



ORDINANCE No. 22 OF 1956.

INCOME TAX (AMENDMENT) ORDINANCE, 1956.



I assent.

P. A. Lewis

Governor.

31st May, 1956.

BRITISH GUIANA.

Arrangement of Sections.

Section.

1. Short title.
2. Amendment of section 2 of the Principal Ordinance to include new definitions.
3. Amendment of section 3 of the Principal Ordinance.
4. Insertion of new sections 7A and 7B in the Principal Ordinance to make provision for assessment of profit of non-resident persons from sale of exported produce, and arising from deductions previously allowed.
5. Amendment of section 10 of the Principal Ordinance to provide exemption in respect of income derived from certain sport-ing activities.
6. Amendment of section 14 of the Principal Ordinance.
7. Repeal and re-enactment of section 15 of the Principal Ordinance with respect to the allowance of trade losses.

Section.

8. Amendment of section 20 of the Principal Ordinance.
9. Amendment of section 22 of the Principal Ordinance.
10. Amendment of section 33 of the Principal Ordinance.
11. Amendment of section 56 of the Principal Ordinance.
12. Insertion of new sections in the Principal Ordinance to provide for Board of Review.
13. Repeal and re-enactment of section 57 (1) of the Principal Ordinance with reference to appeals to the Supreme Court and amendment of Section 57 (5).
14. Amendment of section 61 of the Principal Ordinance.
15. Amendment of section 62 of the Principal Ordinance.
16. Amendment of section 63 of the Principal Ordinance.
17. Amendment of section 66 of the Principal Ordinance.
18. Insertion of new section to provide for recovery of tax from persons leaving the Colony.
19. Amendment of section 77 of the Principal Ordinance.
20. Power to amend second schedule.
21. Insertion of schedules to the Principal Ordinance.
22. Commencement.

AN ORDINANCE to amend the Income Tax Ordinance.

A.D. 1956. Enacted by the Legislature of British Guiana:—

Short title. 1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance, 1956, 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.

Cap. 299.

Amendment of section 2 of the Principal Ordinance.

2. Section 2 of the Principal Ordinance is hereby amended —

(i) by the insertion immediately after the definition of the word "Commissioner" of the following new definitions —

" "The Commonwealth" shall be deemed to include those territories and their dependencies which are set out in the first schedule to this Ordinance;

"Commonwealth Income Tax" means any income tax charged under any law in force in any part of the Commonwealth other than the United Kingdom;"

(ii) by the insertion immediately after the definition of the word "prescribed" of the following new definitions —

" "sports organisation" means a body of persons established for the purpose of promoting or advancing any sporting event being a body of persons, to a share in the income of which no member of the organisation or person other than another sporting organisation is entitled, and being a body of persons

First schedule.

the income of which is applied wholly to the promotion or advancement of sporting events or the provision of facilities or amenities for competitors or participators in or the members of the public who attend sporting events:

Provided that a body of persons shall not cease to be a sports organisation by reason of the fact that a portion of its income is donated to any charitable or educational institution of a public character;

“sporting events” means such activities as are prescribed in the second schedule to this Ordinance;”

Second
schedule.

3. Section 3 of the Principal Ordinance is hereby amended —

- (a) by the substitution of a full stop for the colon at the end of the first proviso thereto; and
(b) by the deletion of the second proviso thereto.

Amendment
of section 3
of the Prin-
cipal Ordinance.

4. The Principal Ordinance is hereby amended by the insertion therein after section 7 of the following new sections —

Insertion of
new sections
7A and 7B.

“Profit of
non-resi-
dent per-
sons from
sale of
exported
produce.

7A. (1) Where any person who is not resident in the Colony in the year preceding the year of assessment carries on in the Colony any agricultural, manufacturing or other productive undertaking and sells any produce of such undertaking outside the Colony or for delivery outside the Colony, whether the contract is made within or without the Colony, the full profit arising from the sale in a wholesale market shall be deemed to be income accruing in, or derived from the Colony:

Provided that if it is shown that the profit has been increased through treatment of the produce outside the Colony other than by handling, grading, blending, sorting, packing and disposal, such increase of profit shall not be deemed to be income accruing in, or derived from, the Colony.

