

To be construed with Ord 12 of 1931; 19 of 1931; 4 of 1932;
5 of 1932; 20 of 1934; 9 of 1935; 13 of 1935

CHAPTER 38.

INCOME TAX.

[No. XVII. of 1929.]

[23rd March, 1929.]

Short title. 1. This Ordinance may be cited as the Income Tax Ordinance.

Interpreta-
tion of terms. 2. In this Ordinance, unless the context otherwise re-
quires,—

“Commissioner” means the Commissioner or Commissioners charged with the administration of this Ordinance;

“company” means a company incorporated or registered under any law in force in the colony, and any company which, though incorporated or registered outside the colony, carries on business or has an office or place of business therein;

“person” includes a body of persons;

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

“incapacitated person” means any infant, married woman, lunatic, idiot, or insane person;

“local authority” means the Mayor and Town Council of Georgetown, the Mayor and Town Council of New Amsterdam, any local authority under the Local Government Board or constituted under any statute for the time being in force, any authority for the administration of drainage or irrigation or drainage and irrigation, any authority for the supply of water, any polder authority and any authority for the administration of sewerage, water works, roads or sea defences;

“prescribed” means prescribed by rule under this Ordinance;

“tax” means the income tax imposed by this Ordinance;

“ year of assessment ” means the period of twelve months commencing on the first day of January, nineteen hundred and twenty-nine, and each subsequent period of twelve months;

“ chargeable income ” means the aggregate amount of the income of anyone from the sources specified in section five remaining after allowing the appropriate deductions and exemptions under this Ordinance.

ADMINISTRATION.

3. For the due administration of this Ordinance the Governor may appoint not more than three Commissioners to be styled Commissioners of Income Tax and any other necessary officers and persons and shall furnish the Commissioners with warrants of appointment under his hand.

Appointment
of adminis-
trative
authority.

See Ord 12 of
1931 - 32.

4.—(1) Everyone who has any official duty or is employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists, and copies of those lists, relating to the income or items of the income of anyone, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a Magistrate.

Official
secrecy.

(2) Everyone having possession of or control over any documents, information, returns, or assessment lists or copies of those lists, relating to the income or items of income of anyone who at any time communicates or attempts to communicate that information, or anything contained in the documents, returns, lists, or copies, to any person—

(a) other than a person to whom he is authorised by the Governor to communicate it; or

(b) otherwise than for the purposes of this Ordinance, shall be guilty of an offence against this Ordinance.

IMPOSITION OF INCOME TAX.

5. Income tax, subject to the provisions of this Ordinance, shall be payable at the rate or rates herein specified for each year of assessment upon the income of anyone accruing in, derived from, or received in, the colony in respect of—

Charge of
income tax.

(a) gains or profits from any trade, business, profession, or vocation, for whatever period of time the trade, business, profession, or vocation, may have been carried on or exercised;

- (b) gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise;
- (c) dividends, interest or discounts;
- (d) any pension, charge or annuity;
- (e) rents, royalties, premiums, and any other profits arising from property.

Basis of
assessment.

6. Tax shall be charged, levied, and collected for each year of assessment upon the chargeable income of anyone for the year immediately preceding the year of assessment.

Special
periods of
assessment.

7. Where the Commissioner is satisfied that anyone usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment, the Commissioner may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up.

See sec. 2 of Ord.
- 1932 for provisions

Exemptions:

(a) & (b)
see sec. 2 of Ord. 13
1932

8. There shall be exempt from the tax—

- (a) ~~the official emoluments received by the Officer Administering the Government;~~
- (b) the income of any local authority in so far as that income is not derived from a trade or business carried on by the local authority; and in calculating the income of a local authority for the purposes of this paragraph income derived from markets, abattoirs, wharves, cemeteries, gardens, and electric and water supplies shall be exempt from tax;
- (c) the income of any statutory or registered building or friendly society;
- (d) the income of any ecclesiastical, charitable, or educational institution or endowment of a public character in so far as that income is not derived from a trade or business carried on by the institution;
- (e) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;

- (f) the emoluments payable from imperial funds to members of his Majesty's forces and to persons in the permanent service of the Imperial Government in the colony in respect of their offices under the Imperial Government;
- (g) wound and disability pensions granted to members of his Majesty's forces;
- (h) gratuities granted to members of his Majesty's forces in respect of services rendered during the late war;
- (i) the income of the government savings bank;
- (j) the income of the post office savings bank;
- (k) the income of the colonial transport department;
- (l) the income of the harbour board;
- (m) the income of any co-operative credit bank established under any Ordinance in force for the time being;
- (n) the income of the Forest Trust;
- (o) the income of any fund established by a statute requiring public officers or a class of public officers to contribute to the fund;
- (p) the income of any institution established for the encouragement of thrift which the Governor in Council may declare to be exempt :

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interests, bonuses, salaries, or wages, paid wholly or in part out of the income so exempted. Proviso.

