

**PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.**

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The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly



GUYANA

BILL No. 4 of 1988

INCOME TAX (AMENDMENT) BILL 1988

ARRANGEMENT OF SECTIONS

SECTION

- 1. Short title and commencement.**
- 2. Insertion of new sections 33C, 33D, 33E and 33F in the Principal Act.**
- 3. Insertion of new Fifth Schedule in the Principal Act.**

A BILL

Intituled

AN ACT to amend the Income Tax Act.

A:D: 1988 Enacted by the Parliament of Guyana:—

Short title
and com-
mencement:
Cap. 81:01

1. This Act, which amends the Income Tax Act, may be cited as the Income Tax (Amendment) Act 1988, and shall be deemed to have come into operation with respect to and from the year of assessment commencing on 1st January, 1988.

Insertion of
new sections
33C, 33D,
33E, and 33F
in the Prin-
cipal Act.

2. The Principal Act is hereby amended by the insertion, after section 33B, of the following sections as sections 33C, 33D, 33E and 33F —

“Export
Allowance”.

33C. (1) Subject to subsection (2), where during a year of income a company registered in Guyana has made export sales, either directly or through any other person to any country of manufactured or processed product or any product of agriculture, in ascertaining the chargeable profits of the company for that year of income, a deduction or export allowance shall be allowed to the extent specified in Part I of the Fifth Schedule.

(2) Subsection (1) applies to all export sales of the products, except —

- (a) export sales made to a country specified in Part II of the Fifth Schedule;
- (b) export sales of products specified in Part III of the Fifth Schedule

(3) The Minister may by order amend the Fifth Schedule.

Land de-
velopment
expenditure
allowance.

33D. (1) Notwithstanding anything to the contrary in this Act, in ascertaining the chargeable income, in any year of income, of any person, being a person owning or in the possession of any land used or capable of being used for the purpose of agriculture there shall be allowed, subject to this section, as a deduction in the manner provided in subsection (2) all ex-

penditure incurred in that year by that person for the purpose of development of any land for bringing it under cultivation by him or improving any land under his cultivation.

(2) For the purposes of subsection (1) one-tenth of the expenditure shall be allowed as a deduction in the year of income in which it was incurred, the balance being allowed by equal instalments in each succeeding year of income in the following nine years.

(3) In this section expenditure incurred in the development of land or improvement of land means capital expenditure incurred for the purpose of —

- (i) destruction and removal of timber, shrub or undergrowth indigenous to the land;
- (ii) eradication or extermination of animal or vegetable pests from land;
- (iii) destruction of weed or plant growth detrimental to the land;
- (iv) preparation of land for agriculture, e.g., bulldozing, etc.;
- (v) ploughing and grassing land for grazing purposes;
- (vi) draining of swamp or low-lying land where the operation improves the agriculture or grazing value of the land;
- (vii) preventing or combatting soil erosion or flooding of land,
- (viii) providing water-conveying and conservation by dams, irrigation channels and wells for use in carrying on primary production on land;
- (ix) construction of access roads and aeroplane landing strips to facilitate aerial top-dressing of land;
- (x) erection on land of fences for the protection of crops, livestock and other products;
- (xi) construction of earth-works, ponds, and making similar improvements on land;

(xii) expenditure for such other activities relating to the development of land as may be prescribed by the Minister by regulations.

(4) Any expenditure for the development of any land for the purpose of bringing it under cultivation or for the improvement of any land under cultivation by any person, being the owner of the land, in accordance with law, incurred by him in any year of income shall, notwithstanding that he is not the person in possession of the land, be allowed as a deduction in ascertaining the chargeable income of that person in that year of income, if the other conditions of this section are satisfied.

Special provisions for individual operators in gold or diamond mining industry.

33E. (1) There shall be levied and paid income tax (in this section referred to as gold or diamond withholding tax as the case may be) as follows —

- (a) in the case of gold, at the rate of two percent of the gross proceeds realised from every sale to the Central Authority;
- (b) in the case of diamond, at the rate of two percent on the value placed by the Central Authority on the amount declared, by any individual, whether wholly owned by that individual or by him jointly with others or in partnership with others.

(2) The tax under subsection (1) shall be collected in respect of each transaction and remitted to the Commissioner by the Central Authority at the end of each calendar month, and on the payment thereof the Commissioner shall send to the Central Authority a receipt which shall, to the extent of the amount referred to therein, be a good and sufficient discharge of the liability of the Central Authority for any amount collected as required by the provisions of this section.