(2) Where any such produce is not sold in a wholesale market, the amount deemed to be income accruing in, or derived from the Colony shall not be less than the profit which might have been obtained if such person had sold such produce wholesale to the best advantage.

Profit arising
from deduc-
tions pre-
viously
allowed.

7B. Where a sum has formerly been allowed as a deduction under subsection (1) of section 12 of this Ordinance, and where in a later year the whole or part of the sum so allowed is recovered, or the liability for the outgoing is released in whole or in part, or, where the original sum being in the nature of a provision or reserve, its further retention, in whole or in part, has become unnecessary, then any sum so recovered or re-

leased shall be deemed to be a gain or profit within the meaning of paragraph (a) of section 5 of this Ordinance for the year of assessment in the basis period for which such sum is so recovered or released:

Provided that if any person chargeable with tax in respect of any such sum requests the Commissioner in writing to exercise his power under the proviso, the Commissioner may divide such sum into so many portions not exceeding six, as he may think fit, and one such portion shall be taken into account in computing the income of such person for the year in which such sum is so brought to charge under this subsection and for each of the preceding years corresponding to the number of such portions; and notwithstanding anything to the contrary in this Ordinance, all such additional assessments as are necessary to enable effect to be given to the provision of this proviso shall be made."

Amendment
of section 10
of the Prin-
cipal Ordina-
nce.
No. 35 of
1954.

5. Section 10 of the Principal Ordinance as amended by the Income Tax (Amendment) Ordinance, 1954, is hereby further amended by the addition thereto after paragraph (u) of the following new paragraph—

"(v) the income of any sports organisation derived from any public or private subscriptions or donations whether by deed of covenant or otherwise or in respect of games or profits derived from charges for admission to witness or to participate in sporting events or from the provision of refreshments to patrons who witness sporting events."

Amendment
of section 14
of the Prin-
cipal Ordina-
nce.

6. Section 14 of the Principal Ordinance is hereby amended—
(a) by the substitution for the words "Empire income tax" in paragraph (g) of the words "Commonwealth income tax"; and
(b) by the deletion of the words "as defined in sections 60 and 61 of this Ordinance" in the said paragraph (g).

Repeal and
re-enactment
of section 15
of the Prin-
cipal Ordina-
nce.
No. 7 of
1955.

7. Section 15 of the Principal Ordinance as amended by section 2 of the Income Tax (Amendment) Ordinance, 1955, is hereby repealed and the following substituted therefor —

"Allowance
of trade
losses.

15. 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 any person either solely or in partnership is such that it cannot be wholly set-off against his income from other sources for the same year, the amount of 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 hereinafter provided, shall be set-off against what would otherwise have been his chargeable income in the year or years following until it is completely recouped:

Provided that —

(a) the amount of loss sustained in the year prior to

the year of assessment 1951, 1952, 1953, 1954 or 1955 shall, subject as hereinafter provided, only be carried forward and set-off against what would have been chargeable income for the next five years in succession;

- (b) in respect of any loss incurred subsequent to the year preceding the year of assessment 1955, the amount of loss allowed to be set-off in computing the chargeable income of any year shall not exceed the amount, if any, of the gains or profits, for the year of assessment, in respect of the trade, business, profession or vocation in respect of which the loss was incurred;
- (c) 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;
- (d) 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."

8. Subsection (1) of section 20 of the Principal Ordinance as amended by section 3 of the Income Tax (Amendment) Ordinance, 1955, is hereby further amended by the substitution for the words "out of such chargeable income" in the seventeenth line thereof of the words "out of such chargeable income before making the deductions specified in this section and in sections 16, 17, 18 and 19 hereof".

Amendment
of section 20
of the Prin-
cipal Ordi-
nance.

No. 7 of
1955.