9. The Governor may by proclamation published in the Gazette provide that the interest payable on any loan charged on the public revenue of the colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the colony; and that interest, as from the date and to the extent specified in the proclamation, shall be exempt accordingly. Government loans.

ASCERTAINMENT OF CHARGEABLE INCOME.

10.—(1) For the purpose of ascertaining the chargeable income of anyone there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year immediately preceding the year of assessment by that person in the production of the income, including— Deductions allowed.

- (a) sums payable by the person by way of interest upon any money borrowed by him where the Commissioner is satisfied that the interest

- was payable on capital employed in acquiring the income;
- (b) rent payable by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
 - (c) where anyone engaged in any trade, business, profession, or vocation, has expended any sum in replacing plant or machinery which was used or employed in that trade, business, profession, or vocation, and has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost the sum representing the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of the plant and machinery and any sum realised by the sale thereof;
 - (d) any sum expended for repair of premises, plant and machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed;
 - (e) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during that year notwithstanding that the bad or doubtful debts were due and payable prior to the commencement of the year, provided that all sums recovered during that year on account of amounts previously written off or allowed in respect of bad or doubtful debts be treated for the purposes of this Ordinance as receipts of the trade, business, profession, or vocation for that year;
 - (f) annuities or other annual payments, whether payable within or without the colony, either as a charge on any property of the person paying them by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of a contract, provided that no voluntary allowances or payments of any description be deducted;

- (g) rates and taxes on immovable property (but not including income tax);
- (h) premiums paid on any fire insurance policy on property used in acquiring the income upon which the tax is payable;
- (i) such other deductions as may be prescribed by rule made under this Ordinance.

(2) The Governor in Council may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

11. In ascertaining the chargeable income of anyone engaged in a trade, business, profession, or vocation, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of property owned by him including plant and machinery, arising out of the use or employment of the property in the trade, business, profession, or vocation during the year immediately preceding the year of assessment.

Allowance
for wear and
tear.

12. For the purpose of ascertaining the chargeable income of anyone no deduction shall be allowed in respect of—

Deductions
not to be
allowed.

- (a) domestic or private expenses;
- (b) any disbursement or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital;
- (d) any capital employed in improvements;
- (e) any sum recoverable under an insurance or 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 producing the income;
- (g) any amounts paid or payable in respect of the United Kingdom income tax, or super-tax, or Empire income tax as defined in sections forty-seven and forty-eight of this Ordinance.

13. Where the amount of a loss incurred in the year preceding a year of assessment in any trade, business, profession, or vocation, carried on by anyone 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

Allowance of
trade losses :

amount of the loss to the extent to which it cannot be so set-off against his income from other sources for the same year shall be carried forward and, subject as is hereinafter provided, shall be set-off against what would otherwise have been chargeable income for the next five years in succession :

Proviso.

Provided that—

- (i) the amount of the 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; and
- (ii) in no case shall the set-off be allowed to an extent which will reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set-off not been allowed.

Deduction in case of residents in the colony.

14. In ascertaining the chargeable income of an individual who is resident in the colony, there shall be allowed a deduction of ~~one thousand two hundred dollars.~~ *Seven hundred and twenty dollars*

Deduction for wife.

15. In ascertaining the chargeable income of an individual who is resident in the colony and who proves to the satisfaction of the Commissioner that during the year immediately preceding the year of assessment he had his wife living with him or wholly maintained by him there shall be allowed a deduction of ~~seven hundred and twenty dollars.~~ *four hundred and eighty dollars*

*Sec. 3 of 1932
4 of 1932*

Deduction for children.

16.—(1) In ascertaining the chargeable income of an individual who is resident in the colony and proves to the satisfaction of the Commissioner that he had a child or children living at the commencement of the year immediately preceding the year of assessment who at the commencement of that year was either under the age of sixteen years or was receiving full time instruction at any university, college, school, or other educational establishment, there shall be allowed a deduction of one hundred and forty-four dollars in respect of each of the children.

*See sec. 4 of
Div. 4 of 1932*

(2) The expressions "child" and "children" in the preceding sub-section include a step-child but do not include an illegitimate child or illegitimate children; but the deduction aforesaid shall be allowed in ascertaining the chargeable income of the mother of an illegitimate child or

illegitimate children or of the husband of the mother where she is married and living with her husband.

