sup>st</sup> December, 2005, a person would have been entitled to an exemption from tax under the repealed subsection (1) (ka), (s) and (t) in respect of interest income on loans made to fund projects under that subsection, the provisions of that repealed subsection shall continue to have effect as if subsection (1) (ka), (s) and (t) had not been repealed.

Act 2 of 2006

6A.245 The exemption referred to in section 6(1)(m) shall not apply to market development grants, unless they have been made in respect of expenses incurred by an exporter, prior to the export of the first commercial shipment of goods produced in Trinidad and Tobago, to the foreign market, and that market shall not be a market in a country specified in the Sixth Schedule hereto.

Market development grants  
Act No.11 of 1984

### COMPUTATION OF PROFITS

7. (1) Except as otherwise provided by this Part, the chargeable profits of a company shall be computed in accordance with income tax principles relating to the provisions of the Income Tax Act applied by section 19 and all questions as to the amounts which are or are not to be taken into account as profits, or in computing profits, or charged to tax as a person's profits or as to the time when any such amount is to be treated as arising, being determined in accordance with income tax law as applied by section 19 and practice.

General rules for computation of income

(2) For the purpose of this section "income tax law" means, in relation to any year of income, the law applying, for the year of income, to the charge on individuals of income tax.

Amended/Deleted Finance Act 1989

(3) Subject to any written law applied by this Part which expressly authorises such an allowance, no allowance shall, subject to subsection (4) and section 10 O, be made in ascertaining the chargeable profits –

246 Finance Act 21 of 2005

(a) in respect of distributions; or

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244 BIR Note: Effective 1<sup>st</sup> January 2006

245 BIR Note: Effective 1st January 1983.

246 BIR Note: Effective 22<sup>nd</sup> July 2005

(b) in respect of any annuity or other annual payment.

(4) Subsection (3) (a) shall not apply when the company makes a distribution that is a preference dividend, paid on or after 1st January 1966, but so however that -

(a) the deduction that is allowed in ascertaining the chargeable profits shall not exceed the amount of the preference dividend;

(b) the deduction shall be allowed only in the year of income in which such preference dividend has actually been paid.

(5) Deleted

Finance Act 1997

<sup>247</sup>Finance Act 21 of 2005

(6) Without prejudice to the generality of subsection (1), any provision of the Income Tax Act which confers an exemption from income tax, or which provides for a person to be charged to income tax, on any amount (whether expressed to be income or not, and whether an actual amount or not) shall have the like effect for purposes of corporation tax so far as is consistent with this Part.

<sup>248</sup> (7) Where a change in the share-holding of a company has taken place in a year of income, no loss incurred in any year preceding the year of income shall be carried forward and set off, as provided by section 16 of the Income Tax Act, against the profits of the year of income unless -

Act No.11 of 1988

(a) on the last day of the year of income the shares of the company carrying not less than 51 per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than 51 per cent of the voting power on the last day of the year or years in which the loss was incurred; or

(b) the Board is satisfied that the change in share-holding was not effected with a view to avoiding or reducing any liability to tax.

(8) Subject to subsection (9), where in a year of income a company claims a deduction for wear and tear under section 11(1) (b) of the Income Tax Act, the deduction shall not be allowed unless the company satisfies the Board that the taxes payable in that year of income under the Lands and Buildings Taxes

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<sup>247</sup> BIR Note: Effective 22<sup>nd</sup> July 2005. Section 8 of Finance Act 21 of 2005 provides as follows: Validation of acts done by the Board: 'Every act or thing done by the Board of Inland Revenue in relation to its approval, prior to the coming into operation of the Finance Act, 200, of covenanted donations to charity made by a company, is hereby validated and declared to have been lawfully done by the Board.'

<sup>248</sup> BIR Note: Effective 1st January 1988

Act and the Municipal Corporations Act have been paid for the year of income to which the claim relates.

Finance Act 1994  
Finance Act 1995  
Finance Act 35 of 1998\*

249(9) Deleted.

Finance Act 1995  
Finance Act 35 of 1998\*

2508. (1) Repealed

Export allowance  
Act No.14 of 1976  
Finance Act 1997  
Finance Act 2002\*\*

(2) Repealed

Finance Act 1997  
Finance Act 2002\*\*

(3) Repealed

Finance Act 1997  
Finance Act 2002\*\*

(4) Repealed

Finance Act 2002\*\*

(5) Repealed

Finance Act No. 9 of 1997  
Finance Act 2002\*\*

9. (1) Repealed

Saving of right of company entitled to an export allowance  
Finance Act 2002\*\*

(2) Repealed

Act No.14 of 1976  
Finance Act 2002\*\*

(3) Repealed

Finance Act 2002\*\*

10. (1) In computing for purposes of corporation tax a "company's profits" for any year of income there shall be made in accordance with this section all such deductions and additions as are required to give effect to the provisions of the Income Tax (In Aid of Industry) Act which relate to deductions and allowances and charges in respect of capital expenditure, as those provisions are applied by this Part.

Deductions and additions in computation of profits for capital allowances and related charges  
Ch. 85:04

(2) Allowances and charges which fall to be made for any year of income in computing the profits of a trade shall be given effect by treating the

249 BIR Note: Effective 29<sup>th</sup> March, 1995

250 BIR Note: Effective 1<sup>st</sup> January 1974

\* effective 1<sup>st</sup> January 1994; \*\* effective 1<sup>st</sup> January 2003



amount of any allowances as a trading expense of the trade in that year, and by treating the amount on which any such charge is to be made as a trading receipt of the trade in that year.

~~10 A.~~

Deleted Finance Act 1989

**10B.<sup>251</sup>** (1) In computing for purposes of corporation tax, the profits of a company for a year of income, there shall be allowed promotional expenses wholly and exclusively incurred in order to create or promote the expansion of foreign markets for the export of -

- (a) architectural engineering, design, quantity surveying or contracting services in connection with the building industry where such services are performed by a person resident in Trinidad and Tobago for a recipient who is outside Trinidad and Tobago; or
- (b) the export of goods and agricultural produce manufactured or produced in Trinidad and Tobago and shipped in commercial quantities equivalent to one hundred and fifty per cent of the amount actually expended.

Promotional expenses  
Act No.11 of 1984  
Finance Act 1994

(2) A company granted an allowance under this section is not entitled to an allowance under section 10 of the Income Tax Act in respect of expenses referred to in subsection (1)

Ch.75:01

(3) A company may only qualify for an allowance under this section in respect of promotional expenses incurred in order to create or promote the expansion of foreign markets for the export of services referred to in subsection (1) (a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago, where goods have been exported as result of such expenditure.

Amended by Finance Act, 1994

(4) A company may not be allowed an allowance under this section in respect of emolument income within the meaning of section 100 of the Income Tax Act, except in respect of expenses incurred under subsection 5(g).

(5) For the purposes of this section -

"company" means a company incorporated and resident in Trinidad and Tobago;

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<sup>251</sup> BIR Note: Effective 1st January 1983  
\*\* effective 1<sup>st</sup> January 2003

"promotional expenses" means expenses incurred in respect of services referred to subsection (1) (a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago in –

Amended Finance Act 1994

- (a) advertising in foreign markets;
- (b) providing promotional literature for overseas distribution;
- (c) the participation in trade fairs, trade missions and similar promotional activities;
- (d) overseas travel for the purposes of conducting promotional activities;
- (e) providing free samples and technical information on products;
- (f) inviting buyers to Trinidad and Tobago;
- (g) the recruitment of specialist sales personnel, operating in foreign markets, for a maximum of two years.
- (h) conducting foreign market surveys.

(6) The provisions of subsection (1) shall not apply to expenses incurred in petroleum operations, nor in respect of expenses incurred in the export or the expanding of the export of services referred to in subsection (1) (a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago to countries specified in the Sixth Schedule hereto.

(7) In subsection (6) "petroleum operations" means operations related to the various phases of the petroleum industry and includes exploring for, producing, refining, transporting and marketing petroleum or petroleum products or both and manufacturing and marketing of petroleum based products and petrochemicals.

252 **10C.** Repealed.

Finance Act 2 of 2006

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<sup>252</sup> BIR Note: Effective 1<sup>st</sup> January 2006 . (Deductions of loans by financial institution to approved small company)

**10D.** (1) Subject to this section where in a year of income commencing from the year 1994 a company under this section makes a contribution to its catastrophe reserve fund, there shall be allowed as a deduction in ascertaining the chargeable profits of the company for that year of income such contribution up to a maximum of twenty per cent of the net written premium income of the company.

Deductions of contributions to catastrophe reserve  
Finance Act, 1994

(2) Subsection (1) shall not apply -

(a) where the catastrophe reserve fund is equal to or exceeds the net written premium income of the company in a year of income; or

(b) to that portion of a contribution which will cause the fund to exceed the net written premium income of the company in a year of income.

(3) All amounts received in a year of income by a company as income derived from the investment of its catastrophe reserve fund of the company shall not be included in computing the chargeable profits of the company for that year of income where the fund does not exceed the net written premium income in that year.

(4) Where deductions in respect of amounts contributed by a company to its catastrophe reserve fund have been allowed under this section, and the company ceases to carry on its property insurance business, the amounts comprising the fund in the year in which the company ceases to carry on the property insurance business shall be taken into account in determining the chargeable profits of the company for that year.

(5) The trustee of the fund established by a company which ceases its property insurance business under subsection (4) shall -

(a) deduct an amount equal to twenty-five per cent of the amount comprising the fund at the date when the company ceases the business; and

(b) remit the amount deducted in paragraph (a) to the Board on account of the corporation tax of the company for the year in which it ceases the business.

(6) The trustee of a catastrophe reserve fund shall submit to the Board accounts in respect of that fund within three months from the end of the accounting period of the company which established the fund.

(7) For the purposes of this section -

"catastrophe reserve fund" or "fund" means a fund established by a company under section 49A of the Insurance Act;

"company" means a company registered under the Insurance Act to carry on property insurance business insuring against catastrophe risks;

"net written premium income" means the income from premiums of a company after deducting reinsurance premiums for catastrophe risk reinsurance;

"property insurance business" means the business of effecting and carrying out contracts of insurance against risk of loss of or damage to property, not being risks of such kinds that the business of effecting and carrying out contracts of insurance against them constitutes marine, aviation and transport insurance business or motor insurance business.

**25310E.** Repealed.

<sup>254</sup>Finance Act 35 of 1998  
Act 2 of 2006

**10F.** (1) Where in a year of income commencing from the year 1998, a company acquires from the holder of a bond, note, debenture or other similar debt security the right to receive the income derived from any of those debt securities, there shall be allowed as a deduction from the income from any source, in ascertaining the chargeable profits of the company for that year of income, all outgoings and expenses wholly and exclusively incurred by that company in respect of the acquisition of the income in relation to those debt securities, whether or not such income is exempt from tax under this Act or any other written law.

(2) For the purposes of this section, the outgoing and expenses incurred by a company in acquiring the right to receive the income derived from a debt security referred to in subsection (1) shall include interest expenses, investment fees or the consideration paid for the purchase of interest coupons relating to such debt security.

Bonds, notes, debentures, other debt securities  
<sup>255</sup>Act 39 of 2000

**10G.** (1) Subject to section 10L, where in a year of income commencing from the year 2001, a company incurs expenditure in respect of an artistic work, there shall be allowed as a deduction, in ascertaining the chargeable

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<sup>253</sup> Effective 1<sup>st</sup> January 2006. (Deductions for training of employees up to 150% of expenses)

<sup>254</sup> BIR Note: Effective 1<sup>st</sup> January 1999

<sup>255</sup> BIR Note: Effective 1<sup>st</sup> January 1998

profits of the company for that year of income, an allowance equal to the actual expenditure incurred up to a maximum of one million dollars. <sup>256</sup> Finance Act 2 of 2002  
<sup>257</sup> Finance Act 5 of 2004  
<sup>258</sup> Act 2 of 2006

- (2) In respect of a visual work of art –
- (a) the deduction may only be claimed in respect of the initial acquisition of the work; and
  - (b) the deduction may be allowed where the work –
    - (i) is done by a national of Trinidad and Tobago; and
    - (ii) is certified by an art gallery, which shall submit a valuation of the work done.

(3) In the case of a performing art, the deduction shall only apply where –

- (a) the work is done by a national of Trinidad and Tobago;
- and
- (b) the national rendering such work is registered with the Ministry with responsibility for culture or with the Tobago House of Assembly, in the case of a national residing in Tobago.

(4) In this section “artistic work” means any work of art, whether visual or performing. Art and Culture Allowance  
<sup>259</sup> Act 91 of 2000

**10H.** (1) In ascertaining the chargeable profits of a company for a year of income commencing from the year 2000, there shall be allowed the actual expenses incurred in granting scholarships to nationals who are not employees, directors or associates of directors of that company, for tertiary education at institutions and in areas of study accredited and approved respectively by the Ministry with responsibility for education.

(2) For the purpose of subsection (1), an “associate” includes the spouse, parent, child, brother, sister or partner of a person. Scholarship Allowance  
<sup>260</sup> Act 91 of 2000

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<sup>256</sup> BIR Note: Effective 1<sup>st</sup> January 2003; maximum \$450,000

<sup>257</sup> BIR Note: Effective 1<sup>st</sup> January 2004; maximum \$1,000,000

<sup>258</sup> BIR Note: Effective 1<sup>st</sup> January 2006; allowance reduced from 150%

<sup>259</sup> Effective 1<sup>st</sup> January 2000

<sup>260</sup> Effective 1<sup>st</sup> January 2000

**10I.** (1) Subject to section 10L, where in a year of income commencing from the year 2003, a company promotes or sponsors sporting activities or events or sportsmen, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income an allowance equal to the actual expenditure incurred in respect of such promotion or sponsorship, up to a maximum of one million dollars.

Deduction of expenditure by promoters or sponsors of sporting activities and sportsmen

<sup>261</sup>Finance Act 2 of 2002

<sup>262</sup>Finance Act 5 of 2004

<sup>263</sup>Act 2 of 2006

(2) In the case of a sportsman sponsored by a company, the deduction shall only apply where the sportsman is a national of Trinidad and Tobago.

(3) In this section, “sporting activities or events” means athletics, badminton, basketball, amateur boxing, martial arts, wrestling, cricket, cycling, model aeroplane flying, football, rugby, golf, hockey, netball, baseball, polo, swimming, tennis, weightlifting, yachting and such other activities or events as may be prescribed, under subsection (4), by the Minister with responsibility for sports.

(4) The Minister to whom responsibility for sports is assigned may, by Order, amend the list of sporting activities or events detailed in subsection (3).

(5) For the purposes of this section “sportsman” means an individual engaged in sporting activities or events.

**10J.** Subject to section 10L, where in a year of income commencing from the year 2003, a company sponsors audio, visual or video productions for the purposes of local education or local entertainment or reflecting local culture for radio or television, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance of one hundred and fifty per cent of the actual expenditure incurred in respect of such productions up to a maximum of one million dollars.

Deduction of expenditure by sponsors for audio, visual or video productions

<sup>264</sup>Finance Act 2 of 2002

<sup>265</sup>Finance Act 5 of 2004

<sup>266</sup>Act 2 of 2006

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<sup>261</sup> Effective 1<sup>st</sup> January 2003

<sup>262</sup> Effective 1<sup>st</sup> January 2004

<sup>263</sup> BIR Note: Effective 1<sup>st</sup> January 2006; allowance reduced from 150%

<sup>264</sup> BIR Note: Effective 1<sup>st</sup> January 2003

<sup>265</sup> BIR Note: Effective 1<sup>st</sup> January 2004

<sup>266</sup> BIR Note: Effective 1<sup>st</sup> January 2006; allowance previously reduced from 150% but reinstated by Act 17 of 2007

**267**<sup>10K</sup>. Where in a year of income commencing from 1<sup>st</sup> January, 2006, a production company incurs expenditure in respect of its own audio, visual or video productions for educational purposes or promoting or reflecting local entertainment or local culture for use in radio, television or cinematograph works, there shall be allowed as a deduction in ascertaining the chargeable profits of the company for that year of income, an allowance equal to one hundred and fifty percent of the actual expenditure incurred in making such productions up to a maximum of one million dollars.

Deduction of expenditure by a production company

<sup>268</sup>Finance Act 2 of 2002

<sup>269</sup>Finance Act 5 of 2004  
Act 2 of 2006

Finance Act 17 of 2007

**10L(1)** For the purpose of ascertaining the chargeable profits of a company for a year of income, the aggregate allowance that may be claimed under sections 10G, 10I and 10J shall not exceed the sum of one million dollars.

Assessing Chargeable profits

<sup>270</sup>Finance Act 2 of 2002

<sup>271</sup>Finance Act 5 of 2004

<sup>272</sup>Act 2 of 2006

Finance Act 17 of 2007

<sup>273</sup>(2) In the case of a production company, in addition to the deduction allowed under section 10K, the company shall be entitled to claim an aggregate allowance of up to a maximum of one million dollars with respect to sums paid to finance sporting activities and artistic works not related to its own business.

Act 2 of 2006

Finance Act 17 of 2007

**10M.** For the removal of doubt a company which is granted an allowance under sections 10G, 10H, 10I and 10J shall not also be entitled to a deduction under section 10 of the Income Tax Act as applies to the Corporation Tax Act.

Double deductions prohibited

Chap. 75:01

Chap. 75:02

<sup>274</sup>Finance Act 2002

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<sup>267</sup>BIR Note: Reinstated effective 1<sup>st</sup> January 2006 by Finance Act 17 of 2007- Originally repealed by Act 2 of 2006.

<sup>268</sup>BIR Note: Effective 1<sup>st</sup> January 2003

<sup>269</sup>BIR Note: Effective 1<sup>st</sup> January 2004

<sup>270</sup>BIR Note: Effective 1<sup>st</sup> January 2003

<sup>271</sup>BIR Note: Effective 1<sup>st</sup> January 2004

<sup>272</sup> Section re-numbered from 10 L (1) effective 1<sup>st</sup> January 2006

<sup>273</sup> Effective 1<sup>st</sup> January 2006. This subsection was repealed by Act 2 of 2006 but was reinstated by Act 17 of 2007.

<sup>274</sup> Effective 1<sup>st</sup> January 2003

<sup>275</sup>Act 2 of 2006

**10N.** For the purposes of section 10J -

- (a) the Minister with responsibility for education shall issue a certificate, in respect of a production for educational purposes referred to therein, to the effect that the production is for educational purposes;
- (b) the Minister with responsibility for culture shall issue a certificate in respect of a production to promote or reflect local entertainment or culture referred to therein, in the manner prescribed to the effect that the production is to promote or reflect local entertainment or culture,

and a deduction shall not be allowed by the Board in the absence of such certificate.

<sup>276</sup>Finance Act 2 of 2002

<sup>277</sup>Finance Act 5 of 2004

<sup>278</sup>Act 2 of 2006

Certification by the Minister

<sup>279</sup>**10.O** (1) Notwithstanding section 7(3) (b), but subject to subsections (2), (3), (4) and (5) where, in a year of income, a company makes a covenanted donation to charity, the company shall be entitled to claim as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to the amount of the covenanted donation payable during that year not exceeding fifteen per cent of the total income of the company.

Covenanted Donations

<sup>280</sup> (2) Repealed

Act 2 of 2006

(3) A company shall not be entitled to claim as a deduction under subsection (1), an allowance which is more than the actual expenditure incurred during that year of income.