(3) The Central Authority for the purposes of subsection (2) shall be —

- (a) in the case of gold, the Guyana Gold Board, established under section 3 of the Gold Board Act.
- (b) in the case of diamonds, the Guyana Geology and Mines Commission, estab-

lished under section 3 of the Guyana Geology and Mines Commission Act or such other authority as the Minister may by order prescribe, and notwithstanding anything contained in that Act the aforesaid Commission shall have power to exercise the functions conferred by this section on the Central Authority.

Act No. 9 of
1979.

(4) Notwithstanding section 5, where withholding tax has been collected under subsection (1) income received consequent upon the sale of the gold or diamond shall not be taken into account in ascertaining the chargeable income of the person or any of the persons, as the case may be, who owned the gold or diamond.

(5) Nothing in this section shall be construed as exempting a gold or diamond miner from the requirement to keep adequate records of his income from mining operations.

(6) All remittances to the Commissioner under subsection (2) shall be accompanied by such form as may be determined by the Commissioner, duly completed by the Central Authority.

(7) A person who fails to deduct, account for or pay over withholding tax to the Commissioner shall be guilty of an offence under this section and the provisions of section 93(4) shall *mutatis mutandis* apply.

(8) In this section "gold" has the same meaning as in section 2 of the Guyana Gold Board Act.

33F. (1) Where on or after the commencement of this section any payment of emoluments is made by an employer to a tributor in relation to his employment as a tributor by the employer, the employer shall deduct or withhold tax at the rate of ten percent of the gross amount of such payment and shall account for and pay over the tax to the Commissioner on or before 1st April, 1st July, 1st October and 31st December, respectively, in each year of income.

Special provisions for deduction and payment of emoluments to tributors.

(2) The Commissioner shall give the employer a receipt on the official form for the total amount paid in accordance with the provisions of subsection

(1), which shall be a good and sufficient discharge of the liability of the employer for the amount deducted and withheld as required by this section.

(3) All remittances or payments of taxes deducted and withheld under subsection (1) to the Commissioner shall be accompanied by such forms as may be determined by the Commissioner duly completed by the employer.

(4) After the end of the year, on or before the prescribed date for the delivery of returns to be delivered to the Commissioner under section 61(2), (3) and (4), the employer shall give every tributor from whose emoluments he was liable to deduct and withhold tax a certificate in such form as the Commissioner may determine showing the total amount of the emoluments paid by the employer and the total tax deducted from the emoluments.

(5) In the return to be delivered to the Commissioner under section 61(2), (3) and (4) the employer shall furnish in respect of each tributor to whom he made payments of emoluments the total amount of the emoluments paid by him to each such tributor during the year, and the amount of tax deducted by him from the emoluments.

(6) If the tax payable under the assessment exceeds the total tax deducted from any tributor's emoluments during the year of assessment, the difference shall be payable by such tributor to the Commissioner within thirty days after service of a notice of assessment under section 78.

(7) If the tax payable under the assessment is less than the tax deducted from any tributor's emoluments during the year of assessment the Commissioner shall repay the difference to such tributor in accordance with section 107.

(8) Every employer, when called upon to do so by the Commissioner or any officer authorised by him, shall produce to the Commissioner or that officer for inspection at the employer's premises, or the office of the Commissioner, as the employer may be required to do, all wages sheets and other documents and records whatsoever relating to the calculation or payment of the emoluments of his tributors or the deduction of tax therefrom.

(9) Income Tax in respect of all emoluments paid to a tributor may be assessed and charged by the Commissioner, who for that purpose may exercise all the powers under this Act.

(10) Any tax which is payable to the Commissioner by a tributor under this section may be recovered in accordance with this Act.

(11) The provisions of section 93, in so far as they are not inconsistent with the provisions of this section shall, with such adaptations or modifications as are necessary or expedient, apply to this section.

(12) Notwithstanding anything in this Act, the Income Tax (Deduction of Tax from Emoluments) Regulations shall not apply to tributors.

(13) In this section "tributors" means persons engaged in the gold or diamond mining industry who are rewarded for their labour under the tribute system, and includes divers, cooks, sailors, general managers, or persons engaged in site operations."