(3) If an individual who is resident in the colony proves that for the year immediately preceding the year of assessment he had the custody of and maintained at his own expense any child who was under the age of sixteen years at the commencement of that year, or who, if over the age of sixteen at the commencement of that year, was receiving the full-time instruction aforesaid, and that neither he nor any other individual is entitled to a deduction in respect of the same child under the foregoing provisions of this section or under any of the other provisions of this Ordinance, or, if any other individual is entitled to the deduction, that that other individual has relinquished his claim thereto, he shall be entitled in respect of the child to the same deduction as if the child were a child of his.

17.—(1) If an individual who is resident in the colony proves that for the year immediately preceding the year of assessment he maintained at his own expense anyone, being a relative of his or of his wife, who was incapacitated by old age or infirmity in maintaining himself, or his or his wife's widowed mother, whether incapacitated or not, and being a person whose total income from all sources did not exceed two hundred and forty dollars a year, he shall be entitled to a deduction of one hundred and twenty dollars in respect of each person (not exceeding four in number) whom he so maintained, and a like deduction shall be made in the case of an individual who, by reason of old age or infirmity, was compelled to depend upon the services of a daughter resident with and maintained by him or her in the year immediately preceding the year of assessment.

Deduction for dependants.

(2) Where two or more persons jointly maintained anyone aforesaid, the deduction to be made under this section shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person.

(3) This section shall apply to an individual who is a female as it applies to an individual who is a male with the substitution of "husband" for "wife."

(4) The expression "relative" includes anyone of whom the person claiming a deduction had the custody and

whom he maintained at his expense while under the age of sixteen years.

Deduction in respect of life insurance and contribution to widows and orphans' pension fund :

18. In ascertaining the chargeable income of any individual who is resident in the colony and who—

- (a) has made insurance on his life or the life of his wife in any insurance company, or,
 (b) has made annual contribution to the widows and orphans funds in the colony or any other fund the Governor considers to be equivalent to a widows and orphans fund,

there shall be allowed a deduction of the annual amount of the premium paid by him for the insurance and contribution aforesaid :

Proviso.

Provided that the deduction shall not be allowed in respect of the annual amount of premium and contribution beyond an amount equal to one-sixth part of the chargeable income of that 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.

Deductions in case of non-resident British subjects :

19. The deductions under sections fourteen, fifteen, sixteen, seventeen and eighteen of this Ordinance shall be allowed in the case of any individual not resident in the colony who satisfies the Commissioner that he is a British subject;

Proviso.

Provided that in that case no deductions shall be allowed so as to reduce the amount of the tax payable below an amount which bears the same proportion to the amount which would be payable by him if the tax were chargeable on his total income from all sources including income which is not subject to tax charged in the colony as the amount of the income subject to tax in the colony bears to the amount of his total income from all sources.

Special provisions as to certain companies and businesses :
 (1) life insurance companies and mutual insurance companies :

20. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that :—

- (1) in the case of a life insurance company, whether mutual or proprietary, and of any other mutual insurance company, having its head office in the colony, the gains or profits on which tax is payable shall be the investment income of that company less the management expenses (including commission);

*In sec. 30 do
59/1932*

- (2) in the case of a life insurance company, whether mutual or proprietary, and of any other mutual insurance company, having its head office outside the colony, the gains or profits on which tax is payable shall be the same proportion of the total investment income of that company as the premiums received in the colony bear to the total premiums received by the company less the agency expenses in the colony and a fair proportion of the expenses of the head office of the company;
- (2) life insurance companies and mutual insurance companies having their head offices outside the colony :
- (3) in the case of a proprietary insurance company, not being a life insurance company, having its head office outside the colony, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in the colony (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so reached a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for those risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment, and from the net amount so reached deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in the colony, and a fair proportion of the expenses of the head office of the company;
- (3) other insurance companies having their head offices outside the colony ;
- (4)—(a) in the case of a shipowner, the gains or profits of his business as shipowner shall, if he produces or causes to be produced to the Commissioner the certificate mentioned in clause (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 mails, shipped in the colony as his total profits for the relevant accounting period shown by that certificate bear to the gross earnings for that period;
- (4) ship-owners.
- (b) the certificate shall be a certificate by or on behalf of the principal income tax authority of the

district or place in which the principal place of business of the shipowner is situate and shall state—

- (i) that the shipowner has furnished to the satisfaction of that authority an account of the whole of his business; and
 - (ii) the ratio of the gains or profits for the relevant accounting period as computed according to the income tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the shipowner's fleet or vessel for that period;
- (c) if the gains or profits of a shipowner have been for the purpose of assessment in the colony under this Ordinance, computed on any basis other than the ratio of the gains as aforesaid and an assessment has been made accordingly, the shipowner, upon production of a certificate of the kind at any time within two years from the end of the year of assessment, shall be entitled to any adjustment necessary to give effect to the 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 situate in any part of his Majesty's dominions outside the colony or in territory under his Majesty's protection.