(4) A company shall not be entitled to the allowance under this section where the deed or other agreement under which the covenanted donation to charity is made has not been duly stamped in accordance with the Stamp Duty Act by the 31<sup>st</sup> December of the year in which the deed or agreement was executed.

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<sup>275</sup> Effective 1<sup>st</sup> January 2006

<sup>276</sup> Effective 1<sup>st</sup> January 2003

<sup>277</sup> Repealed and replaced effective 1<sup>st</sup> January 2004

<sup>278</sup> Effective 1<sup>st</sup> January 2006

<sup>279</sup> Effective 1<sup>st</sup> January 2004. Acts by the Board prior to Finance Act 2005 with respect to covenanted donations validated by Section 8 of the Act.

<sup>280</sup> Effective 1<sup>st</sup> January 2006. Upper limit of \$1,000,000 for covenanted donations to charity deduction removed.



(5) For the removal of doubt, a company which is granted an allowance under this section shall not also be entitled to a deduction under sections 10G, 10H, 10I, and 10J in respect of the expenditure claimed under this section.

281 Act 2 of 2006

282 (5A) Repealed.

Act 2 of 2006

(6) For the purposes of this section, “covenanted donation to charity” means a payment under a deed of covenant or other agreement, made by a company in favour of-

- (a) a sporting body of persons as defined by section 6(2) approved by the President in writing; or
- (b) an ecclesiastical, charitable, or educational institution of a public character approved by the President in writing.

Finance Act 21 of 2004

### CLOSE COMPANIES

11.(1) A close company shall distribute as dividend profits which can be distributed without detriment to the company's business.

Power to direct distribution of certain profits

(2) With a view to preventing the avoidance of the payment of tax through the withholding from distribution of the profits of a close company which could otherwise be distributed it is hereby enacted that where it appears to the Board that such a company has not distributed to its members as dividend, profits which could be distributed without detriment to the company's existing business, the Board, by notice in writing to the company, may direct that such profits shall thereupon be distributed, so however, that in determining whether any company has or has not distributed profits that could be distributed as aforesaid, the Board shall have regard to the current needs and future development requirements of the company's business.

(3) Where, during any year of income, a close company, on an application made in the prescribed manner and within the prescribed time, satisfies the Board on the basis of concrete evidence that such distribution would be prejudicial to the current needs or to the future development requirements or both of the company, the Board may relieve such company from compliance with the directions under this section to such extent as it may

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281 Effective 1<sup>st</sup> January 2006

282 Effective 1<sup>st</sup> January 2006

consider appropriate, and the company shall thereupon be so relieved, so, however that if the Board refuses so to relieve the company or makes any direction with which the company is dissatisfied, the company aggrieved thereby may appeal to the Appeal Board within twenty-eight days of receipt of notice of such refusal or direction with which the company is dissatisfied, notwithstanding no assessment has been made.

- 12.(1) In computing the profits of a close company for any year of income for the purpose of ascertaining the chargeable profits of the company, the deduction that may be made for the remuneration by way of fees of director other than a whole-time service director shall not, subject to this section, exceed 10 per cent of the chargeable profits, before making the deduction for that remuneration or for initial allowances, other than the allowance in respect of annual depreciation provided for by the Income Tax (In Aid of Industry) Act, but so that the deduction does not exceed three thousand dollars for each such director.

Deductions for director's remuneration

(2) In computing the profits of a close company for any year of income there may be allowed a deduction for the remuneration by way of fees paid to any director, who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity of an amount not exceeding -

- (a) fifteen thousand dollars, in the case of the highest paid director;
- (b) ten thousand dollars, in any other case,

so however that where any such director receives remuneration by way of a salary as a full-time employee of the company, the company may not claim as a deductible expense an amount in excess of six thousand dollars in respect of the fees so paid.

(3) Notwithstanding anything in this section to the contrary where any sum paid to a director of a close company exceeds an amount which in the opinion of the Board appears to be fair and reasonable in view of the time provided by the director to the affairs of the company, the Board may deem the excess of the amount paid to such director over what is considered to be fair and reasonable, to be a distribution by the company to such a director.

13. The provisions of the Third Schedule shall have effect for the interpretation and operation of the foregoing sections of this Act relating to close companies, and those sections shall have effect subject to and in accordance with the provisions of that Schedule.

Supplementary provisions about close companies, Third Schedule

SPECIAL CLASSES OF COMPANIES

14. The provisions of the Fourth Schedule shall have effect for the purpose of ascertaining the chargeable profits and the tax payable thereon of Insurance Companies (including Life Insurance Companies) Shipping Companies and Air Navigation Companies.

Special provisions as to Insurance Companies and Shipping Companies, etc.  
Fourth Schedule

15. The provisions of the Fifth Schedule shall apply for the purpose of ascertaining the chargeable profits and the tax payable thereon of approved mortgage and other companies, and notwithstanding anything to the contrary in this or in any other enactment, the provisions of sections 42 to 46 of the Income Tax Act shall apply to an approved mortgage or other company referred to in the said Schedule for the purposes of this Part.

Approved Mortgage Companies, etc.  
Fifth Schedule

- <sup>283</sup>16. (1) Subject to this section, for the purpose of ascertaining the chargeable profits of an approved property development company, there shall be deducted an amount equal to fifteen per cent of any capital expenditure incurred by that company in the construction of a building that is to be used for commercial or industrial purposes by the company or a purchaser or lessee thereof, where the construction of the building is proved to the satisfaction of the Board to have commenced before December 31, 2005 and is completed on or before December 31, 2007.

(2) Where the period of construction of a building to which subsection (1) applies extends over more than one year of income, the deduction shall be allowed only in the year of income in which the building is completed.

(3) Where part of a building is to be used for commercial or industrial purposes and the capital expenditure incurred in the construction of that part of the building which is not to be used for commercial or industrial purposes-

(a) does not exceed one-tenth of the total capital expenditure incurred in the construction of the entire building, the deduction allowed under subsection (1) shall apply to the total capital expenditure incurred in the construction of the building;

(b) exceeds one-tenth but does not exceed one-half of the total capital expenditure incurred in the construction of the entire building, the

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<sup>283</sup> BIR Note: Effective 1<sup>st</sup> January, 2007. This section was re introduced after being repealed effective 1<sup>st</sup> January 2006

deduction allowed under subsection (1) shall apply only to the capital expenditure incurred in the construction of that part of the building which is to be used for commercial or industrial purposes; or

- (c) exceeds one-half of the total capital expenditure incurred in the construction of the entire building, no deduction shall be allowed under subsection (1).
- (4) For the purposes of this section, the Board may approve a company as an approved property development company, if it is satisfied that the company-
  - (a) has a paid-up share capital of not less than one million dollars; and
  - (b) is locally owned and controlled.
- (5) The Board may, in approving a company for the purposes of this section, impose such conditions as it may consider necessary or expedient.
- (6) Where the Board refuses to approve a company as an approved property development company, it shall, within thirty days of the refusal, inform the company by notice in writing of its refusal to grant the approval.
- (7) Where the Board is of the opinion that an approved property development company-
  - (a) has ceased to comply with the requirements of section 4;
  - (b) failed to construct the building within the time specified in subsection (1); or
  - (c) has failed to comply with any condition imposed by the Board,

the Board may, by notice in writing, withdraw its approval from the date specified in the notice and the provisions of subsection (1) shall cease to apply from that date.

- (8) The deduction allowed under subsection (1) does not preclude the grant of an initial allowance or annual allowance to which the company may be entitled under the Income Tax (In Aid of Industry) Act.
- (9) In this section-

“building” includes any structure of a permanent nature which forms part of or is attached to a building;

“commercial or industrial purposes”, in relation to the use of a building, does not include use for the purposes of a school, college, university, club, hotel, hospital, private hospital or of public entertainment or amusement;

“locally owned or controlled”, in relation to a company, means a company in which nationals beneficially own shares carrying between them, directly or indirectly-

- (a) the right to exercise more than one-half of the voting power of the company;
- (b) the right to receive more than one-half of any dividend that may be paid by that company; and
- (c) the right to receive more than one-half of any capital distribution in the event of the winding up or of a reduction in the share capital of that company;

“nationals” means citizens of Trinidad and Tobago and persons who, under any law relating to immigration are regarded as belonging thereto or having the status of residents, and includes companies controlled by such persons or by companies so controlled as specified in the definition of “locally owned or controlled”, and partnerships the majority share in which and the management of which are owned and controlled by such persons.

Deduction for capital expenditure by approved property development company  
Finance Act No.30 of 1974  
Finance Act No. 2 of 2004  
Finance Act No. 2 of 2006  
Finance Act No. 17 of 2007

<sup>284</sup>**16A.** (1) Subject to sections 16 B to 16 E -

Reliefs for certain companies  
Act No.11 of 1988

- (a) an approved small company;
- (b) an approved company carrying on business in a regional development area; and
- (c) an approved activity company,

shall be exempt from the payment of corporation tax for a period of five years commencing 1<sup>st</sup> January, 2006.

<sup>285</sup>Act 91 of 2000

Act 2 of 2006

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<sup>284</sup> BIR Note: Repealed and replaced effective 1st January 2006. These companies were previously entitled only to a tax credit of 25% of chargeable profits.

<sup>285</sup> BIR Note: Effective 1st January 2001

286(2) Repealed

Finance Act 1994

Act 2 of 2006

(3) A company that is desirous of being granted a benefit under this section may apply in writing to the Minister where it satisfies the criteria set out in this section and sections 16 B and 16 C.

287(4) Repealed.

Act 2 of 2006

(5) The Minister may, after consultation with the Small Business Development Company Limited, issue a certificate of approval to a small company referred to in subsection (1) (a) where that company -

Act 4 of 1995

(a) is locally owned and controlled as defined in section 16(9);

(b) has machinery, equipment and working capital the value of which does not exceed <sup>288</sup> one million five hundred thousand dollars; Finance Act 1994

(c) if incorporated on or after 8th January 1988, is not the result of the splitting or the reconstruction of an existing company;

(d) does not have as a shareholder any other company holding shares either directly or indirectly through its nominees;

<sup>289</sup>(e) maintains accounts which are audited by an accountant who is a member of the Institute of Chartered Accountants of Trinidad and Tobago; Finance Act 1994

(f) has potential for creating permanent jobs;

(g) has at least five permanent employees; and

(h) makes optimum use of locally produced raw materials.

**16B.** (1) In the case of a company carrying on a business in a regional development area, the Minister may, after consultation with the Industrial Development Corporation, issue a certificate of approval to that company where the company –

Regional development company

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<sup>286</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>287</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>288</sup> BIR Note: Effective 1st January, 1994. Previous limit - \$500,000

<sup>289</sup> BIR Note: Change effective 1st January, 1994

(a) is incorporated in Trinidad and Tobago on or after 8th January 1988 and is resident in Trinidad and Tobago;

(b) is locally owned and controlled as defined in section 16(9) and no other company holds more than twenty-five per cent of the issued share capital either directly or indirectly through its nominees;

(c) is not formed by the splitting or the reconstruction of a company already in existence;

(d) carries out its operations in an area designated by the Minister to be a regional development area in accordance with subsection (3) and produces manufactured goods or industrial services of which at least seventy-five per cent are produced in the regional development area;

(e) holds at least seventy-five per cent of its fixed assets in the regional development area;

(f) employs twenty or more workers of whom at least seventy-five per cent work in the regional area and receive more than sixty per cent of the company's total payment in respect of salaries and wages, such percentage to include the salary or wage of any worker who markets a product manufactured in a regional development area, outside of that area; and

(g) operates a system of accounts approved by the Industrial Development Corporation.

(2) The Minister may designate an area to be a regional development area where the area is outside the boundaries of the municipalities of Port-of-Spain and San Fernando, and

(a) is non-industrial; or

(b) has a high level of unemployment.

<sup>290</sup>(3) The Minister may by Notice publish a list of regional development areas.

**16C.** (1) The Minister may, after consultation with the Industrial Development Corporation, classify as an approved activity an activity capable of -

Classifying of approved activity

(a) earning hard currencies, or effecting significant savings of foreign exchange;

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<sup>290</sup> BIR Note: See Legal Notice 103 of 1990

- (b) creating a significant number of permanent jobs or offering prospects for future expansion;
- (c) stimulating technological development or developing new and modern industries; or
- (d) making efficient use of local raw materials,

and may by Notice publish a list of approved activities which in his opinion satisfy the criteria outlined in this subsection.<sup>291</sup>

(2) The Minister may, after consultation with the Industrial Development Corporation, issue a certificate of approval to an approved activity company where that company -

- (a) is incorporated in Trinidad and Tobago on or after 8th January 1988 and is resident only in Trinidad and Tobago;
- (b) is locally owned and controlled as defined in section 16(9) and no other company holds more than twenty-five per cent of the issued share capital either directly or indirectly through its nominees;
- (c) is not formed by the splitting or the reconstruction of a company already in existence;
- (d) employs more than ten persons;
- (e) is engaged in an activity classified as an approved activity under subsection (1) and the receipts from that activity exceed seventy-five per cent of the gross receipts in a year of income; and
- (f) operates a system of accounts approved by the Industrial Development Corporation.

(3) Where the requirements of this section are not complied with, the Minister may nevertheless issue a certificate of approval under subsection (2) subject to such conditions as he considers necessary or expedient.

**16D.** Where a certificate of approval is issued to a company under section 16 A, 16 B or 16 C, the Industrial Development Corporation shall register the company and issue to it a certificate of registration. Registration of companies

**16E.** (1) Where the Minister is of the opinion that any company to which section 16 A(1) refers no longer meets the requirements for approval, the Minister shall by notice in writing cancel that company's certificate of approval and notify the Industrial Development Corporation. Cancellation of certificate

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<sup>291</sup> BIR Note: See Legal Notice 104 of 1990



(2) Upon being notified by the Minister in accordance with subsection (1) the Industrial Development Corporation shall cancel that company's certificate of registration and notify the Board of that effect.

<sup>292</sup>**16F.** Repealed

Claim for credit

Act 2 of 2002

<sup>293</sup>**16G.** Repealed.

Variation of rate of tax credit

**16H.** For the purposes of sections 16 A to 16 E inclusive "Minister" means the member of the Cabinet to whom responsibility for Industry is assigned.

Definitions

**16 I** (1) Where, in a year of income, the profits of -

- (a) an approved fund or scheme under section 27(1)(c) of the Income Tax Act;
- (b) a sporting body or institution approved by the President under section 6(1)(e) or (g);
- (c) an approved annuity business not subject to tax under this Act, include -
  - (i) a dividend paid by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act;
  - (ii) the amount or value of a distribution paid by the Unit Trust corporation of Trinidad and Tobago,

payable out of interest in respect of which tax has been deducted under section 3B, such approved annuity business is entitled in that year of income to a tax credit equivalent to the tax deducted on the portion of the interest that relates to the dividend or distribution received.

(2) The tax credit referred to in subsection (1) shall not be granted unless a certificate from the trust or the Unit Trust Corporation of Trinidad and Tobago is produced in support of the claim relief.

(3) The certificate shall state the amount of tax deducted on that portion of the interest that relates to the dividend or distribution received.

(4) Notwithstanding the repeal of section 3B by the Provisional Collection of Taxes (No. 2) Order, 1996, this section shall continue to have effect for the purposes of subsection (5), as though section 3B had not been repealed.

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<sup>292</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Rate of tax credit for approved company.

<sup>293</sup> BIR Note: Effective 1<sup>st</sup> January 2006. Rate of tax credit for approved company

(5) Where an approved fund or scheme, approved sporting body or institution or approved annuity business is, in relation to the year of income ending 31<sup>st</sup> December, 1996, entitled to a tax credit under subsection (1), which exceeds the amount of tax for which it is assessed, such approved fund or scheme, approved sporting body or institution or approved annuity business, as the case may be, shall be entitled in relation to that year of income to a refund equivalent to the difference between the amount of the tax credit and the amount of the tax assessed.

**16J.** Where in any year of income, an investor makes an investment in the initial ordinary share capital of the Export Import Bank, that the investor shall be entitled to a tax credit of ten per cent of the amount of the investment for each of the three years following the year of income in which the investment was made.

<sup>294</sup>Finance Act 37 of 2000

**17.** (1) Except in so far as this Part otherwise provides, the Income Tax (In Aid of Industry) Act and any provisions of the Act relating to the making of allowances or charges under or in accordance with the said (In Aid of Industry )Act shall apply equally for purposes of corporation tax and income tax.

Application and adaptation of Income Tax Act as to capital allowance and other matters

(2) For purposes of corporation tax the right to an allowance or liability to a charge for a year of income and the rate or amount of any such allowance or charge, shall be determined under the provisions referred in subsection (1) by applying the law in force for the year of income.

(3) Where by virtue of this Part any provision of the Income Tax Act applies both to income tax and to corporation tax, it shall not be affected in its operation by the fact that they are distinct taxes but, so far as consistent with this Part, shall apply in relation to income tax and corporation tax as if they were one tax, so that, in particular, a matter which in a case involving two individuals is relevant for both of them in relation to income tax shall in a like case involving an individual and a company be relevant for him in relation to that tax and for it in relation to corporation tax; and for that purpose in any such provision of the Income Tax Act references to a deduction or allowance for the purpose of ascertaining chargeable income or to a specified provision of that Income Tax Act shall, in the absence of or subject to any express adaptation made by this Act, be construed as being or including a reference to any corresponding deduction or allowance for the purpose of ascertaining chargeable profits or to any corresponding provision of this Part.

**18.** (1) Subject to any express amendments made by this Part, sections 93 and 95 of the Income Tax Act together with any other enactment relating or referring to double taxation relief shall have effect in relation to corporation tax and profits chargeable

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<sup>294</sup> Effective 25<sup>th</sup> September 2000

thereto as they are expressed to have effect in relation to income tax and income chargeable thereto. Double taxation relief

(2) Where dividends are paid by a company resident in a country outside Trinidad and Tobago to a company resident in Trinidad and Tobago which controls directly or indirectly not less than one-quarter of the voting power of the company paying the dividends, then for the purpose of allowing credit against corporation tax in respect of the dividends in accordance

with the Fifth Schedule to the Income Tax Act, any Trinidad and Tobago tax payable by the first-mentioned company in respect of its profits (whether income tax or corporation tax) and any tax so payable under the law of any country outside Trinidad and Tobago shall be taken into account as if it were tax payable under the law of the first-mentioned country.

(3) For the purposes of this section a company shall be deemed to control, directly or indirectly, not less than one-quarter of the voting power in another company if a third company having such control also controls directly or indirectly not less than one-half of the voting power in the first-mentioned company.

**18A.** In Sections 18B to 18L -

"accounting period" means the period in respect of which corporation tax is chargeable; Interpretation

"claimant company" means a company which utilises the trading loss of a surrendering company;

"group relief" means relief that allows the current trading losses of a surrendering company to be set off, by way of relief from corporation tax, against the chargeable profits of claimant company, whether in whole or in part, where throughout their respective accounting periods, both companies satisfy the provisions of the group test set out in section 18C;

"surrendering company" means a company which incurs a trading loss and surrenders that loss to another company for the purpose of group relief;

"trading loss" means a loss referred to in section 16 of the income Tax Act but does not include capital allowances and expenses payable to a group member and claimed as a deduction if corresponding amounts have not been included in the profit of the other group member for a year of income. Chap. 75:01  
Finance Act 9/97

**18B.** Group relief for trading losses may be claimed by a company in accordance with the provisions of sections 18C to 18L. Relief for trading losses  
Finance Act 9/97

**18C.** Group relief shall be available where - Group relief available

- (a) the surrendering company and the claimant company are resident in Trinidad and Tobago and are both members of the same group throughout the respective accounting periods of both companies; and
- (b) the surrendering company and the claimant company are members of the same group in which one company is a 100% subsidiary of the other company or both companies are 100% subsidiaries of a third company by way of direct or indirect ownership.