3. The Principal Act is hereby amended by the insertion after the Fourth Schedule of the following schedule as the Fifth Schedule —

Insertion of new Fifth Schedule in the Principal Act.

"FIFTH SCHEDULE

PART I

Calculation of Export Allowances

1. For the purposes of section 33C a deduction or an export allowance shall be calculated in accordance with the Table below

TABLE

Where the percentage of export sales in relation to total sales	Percentage of export profit deductible as export allowance shall be —
(a) is under 10 per cent	Nil
(b) is 10 per cent or more but does not exceed 21 per cent	25 per cent

- | | |
|---|-------------|
| (c) exceeds 21 per cent but does not exceed 41 per cent | 35 per cent |
| (d) exceeds 41 per cent but does not exceed 61 per cent | 45 per cent |
| (e) exceeds 61 per cent | 50 per cent |

2. For the purposes of this Part —

- (a) “total sales” means the proceeds of sales (ex-factory), of the total output of a company during a year of income;
- (b) “export sales” means the proceeds of sale (ex-factory), of the output of a company, exported to a country other than a country specified in Part II by the company either directly or through any other person, during a year of income;
- (c) in relation to the definitions of “total sales” and “export sales” —
 - (i) “proceeds of sale” shall not take into account any amount of excise duty and consumption tax paid in respect of the products sold that year;
 - (ii) “output” means the product of an industry to which the export allowance applies;
- (d) “export profit” means that percentage of the total sales profits of a year of income which the export sales bear to the total sales of that year of income;
- (e) “total sales profits” means the amount which would be charged to tax as chargeable profits of the company if —
 - (i) the manufacture or production and sale of the product to which the export allowance applies were the only source of profit of the company; and
 - (ii) no loss available as a deduction under section 19 were taken into account.

PART II

Countries to which export do not qualify
for export allowance

Antigua and Barbuda

Montserrat

Barbados	St. Christopher and Nevis
Belize	St. Lucia
Dominica	St. Vincent and the Grenadines
Grenada	Trinidad & Tobago
Jamaica	

PART III

Products which do not qualify for export allowance

Bauxite	molasses
gold	rice
diamond	timber
petroleum	lumber
sugar	shrimp.”.
rum	

EXPLANATORY MEMORANDUM

This Bill seeks to give effect to certain proposals which were included in the 1987 Budget.

Clause 2 of the Bill seeks to amend the Income Tax Act, Cap. 81:01, by inserting four new sections — sections 33C, 33D, 33E and 33F.

Section 33C provides that in ascertaining the chargeable profits of a company there shall be allowed a deduction of an export allowance where the company has directly or through any other person made export sales to a non-Caricom country of certain products.

Section 33D provides for a land development expenditure allowance over a ten-year period to a person engaged in farming or agriculture who incurs expenditure in the development of land occupied for farming or agriculture. The section mentions some of the expenditure incurred in the development of the land that may be allowed.

Section 33E provides that there shall be levied and paid withholding tax at the rate of two per cent of the gross proceeds realised from every sale of gold to the Gold Board and in the case of diamond on the value placed on it by the Geology and Mines Commission. **Such tax shall** be collected by the Board or the Commission in respect of each transaction and remitted to the Commissioner of Inland Revenue who shall send a receipt therefor to the Board or the Commission.

Section 33F provides that the employer of a tributor shall deduct or withhold tax at the rate of ten per cent of the gross payment of emoluments to the tributor, and pay over the tax to the Commissioner of Inland Revenue. It provides for receipt by the Commissioner, to the employer showing tax received from the employee, receipt by the employer to the

employee showing his total emoluments and tax deducted and paid to the Commissioner, payment of additional tax by the tributor where the tax deducted is insufficient and refund of tax where there is an over payment of tax.

Clause 3 of the Bill seeks to insert a new Fifth Schedule in the Act. The Schedule details the circumstances under which the export allowance under section 33C is allowed and how it is calculated. A company for instance, can be allowed a deduction of up to fifty per cent of export profit where the percentage of export sales in relation to total sales exceeds sixty-one per cent. Sales to Caricom countries and sales of the traditional exports, including bauxite, gold, sugar, rum, rice, timber and shrimp do not qualify for export allowance under section 33C.

Carl B. Greenidge,
Minister of Finance.

Bill No. 4/88

(ST: 34/2/1/10)