See sec. 2 of Ord. 9 of 1935
(d)

Wife's
income :

21. The income of a married woman living with her husband shall be deemed for the purpose of this Ordinance to be the income of the husband, and shall be charged in the name of the husband and not in her name or in that of her trustee :

Provido.

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bears to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

RATE OF TAX.

22. The tax upon the chargeable income of everyone other than a company shall be charged at the following rates :—

| | | | | |
|-------------------------------|-------|------------------------------------|----|--------|
| For every dollar of the first | 1,200 | dollars | 02 | cents. |
| „ | „ | next 1,200 | „ | 03 „ |
| „ | „ | „ 1,200 | „ | 04 „ |
| „ | „ | „ 2,400 | „ | 05 „ |
| „ | „ | „ 2,400 | „ | 07 „ |
| „ | „ | „ 4,800 | „ | 09 „ |
| „ | „ | „ 9,600 | „ | 12 „ |
| „ | „ | „ 24,000 | „ | 15 „ |
| „ | „ | remainder of the chargeable income | 20 | cents. |

See Ord. 19 of 1931

See sec 2-2 of Ord. 4 of 1932

23.—(1) The tax upon the chargeable income of a company other than a life insurance company shall be charged at the rate of ten per centum of the amount of the chargeable income.

Flat rate of tax on companies.

(2) The tax upon the chargeable income of any life insurance company shall be charged at the rate of three per centum of the amount of the chargeable income.

See Sec 6 of Ord. 4 of 1932

24.—(1) Every company registered in the colony shall be entitled to deduct from the amount of any dividend paid to a shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections forty-seven and forty-eight of this Ordinance) on the income out of which the dividend is paid :

Deduction of tax from dividends of companies :

Provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

Proviso.

(2) Every company aforesaid shall upon payment of a dividend, whether tax is deducted therefrom or not, furnish to each shareholder a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

25. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to which anyone is entitled in the income of a body

Tax deducted from dividend to be set-off against tax on income of shareholder.

of persons assessed under this Ordinance, shall, when that dividend or share is included in the chargeable income of the shareholder or person, be set-off for the purposes of collection against the tax charged on that chargeable income.

Temporary residents.

26. Tax shall not be payable in respect of any income arising out of the colony and received therein by anyone who is in the colony for some temporary purpose only and not with intent to establish his residence therein and who has not actually resided in the colony at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

TRUSTEES, AGENTS AND OTHER REPRESENTATIVES.

Chargeability of trustees and other representatives.

27. A receiver appointed by the Court, trustee, guardian, curator, or committee, having the direction, control or management of any property or concern on behalf of any incapacitated person shall be chargeable to tax in like manner and to the like amount as that person would be chargeable if he were not an incapacitated person.

Chargeability of agent of person residing out of the colony:

28.—(1) A person not resident in the colony (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, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether the attorney, factor, agent, receiver, branch, or manager, has the receipt of the income or not, in like manner and to the like amount as the non-resident person would be assessed and charged if he were resident in the colony and in the actual receipt of that income.

(2) 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, factor, agent, receiver, branch, or manager.

(3) Where a non-resident person, not being a British subject or a firm or company whose place of business is situated in his Majesty's Dominions or in territory under his Majesty's protection or a branch thereof, carries on business with a resident person, and it appears to the Commissioner 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.

(4) Where it appears to the Commissioner by whom the assessment is made, or to the judge 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 Commissioner or the judge may, if he think 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 that case the provision of this Ordinance 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 of income to be charged are to be delivered by those acting for incapacitated or non-resident persons :

Provided that the amount of the percentage shall in each case be determined having regard to the nature of the business and, when determined by the Commissioner, shall be subject to an appeal to a judge as provided by section forty-four of this Ordinance.

(5) 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 that 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 sub-section (3) and (4) of this section, in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(6) 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 sub-sections (3) and (4) of this section 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.

