



I assent,

John Gualth

Officer Administering
the Government.

23rd May, 1951.

BRITISH GUIANA.

ORDINANCE No. 18 OF 1951.

AN ORDINANCE further to amend the Income Tax Ordinance with respect to the imposition and evasion of Income Tax.

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

A. D. 1951

1. This Ordinance may be cited as the Income Tax (Amendment No. 2) Ordinance, 1951, and shall be construed and read as one with the Income Tax Ordinance, hereinafter referred to as the Principal Ordinance and any Ordinance amending the same.

Short
title.

Cap. 38

Amendment of section 5 of the Principal Ordinance.

2. Section five of the Principal Ordinance as amended from time to time is hereby further amended by the substitution for the words "gains or profits from any employment" in paragraph (b) of the words "gains or profits from any office or employment".

Insertion of new Section 5A in Principal Ordinance.

3. The Principal Ordinance is hereby amended by the insertion therein, after section five of the following new section:—
 "Gains or profits from employment deemed to be derived from the colony.
 5A. The gains or profits from any employment exercised in the colony shall be deemed to be derived from the colony whether the gains or profits from such employment are received in the colony or not."

Amendment of section 8 of the Principal Ordinance.

4. Section eight of the Principal Ordinance as amended from time to time is hereby further amended—

- (a) by the substitution for the words "during the late war" in paragraph (h) of the words "during any war"; and
- (b) by the addition thereto of the following paragraphs—

"(r) the income arising from any scholarship, exhibition, bursary or any other similar educational endowment held by a person receiving fulltime instruction at a university, college, school, or other educational establishment.
 (s) the income of the Catholic Hospital (incorporated)."

Amendment of subsection (1) of section 10 of the Principal Ordinance.

5. Subsection (1) of section ten of the Principal Ordinance is hereby amended by the substitution for the word "payable" in paragraphs (a) and (b) of the word "paid".

Repeal and re-enactment of Section 11 of the Principal Ordinance

6. Section eleven of the Principal Ordinance is hereby repealed and the following substituted therefor—

"Allowance for wear and tear.
 (1) In ascertaining the chargeable income of any person who carries on or exercises any trade, business, profession or vocation there may be allowed as a deduction such sum as the Commissioner may think just and reasonable as representing the amount by which the value of—

- (a) any plant, machinery or equipment owned by him has been diminished by reason of wear and tear arising out of the use or employment of such plant, machinery or equipment in production of the income; and
- (b) any building housing machinery owned by him has been diminished by reason of wear and tear arising out of the use or employment of the machinery in such building:

Provided that —

- (a) where the value of any such plant, machinery, equipment or building has been diminished as aforesaid and the full burden of the wear and tear thereof falls upon the person by whom the trade, business, profession or vocation is carried on, but the plant, machinery, equipment or building does not belong to him, he shall be entitled to the deduction to which he would have been entitled if the plant, machinery, equipment or building had belonged to him;
 - (b) where the value of any such plant, machinery, equipment or building has been diminished as aforesaid and the full burden of the wear and tear thereof falls upon the owner of such plant, machinery, equipment or building, but the trade, business, profession or vocation is not carried on by him, he shall be entitled to any deduction to which he would have been entitled if he had carried on that trade, business, profession or vocation; and
 - (c) no deduction under the provisions of this subsection shall be allowed for any year in excess of the written down value of the plant, machinery, equipment or building housing machinery at the commencement of that year.
- (2) In ascertaining the chargeable income of any person who carries on or exercises any trade or business, there shall be allowed as a deduction such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any mine, oil well or forest grant has been diminished by reason of exhaustion or by way of depletion.
 - (3) For the purposes of this section the expression "written down value" at any date of any asset means the remainder at that date of the capital cost of the asset ultimately borne by the owner thereof, after the deduction from the cost of the aggregate of the following amounts, that is to say:—
 - (a) where for any year a deduction for wear and tear or exhaustion of capital in respect of the asset has been allowed, the total for all such years of the deductions which have been allowed in computing the profit or loss for income tax purposes up to that date;
 - (b) where for any year no deduction for wear and tear or exhaustion of capital in respect

of the asset has been allowed, the total for all such years of the deductions which would have been allowed had this section been in force without limitation as to the rate at which the deduction might be calculated, from the date of acquisition of the asset by the owner up to that date."