9. Subsection (4) of section 22 of the Principal Ordinance is hereby amended by the substitution for the words "Her Majesty's dominions outside the colony or in territory under Her Majesty's protection" in paragraph (d) of the words "the Commonwealth".

Amendment
of section 22
of the Prin-
cipal Ordi-
nance.

10. Subsection (3) of section 33 of the Principal Ordinance is hereby amended by the deletion of the words and commas, "not being a British subject or a firm or company whose place of business is situated in Her Majesty's Dominions or in territory under Her Majesty's protection or a branch thereof," occurring therein.

Amendment
of section 33
of the Prin-
cipal Ordi-
nance.

11. Subsection (5) of section 56 of the Principal Ordinance is hereby amended by the insertion between the words "appeal" and "to" in the fifth line of the proviso thereto of the words "to the Board of Review constituted under section 56A of this Ordinance or".

Amendment
of section 56
of the Prin-
cipal Ordi-
nance.

12. The Principal Ordinance is hereby amended by the insertion therein after section 56 of the following new sections —

Insertion of
new sections
in the Prin-
cipal Ordi-
nance.

56A. (1) There shall be established a Board of Review. (hereinafter referred to as "the Board") for the purpose of hearing appeals as hereinafter provided.

(2) The Board shall consist of not less than

three and not more than five members who shall be appointed by the Governor.

(3) No person who is employed in the Public Service of the Colony shall be appointed as a member of the Board.

(4) The Governor shall appoint one of the members of the Board to be the Chairman of the Board.

(5) The Chairman shall preside at all meetings of the Board. In the absence of the Chairman from any meeting of the Board, the members present shall elect one of their number to be Chairman of the meeting.

(6) Three members present at any meeting of the Board shall constitute a quorum for the performance of its functions.

(7) The Board may act notwithstanding any vacancy among the members thereof.

(8) The Governor may grant leave of absence to any member of the Board, and may appoint another person to act in the place of the member of the Board who has been granted such leave.

(9) A member may by writing under his hand addressed to the Chief Secretary resign from the Board.

(10) The Governor may at any time revoke the appointment of a member of the Board.

(11) The Board shall meet when summoned by the Chairman.

(12) The remuneration and any travelling and subsistence allowances of the Board shall be prescribed by the Governor in Council.

(13) Where the Board is unable to arrive at a unanimous decision on the hearing of any appeal, the decision of the majority shall prevail.

(14) Every decision of the Board shall be in writing under the hand of the Chairman.

Appointment
of officers
of the Board.

Minutes of
the Board.

Appeals to
the Board
against
assessments.

56B. The Governor may appoint a secretary to the Board (hereinafter referred to as "the Secretary") and such other officers and servants of the Board as may be necessary at such remuneration as may be specified.

56C. The Board shall cause to be kept proper minutes of their acts and proceedings.

56D. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner as provided in subsection (5) of section 56 may appeal to the Board by lodging with the Secretary within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired, four copies of the notice of appeal stating concisely the grounds upon which he desires to appeal, and by serving a copy of such notice on the Commissioner within the said time.

(2) Every such notice shall be signed by the

appellant personally or by a solicitor on his behalf, and such notice shall contain the appellant's address and, if the notice has been signed by a solicitor, the business address of such solicitor.

(3) Where any person satisfies the Board that owing to his absence from the Colony, or from illness or other reasonable cause he was prevented from complying with the provisions of subsection (1) of this section, the Board may grant him leave to serve his notice of appeal in the manner hereinbefore prescribed notwithstanding that the period of fifteen days has elapsed.

(4) Save with the consent of the Board and on such terms as the Board may determine an appellant may not, on the hearing of an appeal, rely on any grounds other than those stated in the notice of appeal.

(5) Upon lodging a notice of appeal, an appellant shall pay to the Secretary the sum of five dollars which shall be returned to the appellant if the appeal is decided in his favour by the Board or a judge in chambers as the case may be.