(7) 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 the colony 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 Commissioner, or in the case of an appeal to the judge, 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 bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or judge of the amount of the profits on the basis aforesaid the assessment shall be made or amended accordingly.

Matters
to be done
by repre-
sentatives.

29. 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 Ordinance for the assessment of the income of anyone for whom he acts and for paying the tax chargeable thereon.

Lists to be
prepared by
representa-
tive or agent.

30.—(1) Every person who in whatever capacity is in receipt of any money or value being income from any of the sources mentioned in this Ordinance or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in the colony and not an incapacitated person, shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in the notice a list in the prescribed form, signed by him, containing—

- (a) a true and correct statement of all that income;
- (b) the name and address of everyone to whom the income belongs.

(2) Everyone who refuses, fails, or neglects, to comply with the provisions of this section shall be guilty of an offence against this Ordinance.

31. The manager or other principal officer of every corporate body of persons shall be answerable for doing all the acts, matters and things required to be done by virtue of this Ordinance for the assessment of the body and payment of the tax.

Manager of corporate bodies.

32. Every person answerable under this Ordinance for the payment of tax on behalf of another may retain out of any money coming to his hands on behalf of the other so much as shall be sufficient to pay the tax; and shall be and is hereby indemnified against anyone whatsoever for all payments made by him in pursuance and by virtue of this Ordinance.

Indemnification of representatives.

33. When anyone dies during the year preceding the year of assessment and would but for his death have been chargeable to tax for the year of assessment, or when anyone dies during the year of assessment or within two years after the expiration thereof and no assessment has been made upon him for that year, the personal representative of that person shall be liable to and charged with the payment of the tax with which the person would have been chargeable, and shall be answerable for doing all such acts, matters and things as the person if he were alive would be liable to do under this Ordinance :

Deceased persons :

Provided that in the case of a person dying during the year preceding the year of assessment, if his personal representative distributes his estate before the commencement of the year of assessment that personal representative shall pay the tax at the rate in force at the date of distribution of the estate, if the rate of tax for the year of assessment has not been fixed at that date.

Proviso.

34.—(1) Where anyone pays mortgage or debenture interest to a person not resident in the colony and is entitled to deduct that interest under paragraph (a) of sub-section (1) of section ten of this Ordinance, he shall upon paying the interest deduct therefrom tax at the rate of eight cents on every dollar of the interest and forthwith render an account to the Commissioner of the amount so deducted, and every such amount shall be a debt from him to the Government of the colony and shall be so recoverable.

Deduction of and accounting for tax on mortgage and debenture interest.

(2) In the case of a company the account aforesaid shall be rendered by the manager or other principal officer of the company.

Sec. 3d
Ord. 13 of 1937

(3) Anyone who fails or neglects to render an account due under this section shall be guilty of an offence against this Ordinance.

RETURNS AND PARTICULARS OF INCOME.

Returns to
be furnished
to Com-
missioner.

35.—(1) Everyone chargeable with tax shall on or before the prescribed day in every year deliver to the Commissioner a true and correct return of the whole of his income from every source whatsoever for the year immediately preceding the year of assessment, and shall if absent from the colony give the name and address of an agent residing therein.

(2) The Commissioner may by notice in writing require anyone to furnish to him within a specified time any particulars in writing he requires for the purposes of this Ordinance with respect to the income of such persons.

(3) The Commissioner may, by not less than fourteen days' notice in writing, require anyone to attend before him and answer questions with respect to the person's income and produce all books or other documents in his custody or under his control relating to his income.

(4) The Commissioner may by notice in writing require anyone or the attorney of anyone, or the secretary, attorney, manager, agent, or other principal officer of a company, residing in the colony to make returns under this Ordinance within the time specified by the notice.

(5) Anyone who refuses, fails, or neglects, to perform any act required by this section shall be guilty of an offence against this Ordinance.

*See. 44 Jan.
5-1995*

Government
and municipal
officers to
supply
particulars;
employers
to make
returns
relating to
employees.

36.—(1) The Commissioner may require any officer in the employment of the Government or any municipality or other public body to supply any particulars required for the purposes of this Ordinance and which may be in the possession of the officer, 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.

(2) Every employer shall, on or before the prescribed day in every year of assessment, prepare and submit to the Commissioner a return containing—

(a) the names and places of residence of all those employed by him during the year immediately preceding except those who were not employed in any other employment and whose

remuneration in the employment for the year did not exceed ~~seven hundred and twenty~~ *four hundred and eighty* dollars;

(b) the payments and allowances made to those persons in respect of that employment.