Repeal of section 11A of the Principal Ordinance No. 13 of 1941.

7. Section eleven A of the Principal Ordinance as enacted by section three of the Income Tax (Amendment No. 2) Ordinance, 1941, is hereby repealed.

Amendment of section 12 of the Principal Ordinance.

8. Section twelve of the Principal Ordinance is hereby amended by the substitution in paragraph (g) for the words "sections forty-seven and forty-eight" of the words "sections forty-eight and forty-nine".

Amendment of section 14 of the Principal Ordinance.

9. Section fourteen of the Principal Ordinance is hereby amended by the insertion therein after the words "resident in the colony" of the words "in the year preceding the year of assessment".

Repeal and re-enactment of section 15 of the Principal Ordinance.

10. Section fifteen of the Principal Ordinance is hereby repealed and the following is substituted therefor —

"Deductions for wife, maintenance or alimony.

15. In ascertaining the chargeable income of an individual who is resident in the colony in the year preceding the year of assessment and who proves to the satisfaction of the Commissioner that during the year immediately preceding the year of assessment —

- (a) he had a wife living with or wholly maintained by him, there shall be allowed a deduction of five hundred dollars;
- (b) he made payments in accordance with an order of court or deed of separation to a wife from whom he was separated by such order or deed, there shall be allowed a deduction of the amount of such payments or five hundred dollars whichever is the less;
- (c) he paid alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction, there shall be allowed a deduction of such payment or five hundred dollars whichever is the less:

Provided that the total deductions allowed to any

individual under paragraphs (a), (b) and (c) of this section shall not exceed five hundred dollars.”

11. Section sixteen of the Principal Ordinance is hereby amended by —

(a) the substitution for subsection (1) of the following subsection —

“(1) In ascertaining the chargeable income of any individual who is resident in the Colony in the year preceding the year of assessment and proves to the satisfaction of the Commissioner that he had living, at any time during the year immediately preceding the year of assessment, an unmarried child who at the commencement of that year was either under the age of sixteen years or who was receiving full time instruction at any university, college, school or other educational establishment, there shall be allowed a deduction of two hundred and fifty dollars in respect of each such child:

Provided that —

(a) no deduction shall be allowed in respect of any child who was entitled in his own right to an income exceeding two hundred and fifty dollars in the year immediately preceding the year of assessment; and

(b) in calculating the income of the child for the purpose of paragraph (a) of this proviso no account shall be taken of any income to which the child is entitled as the holder of a scholarship, exhibition, bursary or other educational endowment.

(b) the insertion in subsection (3) after the words “resident in the colony” of the words “in the year preceding the year of assessment”.

Substitution of new subsection (1) in section 16 of the Principal Ordinance

Amendment of subsection (3) in Section 16 of the Principal Ordinance

12. Subsection (1) of section seventeen of the Principal Ordinance is hereby amended by the insertion therein after the words “resident in the colony” of the words “in the year preceding the year of assessment”.

Amendment of Section 17 (1) of the Principal Ordinance.

13. Section eighteen of the Principal Ordinance is hereby repealed and the following is substituted therefor —

“Deductions in respect of life insurance etc.