(6) Upon the receipt of any notice of appeal, the Secretary shall fix a time and place for the hearing of the appeal, and shall give not less than fourteen days notice in writing of such fixture to the appellant and the Commissioner.

(7) Immediately after receiving the copy of the petition of appeal from the Secretary to the Board, the Commissioner shall forward to the Board copies of all documents relevant to the assessment.

(8) Every appellant shall attend in person before the Board 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 Board that owing to absence from the Colony, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the Board may postpone the hearing of the appeal for any reasonable time it considers necessary for the attendance of the appellant, or in any case it may admit the appeal to be made by counsel, solicitor, accountant, any agent, clerk or servant, of the appellant, on the appellant's behalf.

(9) The Commissioner may appear in person or may be represented at the hearing by any member of his Department or by solicitor or counsel.

(10) The onus of proving that the assessment appealed against is excessive shall be on the appellant.

(11) The Board may, after hearing an appeal, confirm, reduce, increase or annul, the assessment or make such order thereon as it may seem fit.

(12) The Secretary to the Board shall, upon the

disposition of an appeal, forward a copy of the decision and the reasons therefor to the Commissioner and to the appellant.

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

(14) Notwithstanding anything contained in section 67 of this Ordinance, if the Board is satisfied that tax in accordance with its decision upon appeal may not be recovered, the Board may require the appellant forthwith to furnish such security for payment of the tax, if any, which may become payable by the appellant as may seem to the Board to be proper. If such security is not given, the tax assessed shall become payable forthwith and shall be recoverable by process ofparate execution or in the manner prescribed by section 71 of this Ordinance.

(15) All appeals under this Ordinance shall be heard *in camera*:

Provided that the Board may, on application of the appellant in any appeal, direct that that appeal be heard in public:

Provided further that where, in the opinion of the Board, any proceedings heard *in camera* shall be reported, the Board may authorise publication of the facts of the case, the arguments and decision without disclosing the name of the appellant.

(16) No costs may be awarded on the disposition of an appeal by the Board.

Powers of
the Board.

56E. (1) The Board shall have the power to summon witnesses and to call for the production of books and documents and to examine witnesses on oath, and no member of the Board shall be liable to any action or suit for any matter or thing done by him as such member.

(2) Any summons to a witness to attend before the Board to give evidence or to produce any book or document shall be signed by the Chairman and oaths may be administered by the Chairman.

Duty of
witnesses
summoned.

56F. (1) Any person summoned to attend and give evidence before the Board or to produce any books or documents shall be bound to obey such summons and any person who, without reasonable excuse fails so to do, shall be liable on summary conviction to a penalty not exceeding forty-eight dollars.

(2) Any person who, being before the Board in pursuance of any summons, refuses to give evidence or refuses without lawful excuse to produce any book or document in his custody or control when required so to do by the Board shall be liable on summary conviction to a penalty not exceeding forty-eight dollars:

Provided that no person giving evidence before the

Board shall be compellable to answer any question if in the opinion of the Board the answer would tend to expose the witness, his wife, or her husband to any criminal charge or to any penalty or forfeiture other than civil proceedings at the instance of the Crown or of any other person.

Regulations. 56G. The Governor in Council may make regulations —

- (a) prescribing the manner in which appeals shall be made to the Board;
- (b) prescribing the procedure to be adopted by the Board in hearing appeals and the records to be kept by the Board; and
- (c) generally for the better carrying out of the provisions of this section."

13. (1) Subsection (1) of section 57 of the Principal Ordinance is hereby repealed and the following substituted therefor —

"Appeals to a judge or the Full Court against assessments.

57. (1) (a) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in subsection (5) of section 56, or having appealed to the Board under the provisions of section 56D, is aggrieved by the decision of such Board, may appeal against the assessment or decision as the case may be to a judge in chambers upon giving notice in writing to the Commissioner within thirty days from the date of the refusal of the Commissioner to amend the assessment as desired or within thirty days after the date of the decision of the Board as the case may be.
- (b) The Commissioner may, if he is dissatisfied with the decision of the Board, appeal against the decision to a judge in chambers upon giving notice in writing to the other party to the appeal under section 56D within thirty days after the date of such decision and the provisions of this section in so far as they are applicable shall apply to any such appeal by the Commissioner:

Repeal and re-enactment of subsection (1) and amendment of subsection 5 of section 57 of the Principal Ordinance.