Finance Act 9/97

**18D.** A company shall not be treated as the owner of a 100% subsidiary for the purposes of sections 18B to 18M if share ownership includes-

A company not a 100% subsidiary

- (a) any share capital which it owns directly by a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade;
- (b) any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt;
- (c) any share capital which it owns directly or indirectly in a body corporate not resident in Trinidad and Tobago

Finance Act 9/97

**18E.** Notwithstanding paragraph (b) of section 18C, a company shall not be treated as a 100% subsidiary of another company for the purposes of group relief, unless at the time of the claim -

Company not to be treated as a 100% subsidiary

- (a) the parent company is beneficially entitled to not less than 100% of any profits available for distribution to ordinary shareholders of the subsidiary company; and
- (b) the parent company would be beneficially entitled to not less than 100% of any assets of the subsidiary company available for distribution to its ordinary shareholders on a winding up.

Finance Act 9/97

**18F.** If in any year of income, the surrendering company incurs a loss in carrying on its trade, the amount of the loss may be set off against the total chargeable profits of the claimant company for the corresponding accounting periods of the claimant company.

Set off of trading loss  
Finance Act 9/97

**18G.** (1) A company claiming for group relief shall not be entitled to such relief unless the company -

Claims for giving relief

- (a) has claimed all of its available capital allowances; and
- (b) has utilized any of its own tax losses brought forward.

(2) A claim for group relief shall be made or withdrawn within two years of -

- (a) the end of the claimant company's accounting period; and
- (b) the end of the date of the surrendering company's accounting period to which the claim relates.

(3) A claim for group relief shall specify -

- (a) the name of the claimant company;
- (b) the accounting period for which the relief is claimed by the claimant company;
- (c) the name of the surrendering company;
- (d) the accounting period for which relief is claimed by the surrendering company;
- (e) the amount claimed in respect of the surrendering company; and
- (f) the total amount of profits of the claimant company to be covered by group relief.

Finance Act 9/97

**18H.** The reduction by means of group relief, of tax payable by a claimant company in a year of income shall not exceed 25% of the amount of tax which would have been payable had the relief not been granted.

Limit to group relief  
Finance Act 9/97

**18I.** (1) For the purposes of group relief, an accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company corresponds to the accounting period of the surrendering company.

Corresponding accounting period

(2) Where an accounting period of the surrendering company and a corresponding accounting period of the claimant company do not coincide -

- (a) the amount which may be set off against the total chargeable profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{B}$$

where that fraction is less than unity; and

- (b) the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{C}$$

where the fraction is less than unity.

(3) For the purposes of subsection (2) -

- (a) "A" is the length of the period common to the two accounting periods;
- (b) "B" is the length of the accounting period of the surrendering company; and
- (c) "C" is the length of the corresponding accounting period of the claimant company.

Finance Act 9/97

**18J.** Group relief shall be denied -

Denial of group relief

- (a) where the Board of Inland Revenue is of the opinion that a transaction which reduces or would reduce the amount of tax payable by the claimant company exists between the claimant company and the surrendering company and is artificial or fictitious; or
- (b) to companies which are only temporary group members.

Finance Act 9/97

**18K.** (1) Relief shall not be given more than once in respect of the same amount, in any accounting period, to the surrendering company.

Relief obtainable once for the same amount

(2) Two or more claimant companies shall not -

- (a) in respect of any one loss or other amount for which group relief may be given;
- (b) whatever their accounting periods corresponding to that of the surrendering company,

obtain, in all, more relief than could be obtained by a single claimant company whose corresponding accounting period coincides with the accounting period of the surrendering company.

Finance Act 9/97

**18L.** (1) Subject to subsection (2), two or more claimant companies may make claims relating to the same surrendering company and to the same accounting period of that surrendering company.

Aggregate of claim

(2) Notwithstanding subsection (1), where the claimant companies referred to in subsection (1) make claims, the aggregate of the claims shall not exceed the amount of the loss surrendered by the surrendering company.

Finance Act 9/97

**18M.** Group relief shall not apply to companies that are subject to taxation under the Petroleum Taxes Act. Non-application of relief

Finance Act 9/97

**19(1).** The corporation tax shall be under the care and management of the Board of Inland Revenue and, subject to sections 7 and 10, the provisions of the Income Tax Act in the Table below shall apply in relation to corporation tax as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modifications and adaptations: Application of certain provisions of the Income Tax Act

(2) Notwithstanding the repeal of sections 70(1)(b), 70(1)(c), 70(2), 71(2), 74(1) and 74(4) of the Income Tax Act, the said sections shall form part of the table below: <sup>295</sup>F.A. 35 of 1998

TABLE

INCOME TAX PROVISIONS APPLIED TO CORPORATION TAX

Section	2 (Interpretation)	
Sections	3 and 4 (Administration)	
Section	7 (Chargeable income of certain persons)	
Sections	10, 11, 11A, 11B and 12 (Deductions and Allowances)	Amended by F. A. 1995
Section	<sup>296</sup> 13 A Deleted.	Act 2 of 2006
Section	14 (Exemption of income from approved agricultural holdings)	
Section	16 (Allowance for trade losses)	
Section	21 <sup>297</sup> Deleted	F. A. 1991
		Finance Act 21 of 2005
Section	27(1)(c) (Approved fund or scheme with respect to deductions allowed at Section 11(1)(f), (g) and (h))	
Sections	28 to 33 (Approved Pension Fund Plans)	
Sections	42 to 46 (Income tax exemptions in respect of newly constructed dwelling houses)	
Section	<sup>298</sup> 48	Deleted F. A. 1996

<sup>295</sup> BIR Note: Effective 1st January, 1997

<sup>296</sup> BIR Note: Effective 1<sup>st</sup> January 2006

<sup>297</sup> BIR Note: (Donations to Charity etc.) Effective 1st January, 1991; Deleted effective 22<sup>nd</sup> July 2005.

<sup>298</sup> BIR Note: Effective 1st January, 1996

Section	299 48K (Tax credit for shares in Venture Capital Company) Act 22 of 1994	
Section	57 A (Tax credit-consolidated special levy)	
Sections	59 to 65 (Trustees, agents, etc.)	
Sections	67 to 75 (Settlements)	
Section	76 other than subsections (6) and (7), and Section 77	
Sections	79 to 82 (Payment of tax by installments)	
Section	30082A (Relief from payment of tax)	Finance Act 30 of 2007
Sections	83 and 84 (Assessments)	
Section	85 (Assessments lists, etc.)	
Section	86 (Notices of assessments)	
Section	87 and Ch.4:50 (Appeals)	
Sections	88 and 89 (Errors in assessments and additional assessments)	
Sections	90(1) to (3) (Repayment of tax)	
Section	92 (Refunds)	
Section	94 (Certain income deemed to be income for purposes of Act)	
Section	30197 General powers of the Board	
Section	103 (Interest for non-payment of tax)	
Section	302103A (Waiver of interest, additional tax, penalty, etc.)	
Sections	104 to 108 (Collection)	
Sections	109 to 112 (Recovery)	
Sections	113 and 114 (Notices)	
Section	115 (Imprisonment of defaulters)	
Sections	116 to 124 (General Provisions)	
Section	125 (Regulations)	
Sections	130 to 132 (Miscellaneous powers of the Board)	
Sections	133 to 141 (Expenses allowance to directors and others)	
	The First, Fifth and Sixth Schedules	

<sup>303</sup>**19A** .(1) A company which fails, neglects or refuses to furnish a return of income for the year of income 1994 and subsequent years after six months from the time required to file the return, shall, thereafter, in addition to any

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<sup>299</sup> BIR Note: Effective 1st December, 1994

<sup>300</sup> BIR Note: Effective 1<sup>st</sup> January 2008

<sup>301</sup> BIR Note: Effective 1st January, 1994

<sup>302</sup> BIR Note: Effective 28<sup>th</sup> August 2000

<sup>303</sup> BIR Note: Effective 29th March, 1995



other penalty provided in this Act, be liable to a penalty of one thousand dollars for every six months or part thereof during which such failure, neglect or refusal continues. Penalty for late filing

(2) A company which has not furnished a return of income for any year of income preceding the year of income 1994 and fails, neglects or refuses to furnish such return on or before 31st October 1995 shall, in addition to any other penalty provided in the Act, be liable to a penalty of one thousand dollars in respect of any such return for every six months or part thereof during which such failure, neglect or refusal continues. Finance Act 1995

(3) The Board may waive or reduce the penalty for late filing in circumstances where it is just and equitable to do so. <sup>304</sup>Finance Act 2 of 2002

### MISCELLANEOUS AND GENERAL

**20.** (1) An auctioneer, and any person carrying on a trade of dealing in any description of tangible movable property, or of acting as an agent or intermediary in dealings in any description of tangible movable property, may be required by the Board to deliver a return giving particulars of any transaction effected by or through him in which any asset which is tangible movable property is disposed of. Special return

(2) No person shall be required under this section to include in a return particulars of any transaction effected before 1st January 1966 or more than six years before the service of the notice requiring him to deliver the return to the Board.

**21.** Any person in whose name any shares of a company are registered shall if required by notice in writing by the Board, state in writing whether or not he is the beneficial owner of those shares, and, if not the beneficial owner of those shares or any of them, shall furnish the name and address of the person or persons on whose behalf the shares are registered in his name, and if any person on being so required neglects or fails to comply with the notice within the time limited by the notice, he shall be liable to a penalty of twice the amount of tax that would be chargeable at the highest rate in respect of the amount of the income apportioned to such shares. In this paragraph references to "shares" include references to "securities" and "loan capital". Nominee share-holdings

**22.** A return of a partnership under sections 76 and 78 of the Income Tax Act as applied by this Part shall include - Partnerships

(a) with respect to any disposal of partnership property during a period to which any part of the return relates the like particulars as if the partnership were liable to tax on any chargeable gain accruing on the disposal; and

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<sup>304</sup> BIR Note: Effective 1<sup>st</sup> January 2003

(b) with respect to any acquisition of partnership property the particulars required under section 76.

- 23.** A person holding shares or securities in a non-resident company or who is interested in settled property under a settlement the trustees of which are not resident in Trinidad and Tobago may be required by a notice issued by the Board to deliver to it such particulars as it may consider are required to determine whether the company or trust falls within section 60 of the Income Tax Act as applied by this part and whether any chargeable gains have accrued to that company, or to the trustees of that settlement, in respect of which the person to whom the notice is given is liable to tax by virtue of the said section 60 of the Income Tax Act.

Information as to non-resident companies and trusts

- 24.** (1) If for the purposes of this Part the Board authorises any public officer to inspect any property for the purpose of ascertaining its market value the person having the custody or possession of that property shall permit the officer so authorised to inspect it at all reasonable times.

Valuation

(2) If any person willfully delays or obstructs the officer acting in pursuance of this paragraph he shall be liable on summary conviction to a fine of fifteen hundred dollars.

- 25.** In a bankruptcy, corporation tax shall have the same priority as income tax.

Priority of tax in bankruptcy

- 26.** (1) Notwithstanding any written law to the contrary, where under any written law conferring exemption from income tax or corporation tax with respect to distributions or payments of interest made to members of a company that is exempt from income tax or corporation tax, the period during which such company may distribute profits that are exempt from tax is limited, such company may nevertheless distribute the exempt profits at any time thereafter and every such sum when so distributed is exempt from the payment of income tax or corporation tax in the hands of such members, if a special account showing the distribution and payments of interest made by the exempt company is maintained by the company to the satisfaction of the Board of Inland Revenue.

General as to exemption

(2) Where by any written law conferring exemptions from income tax or corporation tax with respect to the distributions or payments of interest made to members of a company that is itself exempt from tax, a member of such a company is another company, then that other company is entitled at any time to distribute a sum equal to the exempt distributions or payments of interest received by it to its members, and every such sum when so distributed is exempt from the payment of income tax or corporation tax in the hands of such members, if a special account showing the distribution and payments of interest received from the exempt company is maintained by the other company to the satisfaction of the Board of Inland Revenue.

**FIRST SCHEDULE**

**RATE OF CORPORATION TAX**

Section 3

1. For every dollar of the chargeable profits of a company, <sup>305</sup>twenty-five per cent, except as otherwise provided in paragraphs 2 and 3 in the case of the long-term business of an assurance company.

Finance Act 1995  
LN.212 of 1989  
Finance Act 1996  
Finance Act 2002  
Act 2 of 2006

2. In the case of the long-term insurance business of an assurance company the rate of tax shall be 15 per cent, except that where profits of that business are transferred to the shareholder's account, a corresponding amount of the profits of the accounting period ending in the year of income in which the transfer was made shall be treated as chargeable at the rate of <sup>306</sup> twenty-five per cent, and where there is an insufficiency of such profits of that accounting period the amount by which the profits so transferred exceeds the profits of such period shall be deemed to be profits of that period after making allowance for any tax previously paid.

Amended/Deleted Finance Act 1989  
L.N.212 of 1989  
Amended by Finance Act 1992  
Finance Act 1995  
Finance Act 1996  
<sup>307</sup>Finance Act 2002  
Finance Act 17 of 2007

3. (1) Companies engaged in the -

- (a) liquefaction of natural gas;
- (b) manufacture of petro-chemicals;
- (c) physical separation of liquids from a natural gas stream and natural gas processing from a natural gas stream;
- (d) transmission and distribution of natural gas;

<sup>305</sup> BIR Note: Effective 1<sup>st</sup> January 2006; 45% changed to 38% effective 1st January, 1995; 35% effective 8th May, 1996; 30% effective 1<sup>st</sup> January 2003;

<sup>306</sup> BIR Note: 45% changed to 38% effective 1st January 1995; 35% effective 8th May, 1996; 30% effective 1<sup>st</sup> January 2003; 25% effective 1<sup>st</sup> January, 2006 by Finance Act 17 of 2007.

<sup>307</sup> BIR Note: Effective 1<sup>st</sup> January 2003

- (e) wholesale marketing and distribution of petroleum products; and
- (f) any other activity prescribed by Order of the Minister with responsibility for finance,

shall be subject to corporation tax at the rate of thirty-five per cent per annum.

- (2) For the avoidance of doubt, companies engaged in the wholesale marketing and distribution of petroleum products shall not include companies –
  - (a) operating a liquid petroleum gas filling plant or conducting a refilling operation;
  - (b) involved in the sale and distribution of leaded and unleaded gasoline, diesel and kerosene lubricants and other car care products; or
  - (c) operating service stations.

<sup>308</sup>Finance Act 2002

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<sup>308</sup> BIR Note: Effective 1<sup>st</sup> January 2003

## SECOND SCHEDULE

### PART I

Sections 8(1), 9(1)

#### <sup>309</sup>CALCULATION OF EXPORT ALLOWANCE

1. Repealed

Act No.11 of 1984  
<sup>310</sup>Finance Act 2002

2. Repealed

<sup>311</sup>Finance Act 2002

### PART 2

#### COUNTRIES TO WHICH EXPORTS DO NOT QUALIFY FOR EXPORT ALLOWANCE

Repealed

Finance Act 1997  
<sup>312</sup>Finance Act 2002

### PART 3

#### <sup>313</sup>PRODUCTS WHICH DO NOT QUALIFY FOR EXPORT ALLOWANCE

<sup>309</sup> BIR Note: Effective 1st January 1983

<sup>310</sup> BIR Note: Effective 1<sup>st</sup> January 2003

<sup>311</sup> BIR Note: Effective 1<sup>st</sup> January 2003

<sup>312</sup> BIR Note: Effective 1<sup>st</sup> January 2003

<sup>313</sup> BIR Note: The former Schedule IV repealed by Section 13 of the Finance Act. No. 14 of 1976 read as follows:-

1. Where a company has made export sales during any of the three immediately preceding years of income, the export allowance shall equal an amount calculated at the rate of 1 per cent of the notional chargeable profits from exports in respect of every 1 per cent increase in the proceeds from the sales of exports during the year of income over the average annual proceeds from the sales of exports during the three immediately preceding years of income, so however, that the export allowance from any year of income shall not exceed an amount equal to 44 per cent of the notional chargeable profits from exports in that year.
2. Where a company has made no export sales during any of the three immediately preceding years of income, the export allowance shall equal 44 per cent of the notional chargeable profits from export for the year of income.
3. (1) The notional chargeable profits from exports shall be taken to be the amount produced by the formula  
$$\frac{P \times E}{S}$$
 where -

Repealed

Act No. 22 of 1979  
Act No. 5 of 1995  
<sup>314</sup>Finance Act 2002

PART 4

SERVICES WHICH QUALIFY FOR EXPORT ALLOWANCE

Repealed

Finance Act 1997  
<sup>315</sup>Finance Act 2 of 2002

- 
- (a) P is the chargeable profits of the company for any of the six years of income beginning with the two years immediately preceding and ending with the three years immediately following the year of income for which the allowance is claimed; and  
(b) for the year for which the export allowance is claimed, E is the proceeds from sales of exports (f.o.b.) and S is the proceeds from all sales for that year.

(2) In computing the proceeds from all sales for the year, where excise duty is paid upon any goods sold the amount of the excise duty shall be deducted.

<sup>314</sup> Effective 1<sup>st</sup> January 2003

<sup>315</sup> BIR Note: Effective 1<sup>st</sup> January 2003

**THIRD SCHEDULE**

**SUPPLEMENTARY PROVISIONS ABOUT CLOSE COMPANIES**

1. (1) For the purposes of this Part of this Act a "close company" is one which is under the control of five or fewer participators or of participators who are directors, except that the expression does not apply:-

- (a) to a non-resident company;
- (b) to a statutory or registered building or friendly society;
- (c) to a company controlled by or on behalf of the State; or
- (d) to a company falling within sub-paragraph (2).

(2) A company is not to be treated as a close company in any case where -

- (a) by reason of beneficial ownership of shares in the company the control of it is in the hands of a company which is not a close company or of two or more companies none of which is a close company; and
- (b) it could only be treated as a close company as being under the control of five or fewer participators, and it cannot be so treated except by taking as one of the participators a company which is not a close company;

but so that references in this sub-paragraph to a close company, shall be construed as applying to any company which, if a resident company, would be a close company.

2. For purposes of the provisions of this Act relating to close companies, a company is to be treated as another's "associated company" at a given time if at that time, or at any time within one year previously, one of the two has control of the other or both are under the control of the same person or persons.

**CONTROL**

3. (1) For purposes of this Part a person shall be taken to have control of a company -

- (a) if he exercises, or is able to exercise, or entitled to acquire, control, whether direct or indirect, over the company's affairs, and in particular, but without prejudice to the generality of the preceding words, if he possesses or is entitled to acquire, the greater part of the share capital or voting power in the company;

(b) if he possesses or is entitled to acquire, either-

(i) the greater part of the issued share capital of the company,

(ii) such part of that capital as would, if the whole of the profits of the company were in fact distributed to the members, entitle him to receive the greater part of the amount so distributed, or

(iii) such redeemable share capital as would entitle him to receive on its redemption the greater part of the assets which, in the event of a winding up, would be available for distribution among members; or

(c) if in the event of a winding up he would be entitled to the greater part of the assets available for distribution among members.