(3) The expression "remuneration" in the preceding sub-section shall include not only moneys paid as salary, wages, overtime, or bonus, but also the annual value of any residence, quarters, board and lodging, or other allowances in kind received by the employee in respect of his services.

(4) Where the employer is a body of persons, the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company or person engaged in the management of a company shall be deemed to be a person employed.

(5) Anyone who refuses, fails, or neglects, to perform any act required by this section shall be guilty of an offence against this Ordinance.

37. Where a trade, business, profession or vocation is carried on by two or more persons jointly— Partnerships.

(1) the income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership (that income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by the partner under the provisions of this Ordinance;

(2)—(a) the precedent partner, that is to say, the partner who of the partners resident in the colony—

(i) is first named in the agreement of partnership; or

(ii) if there be no agreement is named singly or with precedence over 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, that income being

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ascertained in accordance with the provisions of this Ordinance, and 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;

- (b) Where no partner is resident in the colony, the return shall be made and delivered by the attorney, agent, manager, or factor of the firm resident in the colony.

38. Anyone who refuses, fails or neglects to deliver any return required by the last preceding section shall be guilty of an offence against this Ordinance.

Return to be in prescribed form.

39. Every return made under this Ordinance shall be in the prescribed form.

ASSESSMENTS.

Commissioner to make assessments.

40.—(1) The Commissioner shall proceed to assess everyone chargeable with the tax as soon as may be after the day prescribed for delivering the returns.

(2) Where a person has delivered a return the Commissioner may—

- (a) accept the return and make an assessment accordingly; or
 (b) refuse to accept the return and, to the best of his judgement, determine the amount of the chargeable income of the person and assess him accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that the person is liable to pay tax, he may, according to the best of his judgement, determine the amount of the chargeable income of that person and assess him accordingly, but the assessment shall not affect any liability otherwise incurred by the person by reason of his refusal, failure, or neglect, to deliver a return.

Additional assessments.

41. Where it appears to the Commissioner that anyone liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within two years after the expiration thereof, assess the person at such amount or additional amount as according

to his judgement ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal, and other proceedings hereunder shall apply to that assessment or additional assessment and to the tax charged under it.

42.—(1) The Commissioner shall as soon as possible prepare lists of those assessed to tax.

Lists of persons assessed.

(2) The lists (herein called the assessment lists) shall contain the names and addresses of those assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and any other necessary particulars.

43.—(1) For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint an agent in the United Kingdom, who shall make inquiries on behalf of the Commissioner in respect of any of those persons who apply to be dealt with through the agent and ascertain and report to the Commissioner the amount of the chargeable income of the person in accordance with this Ordinance, and shall transmit to the Commissioner the accounts and computations upon which his report is based.

Appointment of agent in United Kingdom.

(2) The Commissioner on receipt of the report shall enter the amount reported in the assessment list; but if it appears to him that any error has occurred in the accounts or computation he may refer the report back for further consideration.

(3) Nothing in this section shall prevent the appeal to a judge in the colony conferred by section forty-five of this Ordinance.

44.—(1) The Commissioner shall cause to be served on everyone whose name appears on the assessment lists a notice stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

Notice of assessment and power of Commissioner to revise in case of objection :

(2) If anyone disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him.

(3) The 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, but the Commissioner, upon being satisfied that

owing to absence from the colony, sickness, or other reasonable cause, the person disputing the assessment was prevented from making the application within that period, shall extend the period as may be reasonable in the circumstances.

(4) On receipt of the notice of objection referred to in sub-sections (2) and (3) of this section, the Commissioner may require the person giving the notice of objection to furnish any particulars the Commissioner deems necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to that income, and may summon anyone whom the Commissioner considers to be able to give evidence respecting the assessment to attend before him and may examine the person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(5) In the event of anyone assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the amount so agreed shall be the amount at which that person shall stand assessed, and the assessment shall be confirmed or amended accordingly :

Proviso.

Provided that in the event of anyone who, under sub-sections (2) and (3) of this section, has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed, his right of appeal to a judge under the provisions of this Ordinance against the assessment made upon him, shall remain unimpaired.

Appeals
against
assessments :

45.—(1) Anyone who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (5) of the last preceding section may appeal against the assessment to a judge in chambers upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired :

Proviso :

Provided that, notwithstanding the lapse of the period of fifteen days, anyone may appeal against the assessment if he shows to the satisfaction of a judge in chambers that, owing to absence from the colony, sickness, or other reasonable cause, he was prevented from giving notice of appeal within the period and that there has been no unreasonable delay on his part.