Provided that, notwithstanding the lapse of the period of thirty days, any person may appeal against an assessment or decision as the case may be 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 said period and that there has been no unreasonable delay on his part."

(2) Subsection (5) of Section 57 of the Principal Ordinance is hereby amended by the substitution for the word "appellant" appearing therein of the words "person assessed".

Amendment
of section 61
of the Prin-
cipal Ordi-
nance.

14. Section 61 of the Principal Ordinance is hereby amended—
- (a) subject to the provisions of paragraph (b) hereof, by the substitution of the word "Commonwealth" for the word "Empire" wherever the word occurs in subsections (1), (2) and (5);
 - (b) by the substitution of the words "the rate of Commonwealth income tax" for the words "the Empire rate of tax" wherever they occur;
 - (c) by the deletion of the word "If" at the commencement of subsections (1) and (2), and by the substitution therefor in each subsection of the words, brackets and numeral "Subject to the provisions of subsection (3) of this section if";
 - (d) by the repeal of subsection (3) and by the substitution of the following —
 " (3) No relief shall be granted in accordance with the provisions of subsection (1) or subsection (2) of this section in respect of Commonwealth income tax charged in any part of the Commonwealth unless the Legislature of that part has provided for relief in respect of tax charged on income both in that part and in the Colony in a manner similar to that provided for in this section."

Amendment
of section 62
of the Prin-
cipal Ordi-
nance.

15. Section 62 of the Principal Ordinance is hereby amended by the substitution for the word "Empire" appearing in the proviso thereto, of the word "Commonwealth".

Amendment
of section 63
of the Prin-
cipal Ordi-
nance.

16. Subsection (3) of section 63 of the Principal Ordinance is hereby amended —
- (a) by the substitution for the words "part of Her Majesty's Dominions" of the words "part of the Commonwealth"; and
 - (b) by the deletion of the words "or the Colony".

Amendment
of section 66
of the Prin-
cipal Ordi-
nance.

17. Section 66 of the Principal Ordinance is hereby amended by —
- (a) the substitution for the words "part of Her Majesty's Dominions or in any place under Her Majesty's protection" in the first and second lines thereof, of the words "part of the Commonwealth";
 - (b) the substitution for the words "part of Her Majesty's Dominions or in that place under Her

Majesty's protection" in the seventh and eighth lines thereof, of the words "part of the Commonwealth".

18. The Principal Ordinance is hereby amended by the insertion after section 69 of the following new section —

Insertion of new section in the Principal Ordinance.

69A. (1) Where the Commissioner is of the opinion that any person is about to, or likely to, leave the Colony without paying all tax assessed upon him, including all tax assessed upon him under section 49 of this Ordinance, he may issue a certificate containing particulars of such tax and a direction to the Commissioner of Police or the Chief Immigration Officer, or both, to prevent such person from leaving the Colony without paying the tax or furnishing security to the satisfaction of the Commissioner for payment thereof.

(2) The Commissioner of Police or the Chief Immigration Officer, or both, as the case may be, shall, on receipt of any such certificate and direction issued by the Commissioner, and notwithstanding the non-receipt by the person named in such direction of the notification required by subsection (3) of this section, take, or cause to be taken by any member of the police force or immigration officer such measures as may be necessary to prevent such person from leaving the Colony without sufficient authority, including the use of such force as may be necessary and the seizure, removal and retention of any passport, certificate of identity or other travel document relating to such person and of any exit permit or other document authorising such person to leave the Colony.

(3) At the time of issue of his certificate and direction the Commissioner shall issue to such person a notification thereof by personal service, or registered post.