Where two or more persons together satisfy any of the conditions in paragraphs (a) to (c), they shall be taken to have control of the company.

(2) In sub-paragraph (1) "member" includes any person having a share or interest in the capital or profits of the company, and for purposes of that sub-paragraph a person shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire, but for the purposes of sub-paragraphs (1)(b)(iii) and (c) any such loan creditor as is mentioned in paragraph 4(1)(b) may be treated as a member (and the references to share capital as including loan capital) .

(3) For purposes of sub-paragraph (1) there shall be attributed to any person any rights or powers of a nominee for him, that is to say, rights or powers which another person possesses on his behalf or may be required to exercise on his direction or behalf.

(4) For purposes of sub-paragraph (1) there may also be attributed to any person all the rights and powers of any company of which he has, or he and associates of his have, control or any two or more such companies, or of any associate of his or of any two or more associates of his, including those attributed to a company or associate under sub-paragraph (3) but not those attributed to an associate under this sub-paragraph; and such attributions shall be made under this sub-paragraph as will result in the

company being treated as under the control of five or fewer participators, if it can be so treated.

"PARTICIPATOR" AND "ASSOCIATE"



4. (1) For purposes of this Part a "participator" is, in relation to any company, a person having a share or interest in the capital or profits of the company and, without prejudice to the generality of the preceding words, includes -

(a) any person who possesses or is entitled to acquire share capital or voting rights in the company;

(b) any person who is a loan creditor of the company otherwise than in respect of any loan capital or debt issued or incurred by the company for money lent by him to the company in the ordinary course of a business of banking carried on by him;

(c) any person who possesses or is entitled to acquire a right to receive or to participate in the distributions of the company or any amounts payable by the company (in cash or in kind) to loan creditors by way of premium on redemption;

(d) any person who is entitled to secure that the profits or assets (whether present or future) of the company will be applied directly or indirectly for his benefit.

(2) In sub-paragraph (1) references to "being entitled to do anything" apply where a person is presently entitled to do it at a future date or will at a future date be entitled to do it; and "loan creditor" means a creditor in respect of any redeemable loan capital issued by the company or in respect of any debt incurred by the company, being a debt -

(a) for money borrowed or capital assets acquired by the company;

(b) for any right to receive profits created in favour of the company; or

(c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon) .

5. For the purposes of this Act relating to close companies, "associate" means, in relation to a participator -

(a) a person in any of the following relationships of the participator, that is to say, husband or wife, parent or remoter forebear, child or remoter issue, brother or sister, and partner;

(b) the trustee or trustees of any settlement in relation to which the participator is, or any such relative of his (living or dead) as is mentioned in sub-paragraph (a) is or was a settlor ("settlement" and "settlor" here having the same meaning as in section 72 of the Income Tax Act and "relative" including a husband or wife);

(c) where the participator is interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, any other person interested therein,

and has a corresponding meaning in relation to a person other than a participator.

"DIRECTOR" AND "WHOLE-TIME SERVICE DIRECTOR"

6. (1) For purposes of this Act relating to close companies "director" and "whole-time service director" have the meanings assigned to them by this paragraph.

(2) "Director" includes any person occupying the position of director by whatever name called, any person in accordance with whose directions or instructions the directors are accustomed to act and any person who -

(a) is a manager of the company or otherwise concerned in the management of the company's trade or business;

(b) is remunerated out of the funds of that trade or business; and

(c) is, either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control twenty per cent or over of the ordinary share capital of the company ("ordinary share capital" here meaning all the issued share capital, by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate but have no other right to share in the profits of the company) .

(3) "Whole-time Service Director" means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity, and is not either on his own or with one or more associates, the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control more than five per cent of the ordinary share capital of the company ("ordinary share capital" here having the same meaning as in sub-paragraph (2)(c)) .

**FOURTH SCHEDULE****INSURANCE, SHIPPING AND AIR NAVIGATION COMPANIES**

1. Notwithstanding anything to the contrary contained in Part I of the Act, it is hereby provided that -

(1) In the case of a non-resident assurance company (other than the long-term insurance business of such company), the profits on which corporation tax is payable shall be the full amount of the profits of the company's business directly or indirectly accruing in or derived from Trinidad and Tobago as ascertained from the revenue account of the company's business in accordance with the provisions of Part I of this Act.

(2) in the case of a resident assurance company (other than the long-term insurance business of such company), the profits on which corporation tax is payable shall be the full amount of the profits of the company's business wherever carried on as ascertained from the revenue account of the company's business in accordance with the provisions of Part I of this Act.

(3) (a) In the case of a shipowner, the profits of his business as shipowner shall, if he produces or causes to be produced to the Board the certificate mentioned in subparagraph (b) of this paragraph, be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods or mail shipped in Trinidad and Tobago as the aggregate profits for the year of income shown by that certificate bears 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 shipowner 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 profits for the year of income as computed according to the tax law of that place (after deducting interest on any money borrowed and employed in acquiring the profits) to the aggregate of the amount of receipts of the shipowner's fleet or vessel for that period;

(c) if the profits of a shipowner have for the purpose of assessment in Trinidad and Tobago under Part I of this Act been computed on any basis other than the ratio of the profits shown by a certificate as aforesaid, and an assessment has been made accordingly, the shipowner shall, upon

production of such certificate at any time within two years from the end of the year of income, 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 paragraph, the expression "shipowner" means an owner or charterer of ships whose principal place of business is situated outside Trinidad and Tobago.

2. (1) Where an assurance company carries on long-term insurance business in conjunction with assurance business of any other class, the long-term insurance business of the company shall for purposes of Part I of this Act be treated as a separate business from any other class of business carried on by the company.

(2) Where an assurance company carries on ordinary life insurance business, general annuity business, industrial life insurance business, approved annuity business, bond investment business, non-cancelable sickness and accident insurance business or any of them -

(a) the ordinary life insurance business or general annuity business or both, as the case may be, shall be treated as a separate class of business; and

(b) the industrial life insurance business, approved annuity business, bond investment business, non-cancelable sickness and accident business, as the case may be, shall each be treated as a separate class of business,

and paragraph 3 relating to expenses shall apply separately to each such class of business.

(3) No loss incurred in connection with any business deemed to be a separate business under sub-paragraphs (1) and (2) shall be set off against the profits from any other business in any year of income but may be carried forward to be set off, to the extent provided by section 16 of the Income Tax Act as applied for the purposes of this Act against the profits of that business in succeeding years.

3. (1) The profits of the long-term insurance business of an assurance company on which corporation tax is payable shall be profits derived from the investment of its Statutory Fund, including, in the case of a resident company, profits from the investment of any foreign long-term insurance fund. Such profits shall be computed in accordance with the provisions of Part I of this Act, but subject as regards expenses, to this paragraph.

(2) Subject to paragraph 2(2), for the purpose of computing the profits of the long-term insurance business of an assurance company, there shall be allowed such proportion of the outgoings and expenses as the Board may, in any case, determine being such outgoings and expenses specified in the Table below as are wholly and

exclusively incurred during the year of income by such assurance company in the production of the profits.

(3) Deductions shall not be allowed for expenses directly related to annual premium income including the medical examination of policy holders, stamp duties payable on policies and other such expenses directly related to the inclusion of a policy on the books of the company; so however, that for the year of income 1969 and subsequent years there shall be allowed the following percentages of annual premiums as agents' commissions -

	Percentage of Annual Premium	
	1st Year	Second or Subsequent Years
1969	15 %	2 %
1970	10 %	2 %
1971	5 %	2 %
1972	Nil	2 %
1973 and Subsequent years		Nil

(4) The profits of approved annuity business shall not be chargeable to tax except to the extent that such profits are distributed to the shareholders.

4. Where, in the case of a non-resident company, any part of the profits of its long-term insurance business is transferred to the shareholders account, the amount of the profits that is to be treated under the First Schedule of this Act as chargeable at the higher rate of tax shall be taken to be the amount produced by multiplying the total amount transferred by the ratio of the Trinidad and Tobago actuarial reserves, over the company's world actuarial reserves.

5. (1) In this Schedule -

"foreign long-term insurance fund" means any fund representing the amount of the liability of an assurance company in respect of its long-term insurance business with policy holders and annuitants residing out of Trinidad and Tobago whose proposals were made to, or whose annuity contracts were granted by the company at or through a branch or agency outside Trinidad and Tobago and, where such a fund is not kept separately from the Statutory Fund means such part of the Statutory Fund as represents the liability of the company under such policies and annuity contracts, such liability being estimated in the same manner as it is estimated for the purpose of the periodical returns of the company to the supervisor under the <sup>316</sup> Insurance Act 1966;

<sup>316</sup> BIR Note: This Act has been repealed by the Insurance Act 1980

(Act 6 of 1980)

"long-term insurance business" means ordinary life assurance business, general annuity business, industrial life insurance business' approved annuity business' non-cancelable sickness and accident insurance and bond investment business;

"revenue account" means the revenue account required to be kept under section 45 of the Insurance Act, 1966;

"Statutory Fund" has the same meaning as in section 2 of the Insurance Act, 1966, except that in the case of a resident company the expression shall be deemed to include the authorised and paid up share capital of the company.

(2) Subject to this paragraph the First Schedule of the Insurance Act, 1966, shall apply for the purpose of the definition of much of the business referred to in this Schedule as are defined therein.

6. (1) Profits arising from the business of shipping carried on by a non-resident company shall be exempt from corporation tax provided that the President is satisfied that an equivalent exemption from tax is granted by the country of the non-resident company to the resident company.

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

TABLE

GENERAL AND INVESTMENT EXPENSES

RENT

1. Head office rents.
2. Branch office rents.

SALARIES, WAGES AND ALLOWANCES

3. Head office employees salaries and wages.
4. Branch office employees salaries and wages.
5. Manager and agents salaries.
6. Directors' fees.

EMPLOYEES AND AGENTS WELFARE

7. Contributions to pension and insurance plans for employees.
8. Contributions to pension and insurance plans for agents.
9. Other employees welfare.

PROFESSIONAL AND SERVICE FEES AND EXPENSES

10. Legal fees and expenses.
11. Auditors fees.

MISCELLANEOUS EXPENSES

12. Advertising.
13. Books and periodicals.
14. Bureau and Association dues.
15. Collection of bank charges.
16. Commission on mortgages.
17. Insurance, except on real estate.
18. Postage, telegraph, telephone, express.
19. Office furniture.
20. Rental of equipment and general office maintenance.
21. Traveling expenses, head office.
22. Traveling expenses, branch office.

REAL ESTATE EXPENSES, EXCLUDING TAXES

23. Real estate expenses.

**FIFTH SCHEDULE**

Section 15

**TAX EXEMPTIONS FOR APPROVED MORTGAGE COMPANIES AND  
OTHER COMPANIES**

1. (1) Notwithstanding the provisions of Part I of this Act but subject to subparagraph (2) and paragraph 1A(1), there shall be exempt from corporation tax any income or profits of a company derived from the business to which section 42(2)(b) to (e) of the Income Tax Act relates.

Act No.11 of 1988

Ch.75:01

Amended by Act No.18 of 1989

(2) For the purposes of subparagraph (1), the Minister may by instrument in writing declare a company to be an approved mortgage company where that company has entered into an agreement with the Government whereby the company agrees, in accordance with this Schedule and the Housing Act and under the terms of the agreement -

Ch.33:01

(a) to finance by way of mortgage the purchase of newly constructed houses;

(b) to finance by way of mortgage the repayment of loans granted for the construction of houses; and

(c) to finance the construction of houses by providing loans under loan agreements and by taking mortgages of the houses so constructed upon completion of construction.

Amended by Act No. 18 of 1989

(2A) Notwithstanding the termination of the agreement between a company and the Government referred to in subparagraph (2), the exemptions granted under this Schedule shall apply in respect of any mortgages or loans which the Minister certifies were granted prior to the date of termination. Amended by Act No. 18 of 1989

(3) Notwithstanding the provisions of paragraphs 1(1), 2, and 4(1) that relate to the taxes with respect to which the profits of an approved mortgage company or the shareholders or the debenture holders of an approved mortgage company are exempt, the terms of the agreement mentioned in subparagraph (2) may limit the taxes from which an approved mortgage company or the shareholders or the debenture holders in the approved mortgage company are exempt.

- 1A. (1) Where the Home Mortgage Bank has entered into an agreement with the Government to buy mortgage loans from approved mortgage companies, the Home Mortgage Bank is, subject to the terms of the agreement, deemed for the purposes of section 42(2)(d) of the Income Tax Act and paragraphs 1(1), 3(3) and 5 to be an approved mortgage company in relation to any mortgage loan that it buys from an approved mortgage company.

Amended by Act No.18 of 1989



(2) Notwithstanding subparagraph (1) or paragraph 4A(1) that relate to the taxes with respect to which the profits of the Home Mortgage Bank or the debenture holders of the Home Mortgage Bank are exempt, the terms of the agreement mentioned in subparagraph (1) may limit the taxes from which the Home Mortgage Bank or the debenture holders of the Home Mortgage Bank are exempt.

(3) Notwithstanding the termination of the agreement between the Home Mortgage Bank and the Government referred to in subparagraph (1), the exemptions granted to the Home Mortgage Bank by reason of that subparagraph shall apply in respect of any mortgage loan granted by an approved mortgage company which the Minister certifies was sold to the Home Mortgage Bank prior to the date of termination.

2. An approved mortgage company that is exempt from corporation tax under paragraph 1(1) may, within a period commencing on the date of the mortgage or loan agreement and ending two years after the date on which the repayment of the principal sum borrowed is completed, where the income is in respect of interest and service charge exempt from tax under section 42(2)(d) of the Income Tax Act, distribute sums not exceeding the exempt interest and service charge to the members of the company and these sums when so distributed are exempt from income or corporation tax in the hands of the members of the company. Amended by Act No.18 of 1989

3. (1) In this paragraph, "company" means a company limited by shares within the meaning of the Companies Ordinance. Ch.31 No.1

(2) A company that is in receipt of income or profits that are exempt from corporation tax under section 42(2)(b), (c) or (e) of the Income Tax Act may -

(a) within twelve years after the date of completion of construction of the newly constructed house, if the premiums and rents would be exempt from corporation tax under the said section 42(2)(b);

(b) within two years after the date of sale of the newly constructed house, if the gains or profits would be exempt from corporation tax under the said section 42(2)(c); or

(c) within a period commencing on the date of the mortgage and ending two years after the date on which the repayment of the principal sum borrowed is completed, if the interest and service charge would be exempt from corporation tax under the said section 42(2)(e),

distribute sums not exceeding in the aggregate the exempt income or profits to the members of the company and those sums when so distributed are exempt from income or corporation tax in the hands of the members of the company.

(3) This paragraph and paragraphs 2, 4 and 4A apply only where the company or approved mortgage company keeps and submits annually separate accounts to the satisfaction of the Board showing - Amended by Act No.18 of 1989

(a) the income or profits of the company from the sources specified in section 42(2)(b), (c), (d) or (e) of the Income Tax Act;

(b) all expenses and outgoings wholly and exclusively incurred in the production of the income or profits from each such source;

(c) the debenture holders account mentioned in paragraph 4(3) or 4A(3) as the case may require; and Amended by Act No.18 of 1989

(d) such other information as the Board may require.

4. (1) Where the income of an approved mortgage company is exempt from corporation tax under paragraph 1(1), any interest payable by the approved mortgage company on debenture borrowings by the approved mortgage company for the purpose of financing the construction of houses, the purchase of newly constructed houses or the repayment of loans granted for the construction of houses is, subject to sub-paragraphs (2) and (3), exempt from income or corporation tax in the hands of the debenture holders of the approved mortgage company, if the interest so paid is derived from income of the approved mortgage company exempt under paragraph 1(1). Amended by Act No.18 of 1989

(1A) Notwithstanding that an approved mortgage company sells to the Home Mortgage Bank a mortgage loan the interest or service charge payable under which is exempt from corporation tax under paragraph 1(1), if the approved mortgage company uses the proceeds of the sale to finance by way of mortgage the activities mentioned in paragraph 1(2)(a), (b) and (c) in accordance with the agreement referred to in that paragraph any interest payable on debenture borrowings which would have been exempt from income or corporation tax in the hands of the debenture holders of the approved mortgage company under subparagraph (1) but for the sale, shall continue to be so exempt. Amended by Act No.18 of 1989

(2) The period during which the interest paid to debenture holders is exempt from tax under sub-paragraph (1) is a period commencing on the date when the principal sums are paid for the debentures and ending two years after the date on which the principal sums secured by the debentures are deemed repaid under sub-paragraph (3).

(3) For the purposes of sub-paragraphs (1) and (2) any sum repaid to an approved mortgage company by the mortgagors who entered into mortgages or the borrowers who entered into loan agreements after the issue of those debentures shall, after deduction of any interest paid on those debentures, be debited against the debenture holders account until the sums so repaid to the approved mortgage

company equal the principal sum secured by the debentures and thereafter the debentures shall be deemed to have been repaid.

Amended by Act No.18 of 1989

(4) Notwithstanding the provisions of this paragraph that relate to the period during which the interest paid to debenture holders is exempt from tax, the Minister may, if he thinks fit, in the instrument mentioned in paragraph 1(2), make other provisions with respect to that period, and those provisions when so made apply to the approved mortgage company.

**4A.** (1) Where the income of the Home Mortgage Bank is exempt from corporation tax under paragraph 1(1) by reason of paragraph 1A(1), any interest payable by the Home Mortgage Bank on debenture borrowings by the Home Mortgage Bank for the purpose of financing the purchase of mortgage loans from approved mortgage companies is, subject to subparagraphs (2) and (3), exempt from income or corporation tax in the hands of the debenture holders of the Home Mortgage Bank, if the interest so paid is derived from income of the Home Mortgage Bank exempt under paragraph 1(1) by reason of paragraph 1A(1).

Amended by Act No.18 of 1989

(2) The period during which the interest paid to debenture holders is exempt from tax under subparagraph (1) is a period commencing on the date when the principal sums are paid for the debentures and ending two years after the date on which the principal sums secured are deemed repaid under subparagraph (3).

(3) For the purposes of sub-paragraphs (1) and (2), any sum repaid to the Home Mortgage Bank by the mortgagors under mortgage loans sold to the Home Mortgage Bank by approved mortgage companies after the issue of the debentures referred to in subparagraph (2), shall, after deduction of any interest paid on those debentures, be debited against the debenture holders account until the sums so repaid to the Home Mortgage Bank equal the principal sum secured by the debentures and thereafter the debentures shall be deemed to have been repaid.

(4) Notwithstanding the provisions of this paragraph that relate to the period during which the interest paid to debenture holders is exempt from tax, the Government may, in the agreement mentioned in paragraph 1A(1), make other provisions with respect to that period, and those provisions when so made apply to the Home Mortgage Bank.

**5.** For the purpose of claiming the exemption granted in accordance with section 42 of the Income Tax Act, an approved mortgage company and a company within the meaning of paragraph 3, may apply to the Minister for a certificate in the form prescribed under section 46 of the Income Tax Act.

**6.** In this Schedule -

“Home Mortgage Bank” means the Home Mortgage Bank established by the Home Mortgage Bank Act; and

Act No. 12 of 1985  
Amended by Act No.18 of 1989

"Minister" means the Minister responsible for Housing.