18. (1) In ascertaining the chargeable income of any individual who is resident in the colony in the year preceding the year of assessment and who —

(a) has made insurance on his life or the life of his wife, or has contracted for any deferred

Repeal and re-enactment of Section 18 of the Principal Ordinance.

annuity on his own life or the life of his wife, with any insurance company; or

- (b) has made annual contribution to any superannuation fund or scheme approved by the Governor as a fund established for the provision of annuities for all or any of the following persons in the events respectively specified, that is to say, for persons employed by Government or any local authority or in any trade, profession or undertaking, either on retirement at a specified age or for the widows, children or dependents of persons who are or have been so employed on the death of those persons,

there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contract or of the annual amount of such contribution, as the case may be:

Provided that —

- (a) in the case of any policy securing a capital sum on death (whether in conjunction with any other benefit or not) the amount of the deduction allowed shall not exceed ten *per centum* of that capital sum, exclusive of any additional benefit by way of bonus or otherwise; and

- (b) no such deduction shall be allowed in respect of any such annual amount of premium or contribution beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections fourteen, fifteen, sixteen and seventeen hereof.

(2) In ascertaining the chargeable income of any individual who is resident in the colony in the year preceding the year of assessment and who has for the purpose of insuring himself or his wife in respect of sickness made annual contribution to any company or society approved by the Governor there shall be allowed a deduction of the annual amount of the premium paid by him for the contribution aforesaid.

14. Subsection (1) of section twenty-eight of the Principal Ordinance is hereby amended —

- (a) by the substitution of a colon for the full stop at the end thereof; and
 (b) by the addition thereto of the following proviso —

“Provided that in the case of any individual who is not resident in the colony no deduction shall be allowed under sections fourteen, fifteen, sixteen, seventeen and eighteen”.

Amendment of section 28 (1) of the Principal Ordinance. Addition of proviso.

15. Section thirty-three of the Principal Ordinance is hereby repealed and the following substituted therefor —

“Deceased persons. 11. Where any person dies, then as respects income arising before his death all rights and duties which would have attached to him, and any liability to be charged with or to pay tax to which he would have been subject under this Ordinance if he had not died, shall pass to his personal representative, and the amount of any tax payable by the personal representative under this section shall be a debt due from and payable out of the estate of the deceased:

Repeal and re-enactment of section 33 of the Principal Ordinance.

Provided that —

- (a) Any assessment or additional assessment shall not be made later than the third year of assessment following that in which such person died; and
- (b) in the case of any person dying during the year preceding the year of assessment, if the personal representative distributes the estate before the commencement of the year of assessment, such personal representative shall pay any tax for that year of assessment at the rate or rates in force at the date of distribution of the estate if the rate of tax for that year of assessment has not been fixed at that date”.

16. Section thirty-six of the Principal Ordinance is hereby amended —

- (a) by the deletion from subsection (1) of the comma and words “, but the officer shall not be obliged by virtue of this section to disclose any particulars as to which he is under any statutory obligation to observe secrecy”; and
- (c) by the substitution for the words “or bonus” in subsection (3) of the words “bonus or allowance”.

Amendment to Section 36 of the Principal Ordinance

17. The Principal Ordinance is hereby amended by the insertion after section thirty-six of the following sections —

“Power to require information.

36A. (1) Every person who may be so required by the Commissioner, shall within the time fixed by the Commissioner give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to make an assessment or to collect tax.

Insertion of new sections 36A, 36B, 36C in the Principal Ordinance

(2) For the purposes of this section the Commissioner may require any person to give him information, or to permit him or any person duly authorised by him in writing in that behalf, to inspect any records of any moneys, funds or other assets held by him on his own behalf, or which may be held by

him for, or of any moneys due by him to, any other person.

(3) Every person who —

(a) fails to give to the Commissioner any information required in accordance with the provisions of this section; or

(b) fails to produce for the inspection of the Commissioner or any person duly authorised by him as aforesaid any of the records specified in subsection (2) of this section which he may be required by the Commissioner or such duly authorised person to produce, —

shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding one thousand dollars or to imprisonment for six months.”

“Powers of the Commissioner

36B. (1) The Commissioner or any officer duly authorised in writing in that behalf by him may enter any premises used for industrial, business or trade purposes at all reasonable times for the purpose of obtaining any information required for the application of this Ordinance.