(2) The appeal shall be brought by summons, and evidence shall be received at the hearing if tendered.

(3) Everyone appealing shall attend in person before the judge on the day and at the time fixed for the hearing of his appeal :

Provided that, if it be proved to the satisfaction of the judge that owing to absence from the colony, sickness, or other reasonable cause, anyone is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of the appeal for any reasonable time he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk, or servant, of the appellant, on the appellant's behalf. Proviso.

(4) Seven clear days' notice, unless rules made hereunder otherwise provide, shall be given to the Commissioner of the date fixed for the hearing of the appeal.

(5) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(6) If the judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge.

(7) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner upon the appellant.

(8) All appeals shall be heard in camera, unless the judge, on the application of the appellant, otherwise directs.

(9) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(10) The decision of the judge hearing the appeal shall be final; but the judge may, if he so desires, and shall on the application of the appellant or the Commissioner, state a case on a question of law for the consideration of the Full Court of the Supreme Court.

(11) The Chief Justice may make rules governing the appeals providing for the method of tendering evidence, appointing places for the hearing of the appeals, and prescribing the procedure to be followed on a case being stated.

Errors
in assess-
ments and
notices :

46.—(1) No assessment, warrant, or other proceeding, purporting to be made in accordance with the provisions of this Ordinance 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 proceeding is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending it, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) 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; or
- (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 :

Proviso.

Provided that in case of assessment the notice thereof shall be duly served on the person intended to be charged and shall contain, in substance and effect, the particulars on which the assessment is made.

Evidence.

47. The production of any document under the hand of the Commissioner or of any person or persons appointed by him, purporting to be a copy of or extract from any return or assessment, shall in all courts and in all proceedings be sufficient evidence of the original, and the production of the original shall not be necessary; and all courts shall in all proceedings take judicial notice of the signature of the Commissioner, or of any person or persons appointed by him, either to the original or to the copy or extract.

RELIEF IN CASES OF DOUBLE TAXATION.

Relief in
respect of
United
Kingdom
income tax.

48.—(1) Anyone who has paid by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid by deduction or otherwise, or is liable to pay, income tax in the United Kingdom for that year in respect of the same part of his income, shall be entitled to relief from tax under this Ordinance, paid or payable by him on that part of his income, at a rate equal to the amount by which the rate appropriate to his case under this Ordinance exceeds half the appropriate rate of United Kingdom tax; if, however, the rate of tax appropriate to his case under

this Ordinance exceeds the appropriate rate of United Kingdom tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax.

(2) For the purposes of this section a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom tax in any particular case.

(3) For the purposes of this section the expression "rate of tax," when applied to tax paid or payable under this Ordinance, means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance 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 twenty-eight of this Ordinance on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

49.—(1) If anyone resident in the colony who has paid by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid by deduction or otherwise, or is liable to pay, Empire income tax for the year in respect of the same part of his income, he shall be entitled to relief from tax in the colony paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

Relief in
respect of
Empire
income tax.

- (a) if the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in the colony, the rate at which relief is to be given shall be the Empire 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 Ordinance.

(2) If anyone not resident in the colony who has paid by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income proves to the satisfaction of the Commissioner that he has paid by deduction or otherwise, or is liable to pay, Empire income tax for that year of assessment in

respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows:—

- (a) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax.
- (b) if the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, 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 Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section, " Empire income tax " means any income tax charged under any law in force in any part of his Majesty's dominions or in any place under his Majesty's protection (other than the United Kingdom or this colony), provided the legislature of that part or place has provided for relief in respect of tax on income both in that part or place and this colony in a manner similar to that provided in this section.

(4) For the purposes of this section the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section hereof, and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is for any year of assessment resident both in the colony and in a part or place in which Empire income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

Official
secrecy.

50. Where, under any law in force in any part of his Majesty's dominions or in any place under his Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in this colony, the obligation as to secrecy imposed by section four of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that part of his Majesty's dominions or in that place under his Majesty's protection of any facts necessary to enable the

proper relief to be given in cases where relief is claimed from income tax in this colony or from income tax in that part or place aforesaid.

COLLECTION AND REPAYMENT OF TAX.

51.—(1) Tax shall be payable to the Commissioner within thirty days after the service of a notice of assessment under section forty-four of this Ordinance.

Time within which payment is to be made.

(2) Collection of tax shall, in cases where notice of an objection or an appeal has been given, remain in abeyance until the objection or appeal is determined; but the Commissioner may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

Procedure in cases where objection or appeal is pending.