317 **SIXTH SCHEDULE**

[Sections 6A and 10B(6)]

**COUNTRIES IN RESPECT OF WHICH TAX DEDUCTIBLE  
PROMOTIONAL EXPENSES AND MARKET DEVELOPMENT GRANTS  
MAY NOT BE CLAIMED**

Antigua  
Barbados  
Belize  
Grenada  
Guyana

Jamaica  
Montserrat  
St. Kitts-Nevis  
St. Lucia  
St. Vincent

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<sup>317</sup> BIR Note: Effective 1st January 1983

## FINANCE ACT 1987

An Act relating to Health Surcharge, Income Tax, National Recovery  
Impost, Corporation Tax, Petroleum Tax, Stamp Duty, Purchase,  
Sweepstake, Departure and Airline Ticket Tax and Customs Duty

14 of 1987

(21st May 1987)

Enacted by the Parliament of Trinidad and Tobago as follows-

Enactment

1. This Act may be cited as the Finance Act 1987.

Short title

### PART I

#### HEALTH SURCHARGE

2. Except as otherwise expressly provided, expressions used in this Part have the same meanings as in the Income Tax Act.

Interpretation  
Ch.75:01

3. (1) A tax to be called a health surcharge shall be charged and is payable -

Health Surcharge

(a) by every employed person who pays or is liable to pay contribution under the National Insurance Act; and

Ch.32:01

(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) Repealed

Finance Act 1991

<sup>318</sup>(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.

Finance Act 1991

(3) With effect from the 1st June 1987 the Board is responsible for the due administration of this Part 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.

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<sup>318</sup> BIR Note: Effective 1st January, 1991

(4) The rates at which the 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.

Schedule

(8) In this Part -

"emoluments" has the same meaning assigned to it by section 100 of the Income Tax Act;

Ch.75:01

"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

<sup>319</sup>(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.

Finance Act 5 of 2004

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<sup>319</sup> BIR Note: Interest on late payment of health surcharge was increased to 15% effective 8th January 1988; 20% effective 30<sup>th</sup> January 2004

(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 Part 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.

5. (1) An employer who -

Offences

(a) fails or neglects to deduct health surcharge in respect of a person in his employment who is required to pay such surcharge; or

Interest

(b) having deducted or received health surcharge fails or neglects to deposit it with the Board, is guilty of an offence.

<sup>320</sup>(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 Part, 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.

Act No.11 of 1988  
Act No. 14 of 1987 amended  
Finance Act 2 of 2002  
Finance Act (No. 2) 30 of 2007.

(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.

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<sup>320</sup> BIR Note: BIR Note: Effective January 1, 2008 : Penalty on late remittance is reduced from 100%.



(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.

(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

(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 willful neglect has been committed by or on behalf of any person in connection with or in relation to health surcharge.

(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.

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). Repayments and credits

(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.

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 - Certificates of employee

- (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.

THE 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), 103A, 104 to 108, 110 to 125, 130 to 132 of the Income Tax Act. Act 91 of 2000

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

<sup>321</sup>PART II - AMENDMENTS TO THE INCOME TAX ACT

<sup>322</sup>PART III - NATIONAL RECOVERY IMPOST

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<sup>321</sup> BIR Note: Amendments under this Part – Section 10 – have been made to the relevant sections of the Income Tax Act.

<sup>322</sup> BIR Note: Part III was repealed by the Petroleum Taxes (Amendment) Act 1992

CHAPTER 4:50

**TAX APPEAL BOARD ACT**

AN ACT TO PROVIDE FOR APPEALS FROM ASSESSMENTS TO  
INCOME TAX, CORPORATION TAX AND OTHER TAXES.

29 of 1966(Section 29)

[1st January 1966]

Commencement

1. This Act may be cited as the Tax Appeal Board Act. Short title
2. Except insofar as the context otherwise requires, expressions used in this Act shall have the same meaning as in the Income Tax Act and the Corporation Tax Act. Interpretation  
Ch.75:01 Ch.75:02

APPEAL BOARD

3. (1) An Appeal Board (to be known as the Tax Appeal Board) is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Act or by any other written law. Establishment and jurisdiction of the Appeal Board
- (2) The Appeal Board shall consist of a Chairman and such other members as may be appointed under or in pursuance of section 4 of whom one may be the Vice-Chairman.
- (3) The Appeal Board shall be a superior court of record and have an official seal which shall be judicially noticed.
- (4) The Appeal Board shall have jurisdiction to hear and determine -
  - (a) appeals from the decision of the Board of Inland Revenue upon objections to assessment under the Income Tax Act;
  - (b) appeals from such other decisions of the Board of Inland Revenue or of any other person under the Income Tax Act as may be prescribed by or under that Act;
  - (c) such other matters as may be prescribed by or under this Act or any other written law.
- (5) A Registrar of the Appeal Board and such other officers, clerks and employees as may be required to carry out the business of the Appeal Board shall be appointed in manner authorised by law.

4. (1) The Chairman and the Vice-Chairman of the Appeal Board shall each be a barrister of not less than ten years' standing. Constitution of the Appeal Board

(2) The offices of Chairman and Vice-Chairman shall be public offices and are offices to which section 111 of the Constitution of Trinidad and Tobago (hereinafter referred to as the Constitution) apply.

(3) The members of the Appeal Board, other than the Chairman and Vice-Chairman (hereinafter referred to as ordinary members) shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of or experience in law, commerce, finance, industry, accountancy, taxation or the valuation of property.

(4) Ordinary members hold office for such term, not less than three years, as may be determined by the President at the time of their appointment, and are eligible for re-appointment.

(4 A) Notwithstanding that his term of office has expired, the Chairman, the Vice-Chairman or an ordinary member of the Appeal Board, may, with the permission of the President acting on the advice of the Chairman, continue in office for such a period after the expiry of his term as may be necessary to deliver judgment, or to do any other thing in relation to proceedings that were commenced before him before his term of office expired.

Act No.25 of 1985

(5) An ordinary member may, at any time by notice in writing to the President resign his office.

(6) The President may, on the recommendation of the Judicial and Legal Service Commission, remove from office any ordinary member for inability or misbehaviour, or on the ground of any employment or interest which appears to the said Commission to be incompatible with the functions of a member of the Appeal Board.

(7) Where an ordinary member is ill, or otherwise unable to act, or where his office is vacant, the President may appoint a temporary member to act in the stead of such member during his illness, or incapability, or until the office is filled, as the case may be.

(8) No defect in the qualification or appointment of any member of the Appeal Board shall vitiate any proceedings thereof.

5. (1) There shall be paid to the substantive Chairman the same salary and allowances as a Judge of the High Court, and such other allowances as the President may determine; and the said salary and allowances shall be a charge on the Consolidated Fund. Conditions of service of members of the Appeal Board

(2) The other conditions of service (other than the provisions relating to pension) of a Judge of the High Court shall also apply to the substantive Chairman.

(3) Such other conditions of service shall be applicable to the Vice-Chairman and ordinary members of the Appeal Board as may be prescribed by Order of the President.

(4) There shall be paid to the Vice-Chairman, to a person appointed to act in or perform the functions of the Chairman or Vice-Chairman, and to ordinary members of the Appeal Board such salary or remuneration and such allowances as may be prescribed by Order of the President; and such salary or remuneration and allowances shall be a charge on the Consolidated Fund.

(5) The salary, remuneration, allowances and the other conditions of service of the Chairman and of any other member of the Appeal Board shall not be altered to his disadvantage after his appointment and during his tenure of office.

(6) The offices of Chairman and Vice-Chairman of the Appeal Board are pensionable offices for the purposes of the Pensions Act.

(7) This section shall be deemed to have had effect as from 1st January 1966.

6. (1) Subject to section 3(2) of the Constitution the jurisdiction and powers of the Appeal Board may be exercised by the Chairman or the Vice-Chairman and two other members selected by the Chairman or the Vice-Chairman as the case may be for the purpose.

Procedure of the Appeal Board

(2) Notwithstanding subsection (1), the jurisdiction of the Appeal Board may be exercised with respect to -

(a) any matter, by the Chairman or Vice-Chairman sitting alone or with one other member, if the parties consent thereto;

(b) any matter of practice or procedure, by the Chairman or Vice-Chairman or any member of the Appeal Board who is a barrister or solicitor and is assigned for that purpose by the Chairman;

(c) any matter of practice or procedure which is un-contested, by any member of the Appeal Board assigned generally or specifically for that purpose by the Chairman.

(3) Subject to rules made under this section the Appeal Board may sit in more than one division at such times and in such places in any part of Trinidad and

Tobago as may be most convenient for the determination of proceedings before it.

Section 29 Finance Act 1966

(4) Unless rules made under this section otherwise provide, fourteen clear days' notice shall be given to the appellant and to the respondent of the date fixed for the hearing of a matter by the Appeal Board.

(5) The Chairman, when present, shall preside, and in the absence of the Chairman, the Vice-Chairman shall preside.

(6) The appellant and the respondent may appear before the Appeal Board in person or by counsel or solicitor.

(7) The Appeal Board, as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, has all such powers, rights and privileges as are vested in the High Court of Justice on the occasion of an action.

(8) A summons signed by the Registrar of the Appeal Board shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(9) With the consent of the appellant and the respondent the Appeal Board may order that written submissions be filed in addition to, or in place of an oral hearing.

(10) The decision of the Appeal Board shall be that of the majority of the members present, but so however that, the opinion of the presiding members on any matter arising in the course of any proceedings which, in his opinion, is a question of law, shall prevail.

(11) The decision of the Appeal Board in any proceedings shall be delivered by the presiding member.

(12) The Appeal Board may, subject to the approval of the President, make rules not inconsistent with this Act governing the carrying on of the business of the Appeal Board and the practice and procedure in connection with appeals, including the regulating of any matters relating to the cost of proceedings before the Appeal Board, but no such rule shall have effect until it has been published in the Gazette.

(13) The presiding member may, subject to the rules of the Appeal Board and to this Act, determine the procedure to be followed in an appeal.

(14) Where by any written law there is conferred on the Appeal Board jurisdiction which was previously exercised by another court, tribunal, authority or person (hereinafter called the former tribunal), then subject to section 7 and to any rules made under this section -

(a) the procedure which governed the exercise of the jurisdiction by the former tribunal shall continue, *mutatis mutandis*, to govern such exercise by the Appeal Board;

(b) the decisions of the Appeal Board in relation to such exercise are enforceable in the same way as those of the former tribunal;

(c) the effect of things done in or for the purpose of that jurisdiction by the former tribunal is preserved.

#### NOTICES OF APPEAL, HEARINGS, STATEMENTS OF CASE

7. (1) The provisions of this section shall apply to every appeal to the Appeal Board under section 87 of the Income Tax Act and to every other appeal to the Appeal Board under any other provisions of that Act or of any other written law.

Notices of appeal against assessment to tax  
Ch.75:01

(2) The appeal shall be instituted by filing with the Registrar of the Appeal Board a notice of appeal and serving a copy thereof on the Board of Inland Revenue or other respondent within twenty-eight days of the notification to, or the service on, the person appealing, of the decision of the said Board or respondent, or within such other time as may be prescribed by rules made under section 6(12) .

(3) Notwithstanding subsection (2), an appeal may be instituted out of time if the Appeal Board is satisfied that there was a reasonable cause for not appealing within the time limited and that the appeal was filed thereafter without unreasonable delay.

(4) The notice of appeal shall specify the grounds of appeal, and subject thereto, the appeal shall be in such form as may be prescribed by rules of the Appeal Board.

(5) If on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice of appeal, and the omission of that ground from the notice was in the opinion of the Appeal Board not willful or unreasonable, the Appeal Board shall not by reason of anything in subsection (4) be precluded from allowing the appellant to go into that ground or taking it into consideration.

(6) Immediately after receiving the notice of appeal the Board of Inland Revenue or other respondent shall forward to the Appeal Board copies of all documents relevant to the decision appealed from.

8. (1) An appeal shall be heard in camera, unless the Appeal Board, on the application of the appellant, otherwise directs.

Hearing and determination of appeals against assessment to tax

(2) The onus of proving that the assessment or other decision complained of is excessive or wrong is on the appellant.

(3) The Appeal Board may dispose of an appeal by -

(a) dismissing it;

(b) allowing it;

(c) allowing it and -

(i) vacating the assessment,

(ii) varying the assessment,

(iii) referring the assessment back to the Board of Inland Revenue for reconsideration and re-assessment.

(4) Any tax overpaid as a result of an overcharge determined by the Appeal Board shall be dealt with by repayment.

(5) Any revision of the charge to tax as a result of the appeal shall be dealt with by increase in assessment, or by reduction of the overcharge, as may be necessary.

(6) Except so far as may be provided by rules of the Appeal Board, the Appeal Board shall not have power to order the payment of costs by the Board of Inland Revenue or other respondent or by the appellant.

(7) The decision of the Appeal Board is final on a question of fact; but, subject to section 9, an appeal shall lie on any question of law to the Court of Appeal.

9. (1) The appellant or the Board of Inland Revenue, or other respondent, if dissatisfied with the decision of the Appeal Board as being erroneous in point of law, may, within twenty-one days after the delivery of the decision or within such other time as may be prescribed by rules of court made under section 10, appeal against such decision by -

Statement of case for opinion of Court of Appeal



(a) filing with the Registrar a notice in writing, in the prescribed form, requesting the Appeal Board to state and sign a case for the opinion of the Court of Appeal; and

(b) serving a copy of the said notice on the Board of Inland Revenue or other respondent or the appellant, as the case may be.

(2) Where the appellant requires the case to be stated the notice shall be accompanied by a fee of ten dollars.

(3) The case shall set forth the facts and the determination of the Appeal Board and the party requiring it shall transmit the case, when stated and signed, to the Court of Appeal within twenty-one days after receiving the same.

(4) At or before the time when he transmits the case to the Court of Appeal, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party.

(5) The Court of Appeal shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Appeal Board with the opinion of the Court thereon, or may make such other order in relation to the matters as to the Court may seem fit.

(6) The Court of Appeal may cause the case to be sent back for amendment, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

(7) Notwithstanding that a case has been required to be stated or is pending before the Court of Appeal, tax shall be paid within thirty days of the determination of the Appeal Board in accordance with the assessment of the Appeal Board, and if the amount of the assessment is altered by the order of judgment of the Court of Appeal, then -

(a) if too much tax has been paid, the amount overpaid shall be refunded with such interest, if any, as the Court of Appeal may allow; or

(b) if too little tax has been paid, the amount unpaid shall be deemed to be arrears of tax (except so far as any penalty is incurred on account of arrears), and shall be paid and recovered accordingly.

**10.** The Rules Committee under the Supreme Court of Judicature Act may subject to the provisions of this Act make rules governing appeals to the Court of Appeal. Rules of Court

**11.** The President may make regulations generally for carrying out the provisions of this Act and the provisions of section 125 of the Income Tax Act, so far as they are applicable, shall apply to the making of such regulations under this section as if these provisions were expressly incorporated herein. Regulations

## TAX APPEAL BOARD RULES

### Made Under Section 6

1. These Rules may be cited as the Tax Appeal Board Rules. Citation
  
2. In these Rules - Interpretation
  - "appeal" includes any matter, other than an application mentioned in Rule 5, which the Appeal Board is authorized to hear and determine;
  - "Chairman" means the Chairman of the Appeal Board;
  - "Court" means the Appeal Board;
  - "Form" means a form in the Schedule to these Rules;
  - "Inland Revenue" means the Board of Inland Revenue;
  - "Registrar" means the Registrar of the Appeal Board;
  - "Registry" means the office of the Registrar.

### PART I

#### GENERAL

3. (1) The Registrar shall keep in the Registry suitable books of record in which he shall enter a true copy of every order, judgment, directive or other decision of the Court and every document that the Court may require to be entered therein; and such entry constitutes and is the original record of such order, judgment, directive or decision. The Registry
  
- (2) It is the duty of the Registrar -
  - (a) to keep a record of all proceedings before the Court;
  - (b) to have the custody and care of all records and documents belonging or appertaining to the Court or filed in the Registry;
  - (c) to have the custody of the official seal of the Court and to affix it to any documents as may be required by law, or as may be generally or specially directed by the Court or the Chairman;
  - (d) to obey all rules and directions that may be made or given by the Court or the Chairman, touching his duties or office, and in the

event of a conflict of such rules or directions those made by the Court shall prevail;

(e) to have every order or judgment of the Court drawn pursuant to the directive of the Court filed in the Registry;

(f) to perform such other duties and functions as may be imposed upon him by or under these Rules or any written law.

(3) Every officer, clerk and employee attached to the Court shall, whenever required to do so by the Chairman, subscribe to a declaration in the Form A.

Form A

(4) The Registrar shall, by virtue of his office, have authority to take oaths and affidavits in proceedings before the Court.

(5) In the absence of the Registrar from illness or any other cause the duties and powers of the Registrar shall, where no person has been appointed to act in his stead, be performed or exercised by such officer or clerk in the Registry as maybe designated by the Chairman, or, in his absence, by another member of the Court thereunto authorized by the Chairman.

4. The Registry shall be open on every day of the year except Saturdays, Sundays, Good Friday, Easter Eve, Monday and Tuesday in Easter Week, Corpus Christi, Whit Monday, Christmas Day and the next following working day, and all other days appointed to be observed as public holidays, between the hours of 8.30 a.m. and 4.00 p.m.

Office Hours

5. (1) An application to the Court under these rules, or under any written law where no other express provision is made therefore, shall be in writing, signed by the applicant, his solicitor or agent, in the Form B with such variations as circumstances may require, and shall be addressed to all the persons on whom it is to be served.

Applications to the Court - Form B

(2) The application shall be filed in the Registry and a copy thereof served on every interested party within the time prescribed for the making of the application, or forthwith, where no such time has been prescribed.

(3) Subject to the directions of the Court or of the Chairman, the Registrar shall give to the applicant and to the other interested parties at least two clear days' notice of the time and place of the hearing of the application, unless the parties agree to a shorter notice, and the notice shall follow Form C as closely as may be.

Form C

(4) On the hearing of an application, evidence may be given by affidavit, but the Court may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit, and where, after such an order has been made, the person in question does not attend, his affidavit shall not be used as evidence unless by the special leave of the Court.

(5) Notwithstanding sub-rules (1) to (4), the Court may, subject to such conditions as it may impose, permit an application to be made orally at the hearing of an appeal.

6. (1) Any document required or authorized under these Rules to be filed in the Registry shall be delivered at the Registry to an officer or clerk of the Court during the office hours of the Registry. Filing of documents

(2) On the filing of any document in the Registry and on the issue thereof of any document the date stamp of the Court shall be affixed thereto.

7. (1) Unless these Rules or the Court or the Chairman otherwise direct, a party filing in the Registry any notice, application or other document under these Rules or under any enactment shall lodge in the Registry, in addition to the original, three copies of such notice, application or other document. Copies of documents

(2) The failure on the part of an appellant to comply with this rule shall not invalidate a notice of appeal.

8. Service of any notice, request or other document provided for in these Rules may be effected - Service of documents on parties

(a) on an appellant, by personal service or by registered mail addressed to the address given in the notice of appeal;

(b) on the respondent, by delivery at, or registered mail addressed to, the office of the respondent;

(c) on any party, at any other address or on any other person notified by the said party in a Notice filed in the Registry, a copy whereof has been served on the party serving the said document.

9. (1) Subject to rule 10, appeals shall be heard at Port of Spain. Place and time of hearing of appeals

(2) Twenty-eight clear days' notice shall be given by the Registrar to the appellant and to the respondent of the date fixed for the hearing of an appeal.