(2) Any person who refuses to permit the Commissioner or such an officer after production of his authority, to enter any such premises or obstructs the Commissioner or such an officer in the discharge of his functions under the preceding subsection shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars or to imprisonment for six months.”

“Books of account.

36C. If any person chargeable with tax fails or refuses to keep books or accounts which, in the opinion of the Commissioner are adequate for the purposes of the tax, the Commissioner may by notice in writing require him to keep such records, books and accounts in such manner as the Commissioner may in the said notice direct.”

18. Section forty of the Principal Ordinance is hereby amended by the addition thereto of the following subsection —

“(4) Where a person has not made a return of chargeable income for the year immediately preceding any year of assessment within the time specified in a notice issued by the Commissioner to such person under subsection (4) of section thirty-five of this Ordinance, the Commissioner shall add to the assessment a sum equal to five *per centum* of the amount of the tax assessed and such sum shall be deemed to be part of the tax and shall be recoverable accordingly.”

Amendment of section 40 of the Principal Ordinance.

19. The Principal Ordinance is hereby amended by the insertion therein after section forty-one of the following section —
“Undis-
tributed
profits of
companies.

41A. (1) Where it appears to the Commissioner that with a view to the avoidance or reduction of tax a company controlled by not more than five persons has not distributed to its shareholders as dividends, profits made in any period ending after the first day of January, nineteen hundred and fifty, which could be distributed without detriment to the company's existing business, he may treat any such undistributed profits as distributed, and the persons concerned shall be assessable accordingly.

Insertion
of new
section
41A

(2) In determining the number of persons controlling a company for the purpose of this section persons in partnership and persons interested in the estate of a deceased person or in property held on a trust shall, respectively, be deemed to be a single person.”

20. The Principal Ordinance is hereby amended by the insertion therein after section forty-one B, as enacted by section four of the Income Tax (Amendment No. 2) Ordinance, 1949, of the following section —
“Transfers
of property
or income.

41C. (1) Where any person transfers property to a minor either directly or indirectly or through the intervention of a trust or by any other means whatsoever, whether before or after the coming into effect of this section, such person shall, nevertheless, during the period of the minority of the transferee, be liable to be taxed on the income derived from such property, or from property substituted therefor, as if such transfer had not been made, and subsequent to such period of minority the transferor shall continue to be taxed in respect of the income derived from such property or from property substituted therefor, as if such transfer had not been made, unless the Commissioner is satisfied that such transfer was not made for the purpose of avoiding tax.

Insertion
of new
section
41C in the
Principal
Ordinance.

No. 3 of
1949

(2) Where any person transfers, whether before or after the coming into effect of this section, 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, whether before or after the coming into effect of this section, that during the lifetime of the donor no disposition and no 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.

(3) Where any person has, at any time before the end of the year preceding the year of assessment,

whether before or after the coming into effect of this section, transferred the right to income from property to a person connected to him by blood relationship, marriage or adoption or to a trust for such a person's benefit, without transferring the property, the income therefrom for the year shall be deemed to be the income of the transferor.

(4) Where any person has either directly or indirectly created a trust or has covenanted in respect of any income, whether before or after the coming into effect of this section, and the income under that trust or by virtue of that covenant in the year preceding the year of assessment is during the life of the settlor payable to or accumulated for, or applicable for the benefit of a child or children of that person who is under the age of twenty-one years and unmarried, such income shall be deemed to be the income of the settlor and not that of any other person.

(5) In this section "disposition" includes any trust, grant, covenant, agreement or arrangement.

(6) This section shall be deemed to have had effect as from the first day of January, nineteen hundred and fifty-one."

21. Section forty-nine of the Principal Ordinance is hereby amended —

Amendment of section 49 of the Principal Ordinance.