52.—(1) If any tax is not paid within the period prescribed in sub-section (1) of the last preceding section—

Penalty for non-payment of tax; and enforcement of payment.

(a) a sum equal to five per centum of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of that sum;

(b) the Commissioner shall serve a demand note upon the person assessed, and if payment is not made within thirty days from the date of the service of the demand note, the Commissioner may proceed to enforce payment by process of parate execution or as hereafter provided.

(2) Any document signed by the Commissioner containing a statement of the amount due in respect of income tax shall without proof of the signature or without proof of any other matter or thing be deemed by all courts to be prima facie evidence of the amount claimed being due and correct.

53. Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on the objection or appeal, as the case may be, shall be payable within thirty days from the receipt by the person assessed of the notification of the tax payable, and if the tax is not paid within that period the provisions of the last preceding section shall apply.

Collection of tax after determination of objection or appeal.

54. Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner in his official

Suit for tax by Commissioner.

name with full costs of suit from the person charged therewith as a debt due to the Government of the colony as well as by the means provided in section fifty-two of this Ordinance.

Repayment
of tax.

55.—(1) If it be proved to the satisfaction of the Commissioner that anyone for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, that person shall be entitled to have the amount so paid in excess refunded.

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

(3) The Commissioner shall give a certificate of the amount to be repaid and upon receipt of the certificate the Colonial Treasurer shall cause repayment to be made in conformity therewith.

(4) Except as regards sums repayable on an objection or appeal, no repayment shall be made to anyone in respect of any year of assessment 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 he has received notice of the assessment made upon him for that year) unless it is proved to the satisfaction of the Commissioner that the failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.

OFFENCES.

Penalties for
offences.

56. Anyone guilty of an offence against this Ordinance shall be liable on summary conviction to a fine not exceeding five hundred dollars.

False state-
ments and
returns.

57. Anyone who,—

- (a)—(i) for the purpose of obtaining any deduction, rebate, reduction, or repayment, in respect of tax for himself or for any other person, or
 (ii) in any return account, or particulars, made or furnished with reference to tax,
 knowingly makes any false statement or false representations, or
 (b) aids, abets, assists, counsels, incites, or induces another person
 (i) to make or deliver any false return or statement under this Ordinance, or

(ii) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance, shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment with hard labour for a term not exceeding six months. Penalty.

58. Anyone who obstructs or impedes, or insults, or molests, a Commissioner, or other officer in the discharge of his duties, or in his official capacity, or in the exercise of his powers under this Ordinance, shall be guilty of an offence against this Ordinance. Impeding or obstructing Commissioner or officers.

59. Proceedings for an offence under this Ordinance may be instituted at any time within three years after the commission of the offence. Proceedings.

60. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law. Saving for criminal proceedings.

GENERAL PROVISIONS.

61.—(1) Anyone who since the first day of January nineteen hundred and twenty-eight has reduced his income by the transfer or assignment of any movable or immovable property to or in trust for any member of his family shall nevertheless be liable at the discretion of the Commissioner to be taxed as if that transfer or assignment had not been made. Transfer of property to evade taxation.

(2) Anyone who after the commencement of this Ordinance reduces his income by the transfer or assignment of any movable or immovable property to or in trust for any member of his family shall nevertheless be liable to be taxed as if that transfer or assignment had not been made, unless the Commissioner is satisfied that the transfer or assignment was not made for the purpose of evading any tax or part thereof imposed by this Ordinance.

62.—(1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and the notice shall be valid if the signature of the Commissioner or of that person or those persons is duly printed or written thereon : Signing of notices :

Provided that any notice in writing under this Ordinance to anyone requiring him to furnish particulars to the Proviso.

*Repealed by
Sec. 29 C.A.
5/1/982*

Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by anyone duly authorised by him.

(2) A signature attached to a notice and purporting to be the signature of anyone so appointed shall be taken to be the signature of that person until the contrary is shown.

Service of notices.

63. Notices may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter event be deemed to have been served, in the case of those resident in the colony, not later than the fifteenth day succeeding the day when posted, and in the case of those not so resident the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving the service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Rules.

64.—(1) The Governor in Council may from time to time make regulations generally for carrying out the provisions of this Ordinance and may in particular by those regulations provide for—

- (a) the form of returns, claims, statements, and notices under this Ordinance;
- (b) the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of the colony;
- (c) the payment of tax by instalments;
- (d) any matters authorised by this Ordinance to be prescribed.

(2) If anyone fails to observe or contravenes the provisions of any regulation made under this Ordinance he shall be guilty of an offence against this Ordinance.