Tax Appeal Board Rules

**10.**(1) When an appeal has been set down for hearing, any party may, within seven days after the receipt by him of the notice of hearing make application to the Court for the appeal to be heard at a place other than that appointed in the notice of hearing. Application for change of venue

(2) The application shall set out the reasons in support of the application.

(3) An interested party shall, within seven days after service on him of a copy of the application in accordance with Rule 5, file in the Registry a statement of his consent or opposition to the application and, if the latter, shall set out his reasons therefor.

(4) Before deciding on a place in opposition to the wishes of a party the Court shall afford the parties an opportunity of being heard in relation to the application.

(5) The Court may grant or refuse the application or fix such other place for the hearing as it deems advisable in the circumstances.

(6) In fixing the place of hearing the Court shall have regard to all the circumstances of the case, including the matter of expense and convenience to the parties.

**11.** Where two or more appeals are pending, then if it appears to the Court - Consolidation of appeals

(a) that some common question of law or of fact arises in both or all of them;

(b) that the rights to relief claimed therein are in respect of or arise out of the same transaction or series of transactions; or

(c) that for some other reason it is desirable to make an order under this rule,

the Court may, on the application of any party order those appeals to be consolidated on such terms as it thinks just, or may order them to be tried at the same time, or one immediately after another, or may order any of them to be stayed until after the determination of any other of them.

**12.** (1) The Court may postpone or adjourn the hearing of an appeal or an application if any interested party for any reasonable cause has been prevented from attending at the hearing, or if it thinks it expedient in the interests of justice. Postponement or adjournment of hearing

(2) Where the postponement or adjournment is not to a definite date, the Court shall, unless the parties agree to a shorter time, give -

(a) to the parties to an appeal, at least fourteen clear days' notice; and

(b) to the parties to an application, at least two clear days' notice,

of the time and place of the postponed or adjourned hearing.

**13.(1)** Subject to sub-rule (1A), the parties to an appeal may, at the hearing of the appeal, tender evidence orally or by affidavit;

Amended by Finance Act, 1994

(1A) The appellant shall not, at the hearing of the appeal, introduce a document or other evidence which was not produced to the Board of Inland Revenue or other respondent during the period of objection or other appeal unless the Appeal Board is of the opinion that exceptional circumstances exist that warrant the introduction of the document or other evidence.

Evidence  
Finance Act 1994

(2) An affidavit containing evidence to be used at the hearing shall be filed in the Registry and a copy thereof served on every interested party not less than fourteen days before the date fixed for the hearing of the appeal.

(3) A counter affidavit for the purpose of rebutting evidence contained in a previous affidavit filed by an interested party shall be filed in the Registry and a copy thereof served on the other interested parties not less than seven days before the date fixed for the hearing of the appeal.

(4) Any party may by notice in writing require the attendance at the hearing, for the purpose of cross- examination, of the deponent to any affidavit or counter affidavit intended to be used by another party.

(5) A notice under sub-rule (4) shall be filed in the Registry and a copy thereof served on the other interested parties -

(a) in the case of an affidavit four days; and

(b) in the case of a counter affidavit two days,

before the date fixed for the hearing of the appeal.

(6) Notwithstanding sub-rules (4) and (5), where in the opinion of the Court there is no necessity for a deponent to attend the hearing for cross examination, the Court may dispense with the presence of the deponent.

(7) Without prejudice to the preceding provisions of this rule the Court may, at or before the hearing of an appeal, order or direct that evidence of any particular fact shall be given at the hearing in such manner as may be specified in the order or directions.

(8) The power conferred by sub-rule (7) extends in particular to ordering or directing that evidence of any particular fact may be given at the hearing -

- (a) by statement on oath of information or belief;
- (b) by the production of documents or entries in books; or
- (c) by copies of documents or entries in books.

**14.**(1) Where it is intended to sue out a subpoena, a praecipe for that purpose in the Form D shall be filed in the Registry. Witness Summons-Form D

(2) The writ of subpoena shall follow as closely as may be one of the Forms E or F. Forms E, F

**15.** Where pursuant to the provisions of section 6(8) of the Act, the Court has ordered that written submissions be filed in addition to or in place of an oral hearing - Written submissions

- (a) the facts set out therein shall be verified by affidavit;
- (b) the Court may give directions as to the times within which the written arguments of an appellant and of the respondent, and the reply of an appellant shall be filed in the Registry and copies thereof served on any other party by the party filing the same;
- (c) every such written argument shall be dated and signed by counsel or solicitor submitting the same.

**16.**(1) At the conclusion of the hearing of an appeal or application the Court may thereupon deliver or reserve its decision. Delivery of decision

(2) The decision may be given orally or in writing and, where it is given orally, the Court may, at the request of any party, made at the hearing or at the time when the decision is given, state its findings of fact and reasons in law for the decision.



17. The Court may, on the application of any party, extend the time for doing any act or taking any proceeding under these Rules or under any other rules of procedure governing the exercise of its jurisdiction by the Court, upon such terms as it may think fit; and any such extension may be ordered although the application for such extension is not made until after the expiration of the time appointed or allowed.

Extension of time

18.(1) When an appeal is against assessment of income tax the Court may make an order for the payment of costs -

Costs

(a) by any party, in respect of proceedings in which it appears to the Court that such party has been guilty of unreasonable delay or in respect of any improper, vexatious, prolix or unnecessary steps in any proceedings or any other unreasonable conduct on his part (including, but without prejudice to the generality of the foregoing, a refusal to make any admission or agreement as to the conduct of proceedings which such party ought reasonably to have made);

(b) by the Inland Revenue, where a ground of appeal relied on by a successful appellant raises a difficult question of law.

(2) In appeals other than those against assessment of income tax the Court may award such costs to or against any party as it thinks just.

(3) Where costs are awarded by the Court, the Court may direct that the party against whom the order is made shall pay to any other party -

(a) his costs to be taxed by the Registrar;

(b) a lump sum by way of costs; or

(c) a proportion of the costs as may be just, in which event the Court may itself assess the sum to be paid or direct that it be assessed by the Registrar.

(4) Where the costs are taxed or assessed by the Registrar under this rule, a party aggrieved by his decision may, within seven days after such decision has been given -

(a) file in the Registry an application to the Court for a review of the said decision; and

Tax Appeal Board Rules

(b) serve a copy of the application on every other interested party; and on hearing of the application the Court may vary or confirm the decision of the Registrar.

**19.**(1) Every judgment or order of the Court shall, unless it otherwise directs, be prepared by the Registrar and filed in the Registry.

Preparation of and filing of judgments and orders and amendments thereof

(2) The Registrar shall forthwith serve on the parties to the appeal a copy of every judgment or order filed under sub-rule (1).

(3) Any clerical mistake in any judgment or order of the Court, or any error therein arising from any accidental slip or omission, may at any time be corrected by the Court on the application of any party, filed in the Registry, a copy whereof has been served by the applicant on every other interested party.

**20.**(1) The Court may, from time to time, compile and publish reports of matters brought before it and of its decisions thereon, or the Court or the Chairman may authorise any person to compile and publish such reports.

Reports of decisions

(2) Where the hearing of an appeal or application has been held in camera, no such report shall contain -

(a) the name of the appellant or any other particulars which, in the opinion of the Court or the Chairman, are likely to identify the appellant, if the appellant objects thereto;

(b) any other particulars which, in the opinion of the Board or the Chairman, can be omitted from the report without affecting its usefulness or value.

**21.** Except as otherwise provided in the Act or in these Rules or in any written law, the Rules of the Supreme Court relating to applications to a Judge in Chambers and as to taxation of costs shall, with the necessary modifications, if any, apply to appeals and applications to the Court.

Application of Rules of the Supreme Court

## PART II

### INCOME AND CORPORATION TAX APPEALS

- 22.** (1) An application for an extension of the time for appealing under section 7(3) of the Act shall contain grounds of appeal which prima facie show good cause for the appeal, and together therewith there shall be filed an affidavit setting forth the reasons for the application. Extension of time for appealing
- (2) A copy of the affidavit shall be attached to every copy of the application served on an interested party.
- 23.** When the time for appealing is extended a copy of the Order granting such extension shall be annexed to the notice of appeal. Order to be annexed to notice
- 24.** (1) A notice of appeal given under section 7(2) of the Act shall - Notice of appeal
- (a) be signed by the appellant or his solicitor, or his agent duly authorised in writing;
  - (b) contain in the grounds of appeal specified therein a statement of the several allegations of fact and the points of law or other reasons which the appellant intends to submit in support of the appeal;
  - (c) contain an address at which documents may be served upon the appellant or his solicitor or agent;
  - (d) follow Form G as closely as may be. Form G
- (2) Where the notice of appeal is signed by an agent the authorisation signed by the appellant in that behalf shall be filed in the Registry together with the notice of appeal.
- 25.**(1) Six photostat or certified copies of all documents relevant to the decision appealed from, which they are required by section 7(6) of the Act to forward to the Court, shall be filed in the Registry by the Inland Revenue or other respondent. Inland Revenue to supply documents in sextuplicate
- (2) Where the appeal is against an assessment to tax the said documents shall include the following:-
- (a) the tax return (if any) of the appellant;
  - (b) the notice of assessment;
  - (c) the objection to the assessment; and

(d) the decision on the objection.

**26.(1)** In addition to the documents referred to in section 7(6) of the Act the Inland Revenue or other respondent shall, within twenty-one days after the service upon them of a notice of appeal - Filing of statement of case by Inland Revenue

(a) file in the Registry a statement of case setting out -

(i) the assessment, directive or other decision of the Inland Revenue or other respondent appealed from,

(ii) the material facts upon every point specified in the notice of appeal as a ground of appeal,

(iii) the reasons in support of such assessment, directive or other decision; and

(b) serve a copy of the said statement on the appellant.

(2) The Court may cause the statement of case to be sent back to the Inland Revenue or other respondent for amplification or amendment, and the Inland Revenue or other respondent shall within the time specified by the Court-

(a) amplify or amend the statement of case and file the same in the Registry;

(b) serve a copy of the amended or amplified statement on the appellant.

**27.(1)** Within fourteen days after the copy of the statement of case is served on the appellant the appellant may, if he thinks fit, file in the Registry an answer admitting any of the material facts set out in the statement or setting forth the material facts as alleged by him. Filing of answer by appellant

(2) Where the appellant files an answer under sub-rule (1), he shall within the time specified in sub-rule (1) serve a copy of the answer on the Inland Revenue or other respondent.

**28.(1)** A statement of case or answer may be amended and filed- Amendment of case and answer

(a) at any time by leave of the Court;

(b) without leave at any time before notice of hearing has been given.

(2) A copy of the statement of case or answer as amended shall be served on every other interested party by the party amending the same forthwith after the filing of the said document or within such time as may be allowed by the Court, or agreed between the parties.

**29.**(1) Subject to section 7(5) of the Act and to Rule 28 where an answer is filed by the appellant, it shall not be competent, on the hearing of the appeal, for the appellant or the Inland Revenue or other respondent to rely upon any facts or contentions of law not set out in the notice of appeal, statement of case or answer.

Extent to which parties bound by statements

(2) Where no answer is filed by the appellant, the statement of case shall not be conclusive as to the matters set forth therein either against the appellant or the Inland Revenue or other respondent.

**30.**(1) Subject to rules 9 and 10, notice appointing the time and place of hearing of the appeal may be given by the Registrar to the parties at any time after the expiration of six weeks from the filing of the notice of appeal. Notice of hearing of the appeal

(2) A notice under this rule may be given notwithstanding that the Inland Revenue have failed to file a statement of case in accordance with these Rules.

(3) A notice under this rule shall follow Form H as closely as may be.

Form H

**31.** No fees of Court shall be payable in respect of proceedings under this Part.

Fees of Court

SCHEDULE

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(Rule 3)

FORM A

Declaration of Secrecy made by an officer, clerk or employee attached to the Appeal Board, and having official duty under the Tax Appeal Board Act. I, ..... do solemnly and sincerely declare that I will regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or the items of the income of any person coming to my knowledge by virtue of my office or employment in the Appeal Board as secret and confidential and that I will not at any time communicate or attempt to communicate such information or anything contained in such documents, returns, lists or copies to any person -

(a) other than a person to whom I am authorised by the President to communicate it; or

(b) otherwise than for the purposes of the Tax Appeal Board Act

.....

Declared before me this ..... day of

.....19.....

Magistrate

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FORM B

(Rule 5)

APPLICATION

TRINIDAD AND TOBAGO

No. .... of 19..

**BEFORE THE APPEAL BOARD**

In re the Tax Appeal Board Act

**Between**

**A. B. Appellant**

**And**

**X. Y. Respondent**

Application is hereby made to the Appeal Board for an order/direction pursuant to rule ..... of the Appeal Rules (section of the Tax Appeal Board Act) that

.....

Dated this ..... day of ..... 19.....

.....  
Signature of Applicant  
or his Solicitor or Agent

To the Registrar of the Appeal Board and

To .....

of .....

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FORM C

(Rule 5)

NOTICE OF HEARING OF APPLICATION

TRINIDAD AND TOBAGO  
No. .... of 19...

**BEFORE THE APPEAL BOARD**

In re the Tax Appeal Board

**Between**

**A. B.Appellant**

**And**

**X. Y.Respondent**

TAKE NOTICE that the Appeal Board will on the .....  
day of ..... 19... at ..... o'clock in the.....  
noon at ..... hear the application of the appellant/respondent dated  
the ..... day  
of ..... 19.....

Registrar

To .....

of .....

and

To .....

of .....

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FORM D

(Rule 14)

(Praecipe of Subpoena)

**THE APPEAL BOARD**

Seal writ of subpoena

..... on

behalf of

.....directed to

Returnable .....

Dated this ..... day of ..... 19.....

Signature of Appellant or

Respondent or his Solicitor or Agent

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FORM E

(Rule 14)

(Subpoena ad testificandum)

**THE APPEAL BOARD**

1. To:

2.

3.

**GREETING:**

WE COMMAND YOU that, all excuses ceasing, you and each of you do personally be and appear before the

**APPEAL BOARD**

at ..... on the ..... day of ....., at .....  
o'clock in the ..... noon, to testify the truth according to your knowledge  
in an appeal pending in the Appeal Board, wherein .....is  
Appellant and ..... is Respondent, on the part of  
....., and herein fail not at your peril.

WITNESS the Chairman of the Appeal Board, at .....the ..... day  
of .....in the year of Our Lord one thousand nine hundred  
and

.....Registrar

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FORM F

(Rule 14)

(Subpoena duces tecum)

**THE APPEAL BOARD**

1. To:
- 2.
- 3.

**GREETING:**

WE COMMAND YOU that, all excuses ceasing, you and each of you do personally be and appear before the

**APPEAL BOARD**

at ..... on the ..... day of ....., at ..... o'clock in the ..... noon, to testify the truth according to your knowledge in an appeal pending in the Appeal Board, wherein ..... is Appellant and ..... is Respondent, on the part of .....,and that you bring with you and then and there produce ..... and show all and singular, those things which you know, or which the said paper writing doth import of, in or concerning the present appeal now pending in the said Board, and herein fail not at your peril.

WITNESS the Chairman of the Appeal Board, at .....the ..... day of .....in the year of Our Lord one thousand nine hundred and .....Registrar

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FORM G

(Rule 24)

(Notice of Appeal)

TRINIDAD AND TOBAGO

No. .... of 19...

**BEFORE THE APPEAL BOARD**

In re the Tax Appeal Board Act

**Between**

**A. B. Appellant**

**And**

**THE BOARD Respondent**

NOTICE OF APPEAL to the Appeal Board is hereby given from the assessment / decision / directive of the Board dated the .....day of ..... 19... wherein (a tax in the sum of \$..... was levied) in respect of income of the appellant for the income year 19...

2. The grounds of appeal are as follows -

(a) **Statement of allegations of fact;**

(b) **Statement of the reasons to be advanced in support of appeal.**

3. The address for service of the said A. B. is

.....

Dated this ..... day of ..... 19.....

(Signature of Appellant or  
his Solicitor or Agent)

To the Registrar of the Appeal Board

and

To the Board

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FORM H

(Rule 30)

(Notice of Hearing of Appeal)

TRINIDAD AND TOBAGO

No. .... of 19...

**BEFORE THE APPEAL BOARD**

In re the Tax Appeal Board Act

**Between**

**A. B.Appellant**

**And**

**THE BOARD Respondent**

TAKE NOTICE THAT THE Appeal Board will hear this appeal on  
the..... day of ..... 19... at .....o'clock in the ..... noon at  
.....

Dated this ..... day of ..... 19.....

Registrar

To .....

of .....

and To the Board

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**CHAPTER 75:03  
UNEMPLOYMENT LEVY ACT  
ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title.
2. Interpretation.
3. Administration of Act.
4. Applications of Act to certain exempt profits or gains.
5. Charge of unemployment levy.
6. Basis of charge of levy.
7. Rates of levy.
8. Due date, interest and administration.
9. Payment in advance by instalments.
10. Deductions on payment of emoluments.
11. Small adjustments.
12. Savings for income tax and corporation tax or petroleum profits tax.
13. Application of certain provisions of the Income Tax Act.
14. Unemployment fund.
15. Accounts.
16. Audit.
17. Levy to be paid into fund.
18. General penalty.
19. Regulations

-----  
**An Act to provide for the imposition of an unemployment levy upon the chargeable income or profits of persons.**

16 of 1970

[4TH JUNE 1970]

Commencement

1. This Act may be cited as the Unemployment Levy Act.

Short title

**PRELIMINARY**

2. (1) In this Act

Interpretation  
(22 of 1974)

Unemployment Levy Act

“assessment” means an assessment to petroleum profits tax

Act 6/89

“Board of Inland Revenue” or “Board” means the Board of Inland Revenue established by section 3 of the Income Tax Act

Chap. 75:01

<sup>323</sup>Finance Act 21 of 2005  
Finance Act 2 of 2006

“financial year” means the period of twelve months commencing on 1st January, in each year for which the levy is raised;

“profits or gains” means the income of a company that is charged to petroleum profits tax;

“unemployment levy” or “levy” means the levy imposed by this Act as from time to time amended, for the purpose of the relief of unemployment and the training of unemployed persons.

(2) Except as otherwise expressly provided expressions used in this Act have the same meanings as in the Petroleum Taxes Act.

Act 6/89

(3) For the purposes of the Act the taxable profits shall be increased by the amount of any loss that was allowed to be carried forward and set off under section 16 of the Income Tax Act in computing the petroleum profits tax for Petroleum tax purposes in the financial year (within the meaning of the Petroleum Taxes Act).

(4) Repealed

Act 6/89

3. (1) The Board of Inland Revenue shall be responsible for the due administration of this Act and for the computation, collection and recovery of the levy.

Administration of Act

(2) Any function conferred by this Act on the Board shall be exercised, as may be necessary, by any officer authorised by it according as the Board may direct and references in this Act to the Board shall be construed accordingly.

4. (1) Notwithstanding any rule of law to the contrary, the profits or gains of a person that would, but for the provisions of any written law (other than

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<sup>323</sup> Effective 1<sup>st</sup> January 2005. Section 10 of Act 2 of 2006 changed effective date from 1<sup>st</sup> January 2004.

Unemployment Levy Act

of the Petroleum Taxes Act) conferring exemptions from petroleum profits tax be the charge to the petroleum profits tax shall be within the charge to levy imposed by this Act.