- (a) by the insertion after the words "If anyone resident in the Colony" in subsection (1), and after the words "If anyone not resident in the Colony" in subsection (2) of the words "for the purposes of section fourteen of this Ordinance"; and
- (b) by the substitution in subsection (5) for the words "where a person is for any year of assessment" of the words "where a person is for any year preceding the year of assessment".

22. (1) Section forty-nine A of the Principal Ordinance as enacted by section eight of the Income Tax (Amendment No. 2) Ordinance, 1947, is hereby amended by the insertion after the words "shall cease to have effect" in subsection (2), and after the words "in respect of that territory" in subsection (3) of the words —

Amendment of section 49A of the Principal Ordinance

No. 6 of 1947.

"and shall be deemed to have ceased to have effect from the beginning of the first year of assessment for which the arrangements are expressed to apply".

(2) Subsection (1) of this section shall have effect and shall be deemed always to have had effect from the year of assessment nineteen hundred and forty-six.

23. Section fifty-one of the Principal Ordinance is hereby amended by the addition thereto of the following subsection —

Amendment of section 51 of the Principal Ordinance

"(3) Notwithstanding anything contained in this Ordinance, if the Commissioner is satisfied that tax remaining in abeyance under subsection (2) of this

section may not be recovered, or that the person giving the notice of objection is unreasonably delaying to proceed with his objection, the Commissioner may by notice in writing demand payment of the tax remaining in abeyance and if the tax is not paid within thirty days from the receipt of such notice the provisions of the succeeding section shall apply and the tax shall be recoverable by process of parate execution or in the manner prescribed by section fifty-four of this Ordinance.”.

24. The Principal Ordinance is hereby amended by the insertion therein after section fifty-five of the following section —
 “Remission of certain penalties. 55A. The Commissioner may, for any good cause shown, remit the whole or any part of a penalty imposed under the provisions of subsection (4) of section forty, or subsection (1) of section fifty-two, of this Ordinance.”.

Insertion of new section 55A in the Principal Ordinance.

25. The Principal Ordinance is hereby amended by the insertion therein after section fifty-six of the following section —

“Penalty for making incorrect return. 56A. (1) Every person who without reasonable excuse —

Insertion of new section 56A in the Principal Ordinance.

- (a) makes an incorrect return by omitting or understating any income of which he is required by this Ordinance to make a return, whether on his own behalf or on behalf of another person; or
- (b) makes an incorrect statement in connection with a claim for a deduction in estimating taxable income; or
- (c) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person, —

shall notwithstanding anything to the contrary contained in this Ordinance be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars and double the amount of tax which has been undercharged in consequence of such incorrect return, statement or information, or would have been so undercharged if the return, statement or information had been accepted as correct.

(2) The Commissioner may compound any offence under this section, and may, before judgment, stay or compound any proceedings thereunder. When the Commissioner has compounded any such offence, the sum for which the offence is compounded shall be deemed to be tax assessed under the provisions of this Ordinance and all the powers of the Commissioner under this Ordinance to enforce payment and recovery of any assessment shall apply to the payment and

recovery of the sum compounded as if it were tax assessed under this Ordinance:

Provided that the provisions of sections forty-four and forty-five of this Ordinance shall not apply to any composition deemed to be tax assessed under this subsection.”.

Amend-
ment of
section 57
of the
Principal
Ordinance.

26. Section fifty-seven of the Principal Ordinance is hereby amended by the substitution for the words “five hundred dollars or to imprisonment with hard labour for a term not exceeding six months” of the following words —

“one thousand dollars and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, or to imprisonment for six months, or to both such fine and imprisonment.”

Amend-
ment of
section 59
of the
Principal
Ordinance.

27. Section fifty-nine of the Principal Ordinance is hereby amended by the substitution for the words “three years” of the words “six years”.

Com-
menc-
ement.

28. This Ordinance shall come into operation with respect to and from the year of assessment nineteen hundred and fifty-one.

Passed by the Legislative Council this 3rd day of May, 1951.



Clerk of the Legislative Council.

(M.P. C 125]3 VI).