(4) Production of a certificate signed by the Commissioner, or some person or persons from time to time appointed by him for that purpose, stating that the tax has been paid or that security has been furnished therefor, or payment of the tax to an immigration officer or to a police officer in charge of a police station, shall be sufficient authority for the purposes of subsection (2) of this section for allowing such person to leave the Colony.

(5) Any person who, knowing or having reasonable cause to believe that a direction has been issued under this section for the prevention of his departure from the Colony, leaves or attempts to leave the Colony without paying all tax assessed upon him, including all tax assessed upon him under section 49 of this Ordinance, or furnishing security to the satisfaction of the Commissioner for payment thereof shall be guilty of an offence against this section and on summary conviction

thereof shall be liable to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months.

(6) Any member of the police force or any immigration officer may arrest without warrant any person whom he has reasonable ground for suspecting to have committed an offence against this section.

(7) No civil or criminal proceedings shall be instituted or maintained against the Government, the Commissioner of Police, the Chief Immigration Officer, or any other member of the police force or immigration officer, in respect of anything lawfully done under the authority of this section."

Amendment of section 77 of the Principal Ordinance.

19. Subsection (1) of section 77 of the Principal Ordinance is hereby amended by the substitution for the words "both such fine or imprisonment" appearing in sub-paragraph (ii) of paragraph (b) thereof, of the words "both such fine and imprisonment".

Power to amend second schedule.

20. The Governor in Council may from time to time by Order vary the second schedule to this Ordinance by adding thereto or deleting therefrom any activities.

Schedules to be schedules to Principal Ordinance.

21. The first and second schedules to this Ordinance are hereby inserted as the first and second schedules respectively of the Principal Ordinance.

Commencement.

22. (1) Paragraph (ii) of section 2, and section 5 of this Ordinance shall be deemed to have come into operation with and from the year of assessment commencing on the 1st January, 1954.

(2) Sections 3, 11, 12 and 13 of this Ordinance shall come into operation with respect to and from the year of assessment 1957.

(3) Paragraph (i) of section 2, sections 4, 6, 7, 8, 9, 10, 14, 15, 16 and 17 of this Ordinance shall come into operation with respect to and from the year of assessment 1956.

FIRST SCHEDULE

Section 2.

Aden	Gibraltar
Anglo-Egyptian Sudan	Gilbert & Ellice Islands
Australia	Gold Coast
Bahamas	Hong Kong
Barbados	India
Basutoland	Isle of Man
Bechuanaland	Jamaica
Bermuda	Kenya
British Honduras	Leeward Islands
British Solomon Islands	Malta
Brunei	Mauritius
Canada	New Hebrides
Ceylon	New Zealand
Channel Islands	Nigeria
Cyprus	North Borneo
Falkland Islands	Northern Rhodesia
Federation of Malaya	Nyasaland Protectorate
Fiji	Pakistan
Gambia	St. Helena

Sarawak	Tonga
Seychelles	Trinidad & Tobago
Sierra Leone	Uganda Protectorate
Singapore	Union of South Africa
Somaliland Protectorate	United Kingdom of Great Britain and Northern Ireland
Southern Rhodesia	Windward Islands
South-West Africa	Zanzibar
Swaziland	
Tanganyika	

SECOND SCHEDULE

Section 2.

Amateur Boxing	Hockey
Amateur Wrestling	Horse Racing
Athletics	Model aeroplane flying
Badminton	Netball
Baseball	Polo
Basket-ball	Roller-skating
Billiards	Rounders
Boat racing	Rugby
Cricket	Soft-ball
Croquet	Swimming
Cycling	Table Tennis
Flying	Tenequoits
Football	Lawn Tennis
Goat Racing	Water Polo
Golf	Weightlifting
Hand-ball	Yachting

Passed by the Legislative Council this seventeenth day of May, nineteen hundred and fifty-six.

J. D. Summing
Clerk of the Legislature.

(Leg. Bill No. 23 of 1956)

(F.S. I.T. 15/55)