Applications of Act to certain exempt profits or gains  
Act 6/89

(2) The Board of Inland Revenue shall, for the purposes of computing the levy, ascertain the taxable profits of a person referred to in subsection (1) in accordance with the provisions of the Petroleum Taxes Act as if the profits or gains or such person were charged to petroleum profits tax. Act 6/89

(3) Notwithstanding any rule of law to the contrary, the profits or gains of a company that are brought within the charge to the levy by subsection (1) shall, for the purpose of the distribution thereof as income or profits that is exempt in the hands of the members of the company, be taken to be reduced by the amount of the levy borne by the company, and accordingly no exemption from petroleum profits tax, shall be allowed to such members of the company in respect of any part of a distribution representing the levy. Act 6/89

5. Subject to this Act for the financial year 1970 and for each subsequent financial year there shall be charged, levied and collected on the profits or gains of a person an unemployment levy at the rate or rates hereinafter specified.  
Charge of unemployment levy

5A. The provisions of this Act do not apply to individuals. Act 11/88

3246. Subject to this Act, the levy shall be charged in accordance with section 7 on the taxable profits of a person for a financial year, in respect of which taxable profits for petroleum profits tax purposes are ascertained.  
Basis of charge of levy (22 Of 1974)  
Act 6/89

Finance Act 21 of 2005  
Finance Act 2 of 2006

7. The levy shall be at such rate or rates as are prescribed, except that until any other rate is prescribed the rate shall be 5 per cent on the full amount of the taxable profits. Act 6/89

3258. (1) Subject to this Act, the levy shall be computed and assessed on the

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<sup>324</sup> Deleted and substituted effective 1<sup>st</sup> January 2005. Section 10 of Act 2 of 2006 changed effective date from 1<sup>st</sup> January 2004

<sup>325</sup> Finance Act 21 of 2005 deleted subsections (1), (2), (3), substituted subsections (1), (2) and renumbered subsection (4) as subsection (3) effective 1<sup>st</sup> January 2005.



Unemployment Levy Act

taxable profits of a person for a current financial year and there shall be <sup>326</sup>due and paid by that person to the Board on or before 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December respectively in each year, an amount equal to one-quarter of the levy estimated for that current year.

Due date, interest and administration  
[22 of 1974]

Act 6 of 1989  
Act 2 of 2006

(2) If all or any part of the levy is not paid by the end of a quarter, the outstanding levy shall carry interest at the rate of twenty per cent a year from the date on which the quarterly instalment was due to the date of payment.

<sup>327</sup>(2A) Notwithstanding subsection (2)-

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

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

Act 2 of 2006

<sup>328</sup>(3) Every person who has income or profits that is within the charge to the levy for the financial year shall deliver to the Board together with his return of income for the financial year (within the meaning of the Petroleum Taxes Act) required by section 76(1) of the Income Tax Act a statement of the full amount of the taxable profits, for the purposes of this Act in a form approved by the Board and shall, if absent from Trinidad and Tobago, give the name and address of an agent residing therein.

Finance Act 21 of 2005  
Finance Act 2 of 2006

**329**. (1) The Board may estimate the amount of the levy payable by a person in each quarter of a current financial year where that person fails to pay over

Unemployment Levy Act

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<sup>326</sup> Effective 1<sup>st</sup> January 2005.

<sup>327</sup> Effective 1<sup>st</sup> January 2005

<sup>328</sup> Formerly subsection (4). Effective 1<sup>st</sup> January 2005.

<sup>329</sup> Finance Act 21 of 2005 substituted subsection (1) by deleting former subsections (1) and (2) effective 1<sup>st</sup> January, 2005.

the levy by the end of the quarter referred to in section 8(1).

Board may estimate quarterly payments  
Finance Act 21 of 2005

(2) In addition to the interest payable under subsection (5), where any person, being required by this Act to pay a part or instalment of the levy, has failed to pay all or any part thereof as required; he shall, on payment of the amount he failed to pay, pay interest at twenty per cent a year from the day on or before which he was required to make the payment to the day of payment or the beginning of the period in respect of which he becomes liable to pay interest thereon under subsection (5), whichever is earlier, unless the Board, on being satisfied that the failure to pay did not result from the taxpayer's own default, directs a reduction in the rate of interest payable.

Act 11/88 w.e.f. 8/1/88

<sup>330</sup>Finance Act 21 of 2005

<sup>331</sup>Act 2 of 2006

(3) In this section 'statement' means the statement referred to in section 8(3).

<sup>332</sup>Finance Act 21 of 2005

<sup>333</sup>(4) Subject to this section, every person shall pay to the Board the remainder of the levy, if any, as disclosed in its statement for the financial year, on or before 30<sup>th</sup> April, in the next year.

Act 2 of 2006

<sup>334</sup>(5) If all or any part of the remainder of the levy is not paid by 30<sup>th</sup> April in the next year, whether an assessment is already made or not, it shall carry interest at the rate of twenty per cent a year from the next day up to the date of payment.

Act 2 of 2006

## 10. Repealed

Act 6/89

11. Where on the assessment of a person it appears that the levy computed upon his taxable profits for the financial year (within the meaning of the Petroleum Taxes Act) falls short of or exceeds the amounts paid during the financial year in respect of the levy, and the shortfall or excess is less than three dollars, no adjustment thereof shall be made and the Board shall not demand payment or make refund in any such case.

Small Adjustments

[22 of 1974]

Ch. 75:04

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<sup>330</sup> Finance Act 21 of 2005 : Formerly subsection (5), now renumbered (2) effective 1<sup>st</sup> January 2005.

<sup>331</sup> Effective 1<sup>st</sup> January 2005. Interest now 20%.

<sup>332</sup> Finance Act 21 of 2005 : Formerly subsection (6), now renumbered (3) effective 1<sup>st</sup> January 2005.

<sup>333</sup> Effective 1<sup>st</sup> January 2005

<sup>334</sup> Effective 1<sup>st</sup> January 2005

Unemployment Levy Act

**12.** For the removal of doubts it is hereby declared that in ascertaining the taxable profits of a person for the purposes of petroleum profits tax no deduction or allowance shall be made of, or on account of, the levy imposed by this Act.

Saving for income tax and corporation tax  
(22 of 1974)  
Act 6/89

**13.** Subject to the provisions of this Act, the provisions of the Income Tax Act in the table below shall apply in relation to the levy as they apply in relation to income tax chargeable under the Income Tax Act but subject to any necessary modifications and adaptations - Application of certain provisions of the Income Tax Act

Ch.75:01  
Act 6/89

**TABLE**  
*Income Tax Provisions applied to Levy*

Sections 59 to 65 (Trustees, agents, etc)  
Section 86 (Notices of Assessment)  
Section 87 (Appeals)  
Section 90 (Repayments of Tax)  
Sections 104 to 108 (Collection).  
Sections 109 to 112 (Recovery)  
Sections 113 and 114 (Notices).  
Section 115 (Imprisonment of defaulters).  
Sections 116 to 124 (General provisions)

**14.** (1) In this section “Minister” means the Minister of Finance. Unemployment fund

(2) There is hereby established for the purposes of this Act an unemployment Fund which shall be administered by the Minister.

(3) Subject to this Act and to any regulations made thereunder the Minister is authorised to make advances from the fund for any of the purposes thereby provided.

**15.** All accounts relating to the fund shall be kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament.

Accounts

**16.** The Accounts shall be audited annually by the Auditor General in accordance

with Part V of the Exchequer and Audit Act as if the fund was established under section 43 of that Act.

Audit Ch.69:01

**17.** All moneys collected pursuant to this Act shall be paid into the unemployment fund.  
Levy to be paid into fund

**18.** A person who contravenes any of the provisions of this Act or of any

Regulations made thereunder is liable on summary conviction to a fine of five thousand dollars and in the case of a continuing offense to a further fine of one hundred dollars for every day on which any default continues after conviction thereunder.

General Penalty

**19.** The Minister may make regulations generally for giving effect to this Act, and in particular -

Regulations

- (a) for the management and control of the fund;
- (b) for prescribing the accounts, books and forms to be used;
- (c) as to the projects and other matters concerning which advances from the fund may be made;
- (d) for prescribing anything by this Act required to be prescribed.

## MISCELLANEOUS TAXES ACT

### PART IX

#### **335**TAX ON FINANCIAL SERVICES

**39.** (1) A tax to be called a financial services tax (hereinafter called “the tax”) shall be levied on the consideration for the supply of each of the services listed in the Ninth Schedule.

Financial Services Tax

(2) The Authority for the purposes of this Part is the Board of Inland Revenue (hereinafter called “the Board”).

(3) The tax shall be charged at the rate of fifteen per cent and shall be collected by the financial institution at the time that the financial service is supplied.

(4) For the purposes of this section and section 40, “financial institution” means a financial institution licensed under the Financial Institutions Act, 1993.

Act No. 18 of 1993

**40.** (1) The financial institution shall pay the tax collected by it to the Board on or before the fifteenth day of the month following the month in which the tax was collected by the financial institution.

Payment to the Board

Act 5 of 1995\*

<sup>336</sup>(1A) Every payment of the tax required to be made under subsection (1) shall be accompanied by a return in such form as may be approved by the Board and signed by a person or agent authorized by the financial institution.

Finance Act 30 of 2007

(2) Where the financial institution fails to collect the tax or make remittance in accordance with subsection (1), it is guilty of an offence and subject to subsection (3), in addition to such tax, the financial institution shall pay over to the Board an additional amount of twenty-five per cent<sup>337</sup> of the tax together with interest at the rate of fifteen per cent a year on such tax and such additional amount from the due date.

Finance Act 30 of 2007

(3) Repealed.

Act 5 of 1995\*

<sup>335</sup> BIR Note: Effective 1<sup>st</sup> January, 1994 Act 3 of 1994; \* effective 29<sup>th</sup> March 1995

<sup>336</sup> BIR Note: Effective 1<sup>st</sup> January, 2008

<sup>337</sup> BIR Note: Effective 1<sup>st</sup> January, 2008. Previously 50%.

(4) Repealed.

Act 5 of 1995\*

(5) Where a financial institution to which subsection (3) applies, pays the tax in any quarter amounting to less than ninety per cent of the liability to the tax for that quarter, the difference between ninety per cent of the liability to the tax and the amount paid by the end of the quarter in which the liability arose, shall be subject to interest from the day following the end of that quarter to the date of payment at the rate of fifteen per cent per annum.

(6) The Board may, if the circumstances so warrant, waive or reduce the additional amount or the interest referred to in subsection (2).

<sup>338</sup>

**40A.** (1) The Board may inspect only those books and records maintained by the financial institutions necessary to ensure that the financial institutions pay the correct tax.

Board may inspect books and records

(2) Where the Board in such inspection discovers that the correct tax in respect of financial services income has not been paid it shall raise assessments to recover the tax unpaid.

(3) For the purposes of exercising its powers under subsection (1) the Board shall have the same power as under sections 117 and 118 of the Income Tax Act except that the words “except a person engaged in confidential professional relationship with such person:” in subsection (1) of section 117 shall have no application under this subsection.

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<sup>338</sup> Effective date 1<sup>st</sup> January 1999 – Act 35 of 1998

**“NINTH SCHEDULE**  
**FINANCIAL SERVICES**

[Section 39(1)]

*Statements*

Daily statements on accounts  
Duplicate statements on accounts  
Interim statements on accounts  
Provision of Audit Certificates  
Certificate of balances/information on accounts  
Statements of interest earned  
Statement of loan payment  
Statement of interest paid  
Other statements on accounts

*Orders*

Stop payments  
Standing Orders  
Voucher search (Customer request)  
Accounts closed within a specified period of time (usually 3 months)  
Deposit broken before maturity  
Mail and Telephone Payment Orders - Outgoing Certified Cheques  
Cheques deposited and subsequently charged back to customers' accounts  
Clearing of cheques by Fax or Telephone  
Transfer between accounts to cover cheques  
Confidential reports:  
    Clients' requests  
    Correspondents' requests  
    Embassies'/Consulates' request  
Telephone confirmation of balance -  
    Interbranch withdrawals  
Withdrawals without passbook  
Third party withdrawals

*Bills, Bonds, Guarantees and Indemnities*

Bills discounted  
    T&T Export Credit Insurance

*Bills for Collection*

Bonding and Insurance of Goods  
Commission on Bills  
Case of Need Payments  
Certificate of Transfer of Title of Goods  
Certificate of Rates  
Consignment of Airway Bill/Bill of Lading without collection item  
Cheques sent on collection Delivery Orders and Airway Bill  
Endorsement of documents as Attorneys  
Extension of due date and alteration of tenor  
Holding Charge (Sight and Acceptance Bills)  
Handling Charge/Warehouse and Goods Noting/Protesting Fee  
Partial Payments/Payment by Instalment  
Postage/Airmail/Cable Charges  
Parcel Post Notice  
Payment to Agents  
Reshipment of goods  
Return bills commission  
Storage of goods  
Tracers

*Bills negotiated*

Handling charge

*Bonds and Guarantees*

Guarantees: Missing Bills of Lading Other  
Establishing fee  
Expired bonds  
Performance bonds  
Customs bonds

*Letters of Credit*

*Inward*

Airmail

Acceptance for correspondent bank on term drawings  
Amendment commission  
Advising commission  
Amendments: Increase in amounts Other  
Branch or correspondent bank charges  
Confirmation commission  
Carrying Cost/Acceptance  
Cancellation

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Establishing L/C  
Notification commission  
Negotiation commission  
Transferable or Divisible Letters of Credit

*Outward*

Acceptance commission  
Advising commission  
Amendment commission  
Cancellation fee  
Confirmation commission  
Dispatch of documents  
Drawings  
Establishment commission  
Follow-up for late payment

*Custody, Safekeeping and Night Depository Facilities Safe Deposit Boxes*

Rental:

Small box  
Medium box  
Large box  
Extra large box

*Additional visits to boxes*

Replacement: lost/broken keys  
Replacement locks  
Drilling of box  
Rental rebates

*Safekeeping*

Charge per visit for items held in safekeeping  
Envelopes/Small packages  
Gold and Silver - Commission  
Large packages  
Locked Boxes, Trunks, etc.  
Safekeeping:  
Regular

Temporary  
Warehousing/Safekeeping fee

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## *Night Depository*

Rental (per bag/wallet)  
Replacement Bag/Wallet  
Repair/replacement zip/lock  
Replacement keys  
Damaged Wallets

## *Cards, Cheque Books and Passbooks Cards*

### *A.T.M.*

Initial and Renewal charge  
Monthly service charge  
Replacement of lost or stolen cards  
Where available balance exceeded due to paying guaranteed cheque/ATM Withdrawal/  
Direct Debit (i.e. where Bankcards used as a debit card)

### *Credit Cards*

Principal cardholder annual fee  
Secondary cardholder annual fee  
Cash advance fee  
Lost card replacement fee  
Late payment fee  
Minimum monthly repayment  
Over the limit fee  
Dishonored item stop payment  
Certified Cheque  
Annual fee  
Nominated cardholder  
Commission on cash advance  
Over limit charge  
Late payment fee  
Returned cheque fee

Lost/Stolen/Damaged card charge

### *Cheques*

Cheque books:

Regular  
Other

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### *Passbooks/Certificates of Deposit*

Replacement of lost passbook  
Replacement of lost certificate of deposit

*Other Fees and Charges-Service Charges on Deposit Accounts*

Service Charge - Personal Accounts:

Activity charge

Unpaid item charge

Service Charge - Business Accounts:

Account maintenance

Activity charge

Overdraft facilities

Unpaid item charge

Inactive account charge

*Charges with Respect to Payments*

Drafts

Payroll Envelopes:

Collected in bulk by employer

Collected by employee

Pension cheques - Collection and payment

Processing salary

Salary payments

Telephone payment

Transfer to another bank from employer list

*Charges with respect to Foreign Exchange Transactions and Transferring of Funds*

Conversion of foreign currency cash to foreign currency draft

Charge for lost foreign draft

Cable/Telegraphic transfers handling charge

Draft Tracers

Exchange for one currency type for another currency type

Exchange of cash for negotiable instrument - Same currency

Foreign draft and IMO's:

Credit to account

Advise beneficiary to collect funds

Dishonored items

Forward contracts

Foreign cheques/Items cashed

Payment by receipt customer letter/Fax instructions

Sight purchases

Sight sales

Travellers Cheques

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*Bank Notices*

Notice of dormant accounts

*Returned items*

N.S.F. returned cheques

Voucher returned with statement

Returned item Charge - Foreign currency accounts

*Miscellaneous Charges*

Auditor's confirmations

Photocopy requests

Deposit by security firms over the counter

Exchange of coins - For non-bank account

Fascimile messages

Balances below designated amount on foreign currency accounts.”.

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PART X

**339**ROAD IMPROVEMENT TAX

**[Repealed]**

Act 35 of 1998

Miscellaneous Taxes Act

PART XI

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<sup>339</sup> Effective 27<sup>th</sup> November 1993 – Act 3 of 1994; repealed effective 1<sup>st</sup> October 2005.

### 340 HOTEL ACCOMMODATION TAX

51. In this Part -

Interpretation

“Appeal Board” means the Appeal Board established under section 3 of the Tax Appeal Board Act;

Chap. 4:50

“assessment” means an assessment referred to in section 52(14)(a);

“Board of Inland Revenue” or “Board” means the Board of Inland Revenue established under section 3 of the Income Tax Act;

Chap. 75:01

“company” means a body corporate or an unincorporated association, and includes a partnership;

“hotel” means a building or group of buildings occupied together comprising not less than six bedrooms for the purpose of providing hotel accommodation for reward;

“hotel accommodation” means sleeping accommodation and services and facilities ancillary thereto provided in an hotel for its guests, not being persons resident in the hotel under a contract of service;

“hotel accommodation tax” or “room tax” means the tax chargeable in accordance with section 52(1)(a);

“hotel operator” means a person who, either by himself or through an agent or servant, carries on the trade or business operating an hotel;

“person” includes a company.

52. (1) A tax to be called a hotel accommodation tax shall be-

Hotel accommodation tax

(a) charged on the proceeds of the letting of hotel accommodation by an hotel operator at the rate of ten percent of the proceeds of such letting and

(b) collected by an hotel operator.

Miscellaneous Taxes Act

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<sup>340</sup> Effective 29<sup>th</sup> March 1995 – Act 5 of 1995

- (2) The Tax Authority shall be the Board of Inland Revenue which, in respect of the collection and recovery of the tax, shall have all the powers as it has in relation to income tax under the Income Tax Act.
- (3) Hotel accommodation tax is payable notwithstanding that the hotel is an approved hotel for the purposes of the Hotel Development Act, or is otherwise exempt from any other tax charges, impositions or levies by virtue of any other written law. Chap. 85:02
- (4) The room tax shall be charged on the full amount of the proceeds of the letting without any other deduction or allowance than is authorised or allowed by this section.
- (5) An hotel operator is accountable to the Tax Authority for the tax and shall pay the tax to the Tax Authority on or before the last day of the month following that in which the tax is collected.
- <sup>341</sup>(5A) Every payment of tax required to be made under subsection (5) shall be accompanied by a return in such form as may be approved by the Tax Authority and signed by the hotel operator. Finance Act 30 of 2007
- (6) Where an hotel operator fails to remit the tax in accordance with subsection (5), the hotel operator is liable for the payment of the amount of the tax due, in addition to interest on such amount at the rate of fifteen per cent per annum from the due date.
- (7) An hotel operator shall keep such books of accounts and records as are required by the Tax Authority.
- (8) In computing the proceeds of letting of hotel accommodation -
- (a) no account shall be taken of room tax recovered by an hotel operator under subsection (12);
  - (b) no account shall be taken of receipt in respect of any ancillary services and facilities provided, if the hotel operator receives no part of the payment ascribable to such services.
- (9) In computing the proceeds of letting of hotel accommodation, there shall be allowed –

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<sup>341</sup> BIR Note. Effective January 1st 2008.

