

I assent.

C. C. WOOLLEY,

Governor,

2nd March, 1949.

ORDINANCE No. 3 of 1949.

AN ORDINANCE further to amend the Income Tax Ordinance by making special provisions with respect to gold and diamond mining companies; to provide a lower rate of tax for a limited period for certain companies; and with respect to the powers of the commissioner. A.D. 1949.

[5th March, 1949.]

BE IT ENACTED by the Governor of British Guiana, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Income Tax (Amendment No. 2) Ordinance, 1949, and shall be construed with the Income Tax Ordinance, hereinafter referred to as the Principal Ordinance. Short title.
Cap. 38.

2. The Principal Ordinance is hereby amended by the insertion therein, after section twenty, of the following new sections — Insertion
of new sections 20 A
and 20 B in
the Principal Ordinance.

“Special provisions as to gold or diamond mining companies.

20A. (1) Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that in ascertaining the chargeable income of a gold or diamond mining company there shall be allowed in respect of expenditure on exploration and development, and for the exhaustion, wear and tear of property, deductions computed in accordance with Regulations which the Governor in Council may make for that purpose.

(2) All Regulations made by the Governor in Council under this section shall be laid before the Legislative Council within fourteen days after they are made if the Council is sitting on the last day as aforesaid, and if the Council is not then sitting, within fourteen days after the commencement of the next ensuing sitting.

(3) If, within twenty-one days after the Regulations are laid before the Council, a resolution is passed by the Legislative Council that the Regulations, or any part of them, be annulled, they shall thereby be annulled to the extent set forth in the resolution, and the Regulations, or part thereof, so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any action in the meantime taken under the Regulations, or part thereof, as the case may be; and a certificate by the Clerk of the Legislative Council as to any of the matters or things specified in this subsection shall be sufficient evidence thereof.

(4) Any Regulations, or any part thereof, which have not, within the period of twenty-one days after they are laid before the Council, been annulled by resolution of the Legislative Council, shall have effect as if enacted in this Ordinance.

Allowance of trade loss to gold or diamond mining companies.

20B. Where a gold or diamond mining company incurs a loss in the year preceding a year of assessment such loss shall be carried forward and set off against what would otherwise have been chargeable income in the year or years following the year in which such loss was incurred until it is completely recouped, and paragraph (ii) of the proviso to section thirteen shall not apply to such company.”

3. The Principal Ordinance is hereby amended by the insertion therein, after section 23 of the following new section —

“Special rates of tax on certain companies.

23A. (1) Notwithstanding anything to the contrary contained in this Ordinance it is hereby provided that —

(a) where, in the opinion of the Governor in Council, the trade or business carried on by a company is wholly of a developmental and risk-bearing nature and is likely to be instrumental to the development of the resources of, and beneficial to, the Colony, the Governor in Council may issue a direction to that effect and

Insertion of new section 23A in the Principal Ordinance.

thereupon the tax upon the chargeable income of such company shall be charged at the rate of twenty *per centum* of the amount of the chargeable income for the five years of assessment commencing with the year of assessment in which such direction is issued;

- (b) where, in the opinion of the Governor in Council, part of the trade or business carried on by a company is of the description set forth in paragraph (a) of this subsection, the Governor in Council may issue a direction to that effect and thereupon the tax upon that portion of the chargeable income derived from such part of the company's trade or business shall be charged at the rate of twenty *per centum* of such portion of the chargeable income for the five years of assessment commencing with the year of assessment in which such direction is issued:

Provided that where the chargeable income which is charged to tax in accordance with the provisions of this subsection does not represent chargeable income for five full years, in the sixth year of assessment that portion of the chargeable income which would complete five full years as aforesaid shall be chargeable at the rate of twenty *per centum* of such portion.

(2) Every company to which subsection (1) of this section applies shall keep separate accounts relating to the gains or profits of every trade or business to which this section applies, and in all accounts and statements submitted to the Commissioner the gains or profits of every such trade or business shall be separately set out."

4. The Principal Ordinance is hereby amended by the insertion therein, after section forty-one, of the following new section —

"Commissioner may disregard certain transactions and dispositions.

- 41B. (1) Where the Commissioner is of the opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the person concerned shall be assessable accordingly.
- (2) In this section "disposition" includes any trust, grant, covenant, agreement or arrangement."

Insertion of new section 41B in the Principal Ordinance.