(a) bad debts, incurred in respect of the letting that are proved to the satisfaction of the Tax Authority to have become bad during the period to which the statement delivered to the Tax Authority in accordance with subsection (11) relates; and

(b) doubtful debts to the extent that each is estimated to the satisfaction of the Tax Authority to have become bad during such period,

even if such bad or doubtful debts were due and payable before that period commenced, but so that, all sum recovered at any time on account of amounts previously written-off or allowed in respect of bad or doubtful debts shall be treated as part of the proceeds of the letting and brought into account.

(10) Where tax becomes chargeable, the hotel operator shall account for the tax by means of the statement referred to in subsection (11) and pay over to the Tax Authority the room tax at the rate specified in subsection (1).

<sup>342</sup>(11) Deleted

Act 30 of 2007

(12) In addition to the requirements regarding the keeping of accounts and other records provided for by the Income Tax Act, an hotel operator shall cause to be entered on every bill, a receipt for which is given in accordance with any other written law, the full amount of the hotel accommodation tax, specifying the rate of the tax that is chargeable, and the hotel operator is entitled to recover that amount from the person to whom he has let the hotel accommodation as if that amount were part of the proceeds of the letting of the hotel accommodation.

(13) A duplicate of every hotel bill and the receipt therefore shall be kept by every hotel operator so that it is available at all times, and shall be produced for inspection on demand by the Tax Authority.

(14) Where an hotel operator has failed to deliver a statement of the proceeds of letting of hotel accommodation as required by subsection (11), then, after consideration of any representation or information which the hotel operator may make or supply to it, the Tax Authority -

Miscellaneous Taxes Act

(a) shall assess the proceeds of letting of the hotel accommodation

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<sup>342</sup> BIR Note: Effective January 1<sup>st</sup> 2008. Repealed subsection required an hotel operator to deliver a monthly statement of letting proceeds. See subsection 5A above.



for any period and, subject to subsection (18) and (19), room tax in relation to that period shall be paid within seven days from the date of service on the hotel operator of the notice of assessment of the amount so assessed and

(b) may charge the operator additional room tax equal to treble the amount of room tax which would have been payable if this paragraph had not been enacted, unless the hotel operator satisfies the Board that he ought fairly to be excused.

(15) Where the Tax Authority is satisfied that a true account of the proceeds of letting of the hotel accommodation has not been given in the statement -

(a) because of the failure of the hotel operator to keep the records and books of account required or to produce any records, books of account or other documents or information required to be produced pursuant to the Income Tax Act as applied by this Act; or

(b) because of any information contained in any such records, books of account or other documents which the Board may have obtained from any source,

then subsection (14), other than paragraph (b) thereof, shall apply and if the assessment results in the hotel operator being charged with room tax in excess of that shown in the statement, the Tax Authority may charge him, in addition to the total room tax not exceeding the amount of room tax charged in respect of the excess, unless the hotel operator proves to the satisfaction of the Board that the incorrectness of the information in the statement, did not amount to fraud or gross or wilful neglect.

(16) In making an assessment under subsection (14) the Tax Authority is not bound by the information contained in any statement delivered by the hotel operator to which the assessment relates or by other information supplied by, or on behalf or in respect of, the hotel operator.

(17) Where an assessment is made, the Board shall deliver notice of assessment to the hotel operator, showing the amount of proceeds of letting of the hotel accommodation for the period and the room tax payable thereon, and advising him of his rights under the Income

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Tax Act, as applied by this Act.

- (18) Where any hotel operator disputes an assessment under subsection (14) or (15), he shall nevertheless, within the time limited by subsection (14)(a), pay to the Tax Authority the part of the room tax stated in the notice to be paid by him and any interest and penalties then remaining unpaid that are not in dispute.
- (19) An hotel operator who disputes an assessment may, subject to and in accordance with the Income Tax Act relating thereto, object to the assessment.
- (20) An hotel operator who has objected to an assessment and whose objection has been disallowed by the Board may, subject to and in accordance with the Income Tax Act relating thereto, appeal to the Appeal Board from the decision of the Tax Authority.
- (21) For the avoidance of doubt, it is hereby declared that in ascertaining the chargeable income or profits of a person for the purposes of income tax or corporation tax, no deduction or allowance shall be made of, or on account of, the room tax imposed by this section.
- (22) Subject to this section, the provisions of the Income Tax Act shall apply in relation to room tax as they apply in relation to income tax chargeable under the Income Tax Act, but subject to any necessary modifications or adaptations.

### 343 SPECIAL TAX

53. Repealed and replaced.

344 Act 8 of 1996

53. (1) A returning national who has resided abroad continuously for at least five years immediately prior to his return shall pay a special tax of ten per cent on that portion of the c.i.f. value of his household effects which does not exceed one hundred thousand dollars where -

- (a) the household effects accompany the returning national or are brought into Trinidad and Tobago within two months before or after his return, or within such further period as the Comptroller of Customs and Excise (hereinafter referred to as “the Comptroller”) shall in the circumstances deem reasonable;
- (b) the household effects are admitted as such by the Comptroller; and
- (c) the household effects are for the personal use of the returning national and not for sale or exchange and are declared to have been owned by him for less than one year.

(2) The special tax shall be collected by the Comptroller when the household effects are entered, within the meaning of the Customs Act, and shall be paid into the Consolidated Fund.

Chap. 78:01

(3) The Comptroller may do all such acts as he may deem necessary or expedient for collecting, receiving and accounting for the special tax in like manner as he is authorised to do in relation to duty under the Customs Act.

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### PART XIII

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<sup>343</sup> Effective 29<sup>th</sup> March 1995 - Act 5 of 1995

<sup>344</sup> Effective 11<sup>th</sup> January 1996

## 345 INSURANCE PREMIUM TAX

54. (1) In this Part - Definitions
- “foreign insurer” means a company incorporated outside of Trinidad and Tobago which engages in the insurance business and has no established place of business in Trinidad and Tobago;
- “insurance business” has the meaning assigned to it by section 3 of the Insurance Act; Chap. 84:01
- “insurer” has the meaning assigned to it by section 3 of the Insurance Act and includes a foreign insurer;
- “premium” means any payment or part payment received by an insurer under a taxable insurance contract, including any such payment wholly or partly referable to -
- (a) any risk;
  - (b) costs of administration;
  - (c) commission;
- “tax” means insurance premium tax;
- “Tax Authority” means the Board of Inland Revenue;
- “taxable insurance contract” means any contract of insurance other than -
- (a) a contract relating to ordinary long term insurance business as defined in paragraph 1 of the First Schedule to the Insurance Act;
  - (b) a contract relating to commercial ships or aircraft;
  - (c) a contract relating to risks outside of Trinidad and Tobago
- Miscellaneous Taxes Act
- (d) a contract relating only to loss of, or damage to, goods in foreign or international transit;

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<sup>345</sup> Effective 29<sup>th</sup> March 1995 – Act 5 of 1995

- (e) a contract of reinsurance;
- (f) a contract relating to group life insurance;
- (g) a contract relating to group health insurance; and
- (h) a contract under which a policy holder is a resident of Trinidad and Tobago who has attained the age of sixty years. Finance Act 2002\*

(1)(A) Paragraph (h) of Section 54(1) shall be deemed to have come into effect from 14<sup>th</sup> September 2001 346 Finance Act 2 of 2002

(2) Where (apart from this subsection) anything received under a contract by the insurer would be taken to be an installment of a premium, it shall be deemed to be a separate premium.

(3) Where anything is received by any person on behalf of the insurer (in this Part referred to as “an intermediary”) -

- (a) it shall, except for the purposes of sections 58 and 59(1), be treated as received by the insurer when it is received by the intermediary; and
- (b) the later receipt of the whole or any part of it by the insurer shall be disregarded.

(4) Where -

- (a) a payment under a taxable insurance contract is made to an intermediary; and
- (b) the whole or part of the payment is referable to commission to which the intermediary is entitled,

in determining for the purposes of subsection (3) whether, or how much of, the payment is received by the intermediary on behalf of the insurer, any of the payment that is referable to that commission shall be regarded as received by the intermediary on behalf of the insurer notwithstanding

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the entitlement of the intermediary.

(5) Goods in foreign or international transit are goods in transit where their

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<sup>346</sup> Effective 1<sup>st</sup> January 2003

carriage –

- (a) begins and ends outside Trinidad and Tobago;
- (b) begins outside but ends in Trinidad and Tobago; or
- (c) ends outside but begins in Trinidad and Tobago.

**55.** (1) A tax, to be called an insurance premium tax shall be charged  
in accordance with this Part. Insurance premium tax

(2) The tax shall be under the care and management of the Tax Authority.

**56.** (1) Subject to subsection (2), tax shall be charged on the receipt  
of a premium by an insurer where - Charge to tax

- (a) the premium is received under a taxable insurance contract; and
- (b) the period of cover for the risk under the taxable insurance contract; and -
  - (i) begins on or after January, 1995; or
  - (ii) begins before 1st January, 1995 and extends to a date after 31st December, 1995.

(2) Where-

- (a) a premium under a taxable insurance contract is received by the insurer on or after 19th December, 1994 and extends to a date after 31st December, 1994 and before 1<sup>st</sup> January, 1995, and
- (b) the period of cover for the risk begins on or after 19<sup>th</sup> December, 1994 and extends to a date after 31<sup>st</sup> December, 1994,

tax shall be charged on the portion of the premium that relates to the period of cover falling after 31st December, 1994.

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**57.** Tax shall be charged at the rate of six per cent. Rate of tax

- 58.** (1) Subject to section 59(2) tax shall be collected by the insurer under a taxable insurance contract, or by his intermediary, at the time that the premium is paid. Liability to pay tax
- (2) Where a person fails to collect the tax under subsection(1), or to pay the tax in accordance with section 59, he shall, in addition to tax, be liable to pay over to the Tax Authority an additional amount of twenty-five per cent<sup>347</sup> of the tax, together with interest at the rate of fifteen per cent per annum on such tax and such additional amount from the due date.
- 58A.** (1) The President may remit or refund taxes and penalties, as the case may be, if he is satisfied that it would be just an equitable to do so.
- (2) Subsection (1) shall be deemed to have come into operation from 1<sup>st</sup> January, 1994. President may remit or refund taxes  
348 Act 35 of 1998
- 59.** (1) Subject to subsection (2) Payment of insurance premium tax
- (a) an insurer shall, in respect of premiums received by him in any month, pay the insurance premium tax to the Tax Authority on or before the fifteenth day of the following month;
- (b) an insurer shall pay the insurance premium tax received by him from an intermediary in any month, to the Tax Authority on or before the fifteenth day of the following month;
- (c) an intermediary shall, in respect of premium received by him in any month, pay the insurance premium tax to the insurer within thirty days of receiving the premium.

<sup>349</sup>(1A) Every payment of insurance premium tax required to be made under subsection

(1) shall be accompanied by a return in such form as may be approved by the Tax Authority and signed by a person authorized by the insurer.

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(2) Where a risk in Trinidad and Tobago is insured by a foreign insurer under

<sup>347</sup> Effective January 1<sup>st</sup> 2008. Previously 50%.

<sup>348</sup> Effective 1<sup>st</sup> January 1994

<sup>349</sup> Effective 1<sup>st</sup> January 2008.

a taxable insurance contract, the insured person shall pay the tax in respect of a premium under that contract to the Tax Authority on or before the

fifteenth day of the month after that in which the premium is paid.

- (3) Notwithstanding anything in the Income Tax Act the Corporation Tax Act or the Petroleum Taxes Act, an insured person shall not, in computing his chargeable income or profits for the purposes of any of those Acts, be allowed to claim a deduction for the premium paid to the foreign insurer unless the tax payable on that premium is paid to the Tax Authority.

Chap. 75:01  
Chap. 75:02  
Chap. 75:04

- 59A.** (1) The Tax Authority may at any time audit insurance companies to ensure that the correct taxes are paid to the Authority.
- (2) The Tax Authority shall, in respect of the collection and recovery of taxes and an audit under subsection (1), have all the powers which the Board of Inland Revenue has in relation to income tax under the Income Tax Act.

<sup>350</sup>Finance Act 2 of 2002

- 60.** (1) Where -
- (a) a premium under a taxable insurance contract is received by the insurer after 1st December, 1994 and before 1st January, 1995; and Deemed date of receipt of certain premiums
- (b) the period of cover for the risk begins on or after 1st January, 1995,
- the premium shall, for the purposes of this Part, be deemed to be received on 1st January, 1995.

**60A.** The Tax Authority may waive interest accrued in respect of

- (a) outstanding taxes; and  
(b) penalties,

where it considers it just and equitable to do so.

Tax Authority may waive interest  
<sup>351</sup>Finance Act 2 of 2002

Miscellaneous Taxes Act

#### PART XIV

<sup>350</sup> Effective 1<sup>st</sup> January 2003

<sup>351</sup> Effective 1<sup>st</sup> January 2003



352 GREEN FUND LEVY

61. In this Part -

Interpretation

“Board” means the Board of Inland Revenue established by section 3 of the Income Tax Act;

“business levy” means the tax levied and paid by a company to the Board under section 3A of the Corporation Tax Act;

<sup>353</sup>“Committee” means the Green Fund Advisory Committee appointed under section 65A

Finance Act 17 of 2007

“company” means a body corporate or an unincorporated association and includes a partnership;

“financial year” has the meaning assigned to it in section 3 of the Constitution;

“Fund” means the Green Fund established under section 65 of this Part;

“gross sales or receipts” means the gross revenue, sales or receipts of a company;

“levy” means the green fund levy imposed by section 62 of this Part;

“Minister” means the Minister with responsibility for finance.

62. (1) With effect from 1<sup>st</sup> January, 2001, there shall be levied and paid to the Board a tax at the rate of 0.1 per cent to be known as a Green Fund Levy, on the gross sales or receipts of a company carrying on business in Trinidad and Tobago, whether or not such company is exempt from the business levy.

Green Fund Levy

Miscellaneous Taxes Act

- (2) The levy shall be payable by a company in each quarter ending on 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December in each year of income and the

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<sup>352</sup> PART XIV (Environmental Levy) was repealed and replaced by Finance Act 5 of 2004 effective 30<sup>th</sup> January 2004.

<sup>353</sup> Effective 10<sup>th</sup> July, 2007

provisions of section 79 of the Income Tax Act shall apply *mutatis mutandis* to this subsection.

- (3) The provisions of section 3A(6), (7), (8), (9) and (10) of the Corporation Tax Act shall apply *mutatis mutandis* in relation to the levy but with the necessary modifications and adaptations.

Chap. 75:02

- (4) The Board shall, in respect of the collection and recovery of the levy, have all the powers as it has in relation to income tax under the Income Tax Act.

<sup>354</sup>**62A.** Section 103A of the Income Tax Act shall apply as if references therein to taxes and interest under that Act included references to taxes and interest under this Act as it relates to the green fund levy.

Finance Act 30 of 2007

- 63.** (1) Where it is proved to the satisfaction of the Board that a company has, in any quarter paid levy in excess of the amount in respect of which the company is properly chargeable, that company shall be entitled to have the levy so paid in excess, refunded to it.

Refunds

- (2) Every claim for refund shall be made within one year from the end of the quarter to which the claim relates.
- (3) Instead of making a refund that might otherwise be made under this section, the Board may, where the company is liable to make a payment to the Board under this Act or any other written law administered by the Board, apply the amount to be refunded against the other liability and shall notify the company accordingly.

- 64.** The purpose of the fund is to financially assist Organizations and community groups that are primarily engaged in activities related to the remediation, reforestation and conservation of the environment.

Purposes of Fund

- 65.** (1) There is hereby established a fund to be known as the Green Fund.

Establishment and Management of Green Fund

Miscellaneous Taxes Act

- (2) The Minister shall disburse monies from the Fund to finance activities certified by the Minister with responsibility for the environment as being for the purposes referred to in section 64.

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<sup>354</sup> Effective 21<sup>st</sup> August 2007.

- (3) The Minister with responsibility for the environment shall manage the activities financed by the Green Fund.

355**65A.** The Minister with responsibility for the environment shall appoint a committee to be known as the Green Fund Advisory Committee, to advise on the certification of activities referred to in section 64.

Appointment and functions of Green Fund Advisory Committee  
Finance Act 17 of 2007

356**65B** (1). The Committee shall comprise of a minimum of five but no more than nine members, one of whom shall be the Chairman.

- (2) The members of the Committee shall be selected from among persons with experience and relevant qualifications in the areas of finance, environmental management, law or forestry and shall have demonstrated an interest in matters pertaining to remediation, reforestation or conservation of the environment.

Composition of Committee  
Finance Act 17 of 2007

357**65C.** (1) Members of the Committee may hold office for a term of two years.

- (2) The Minister with responsibility for the environment may renew the appointment of a member of the Committee for no more than two consecutive terms.

Term of office of members  
Finance Act 17 of 2007

358**65D.** (1)The Committee shall regulate its own procedures.

- (2) The Committee shall meet at least once a month and at such other times as may be necessary or expedient and such meetings shall be held at such place and time and on such days as the Committee may determine.

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- (3) The Minister with responsibility for the environment may request, in writing, that the Chairman convene a special meeting of the Committee.

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355 BIR Note: Effective 10<sup>th</sup> July, 2007

356 BIR Note: Effective 10<sup>th</sup> July, 2007

357 BIR Note: Effective 10<sup>th</sup> July, 2007

358 BIR Note: Effective 10<sup>th</sup> July, 2007

- (4) The Chairman shall preside at all meetings of the Committee but where he is absent, the members present shall appoint a Chairman to preside at the meeting.
- (5) The Committee shall elect a Secretary from amongst its membership.
- (6) The Secretary shall keep minutes of each meeting, which shall be confirmed by the Committee at the subsequent meeting.
- (7) A copy of the confirmed minutes of each meeting shall be submitted to the Minister with responsibility for the environment.

Meetings  
Finance Act 17 of 2007

<sup>359</sup>**65 E.** Any member of the Committee, including its Chairman whose interest is likely to be directly affected by a decision or determination of the Committee on any subject matter, shall declare his interest in the subject matter and shall not be present or take part in the meeting when the particular subject matter is being deliberated.

Declaration of interest  
Finance Act 17 of 2007.

**66.** (1) Notwithstanding section 29(2), the Board shall, within fourteen days from the end of each quarter, pay into the Green Fund the levy received by it in accordance with this Part.

Payment to Fund

(2) The resources of the Fund shall comprise of the levy paid by the Board under this section.

**67.** (1) All accounts relating to the Green Fund shall be-

Accounts and audit

(a) kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament; and

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<sup>359</sup> BIR Note: Effective 10<sup>th</sup> July, 2007

- (b) audited annually by the Auditor General in accordance with the Exchequer and Audit Act as if the Fund were established under section 43 of that Act.

**68.** The Minister with responsibility for the environment shall, within four months from the end of a financial year, submit to Parliament a report on the management of the activities financed by the Green Fund.

Report of Minister

**69.** The Minister may make Regulations for-

Regulations

- (a) the management and control of the Green Fund;
- (b) the accounts, books and forms to be used in the management of the Green Fund;
- (c) the projects and other activities concerning which advances are made from the Fund; and
- (d) the general operations of the Green Fund.

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