

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

1986—01—28.

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

F. A. Narain,
Clerk of the National Assembly.



GUYANA

BILL No. 2 of 1986

TAXATION LAWS (AMENDMENT) BILL 1986

ARRANGEMENT OF SECTIONS

SECTION

PART I

PRELIMINARY

1. Short title and commencement.

PART II

AMENDMENT OF THE INCOME TAX ACT

2. Amendment of section 2 of the Income Tax Act.
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AMENDMENT OF INCOME TAX (IN AID OF INDUSTRY) ACT

4. Amendment of Income Tax (In Aid of Industry) Act.

A BILL

Intituled

AN ACT to amend the Income Tax Act and the Income Tax (IN AID of Industry) Act.

A.D. 1986 Enacted by the Parliament of Guyana:-

PART I

PRELIMINARY

Short title
and com-
mencement.

1. This Act may be cited as the Taxation Laws (Amendment) Act 1986 and shall be deemed to have come into operation with effect from the year of assesment commencing on the 1st January, 1986.

PART II

AMENDMENT OF THE INCOME TAX ACT

Amendment
of section 2
of the Income
Tax Act,
Cap. 81:01

2. Section 2(1) of the Income Tax Act is hereby amended by the insertion, after the definition of the expression "pension", of the following definitions —

“petroleum” has the meaning assigned to it by the Petroleum (Exploration and Production) Act 1986;

“petroleum contract” means a contract relating to petroleum operations, entered into by a person with the holder of a petroleum licence; by which that person contracts to carry out the petroleum operations in consideration of a right to take a share of any petroleum produced as a result of the petroleum operations;

“petroleum licence” means a petroleum prospecting licence or a petroleum production licence granted under Part IV of the Petroleum (Exploration and Production) Act 1986;

“petroleum operations” means operations carried out for, or in connection with, the prospecting for, or production, of petroleum, whether carried out by the holder of a petroleum licence or by any other person, on behalf of the holder of a petroleum licence, under a petroleum contract;.

3. The Income Tax Act is hereby amended by the insertion, after section 33, of the following sections as sections 33A and 33B —

Insertion of new sections 33A and 33B in the Income Tax Act. Cap. 81:01.

‘Certain provisions in applicable in ascertaining chargeable income from petroleum operations.

33A. Notwithstanding anything to the contrary contained in this Act —

- (a) in ascertaining the chargeable income, from petroleum operations, of any person engaged in the business of carrying on such operations, sections 16(1)(c) and 17 shall not apply; and
- (b) for the purpose of carrying forward, and allowing set-off, of loss incurred in petroleum operations by any person engaged in the business of carrying on such operations under section 19, paragraph (c) of the proviso thereto shall not apply.

Petroleum capital expenditure allowance.

33B.(1) In this section

“petroleum capital expenditure” means —

- (a) expenditure incurred in or on searching for and discovering petroleum and ascertaining and testing the extent and characteristics thereof, including expenditure incurred for —
 - (i) geological, geophysical, geochemical, aerial, magnetic and other surveys and all analyses, interpretation and studies thereof;
 - (ii) drilling of shot holes, core holes, bore holes and holes for the discovery and delineation of petroleum reservoirs;
 - (iii) appraisal of surveys and drilling, including the drilling and testing of appraisal wells and all reservoir studies;
 - (iv) acquisition of petroleum information;
- (b) expenditure incurred in or on —
 - (i) the acquisition of a petroleum licence or the acquisition of any participating interest in a petroleum licence, or the acquisition of rights, or a participating in-

terest in rights, under a petroleum contract made with the holder of a petroleum licence, but not including any expenditure incurred in or after the year of commencement in or on the acquisition of any such interest or right from a person who is carrying on production of petroleum under a programme of continuous production and sale;

- (ii) the provision of machinery or the acquisition of any right to use machinery for petroleum operations;
 - (iii) the construction of any building or works, including expenditure incurred in or on any payment for or contribution to the cost of providing
 - (i) water, light or power for use on,
 - (ii) access to, or
 - (iii) communication with,
 any site for the conduct of petroleum operations; or
 - (iv) the provision of residential accommodation and welfare facilities for employees employed for the purposes of petroleum operations;
 - (v) the provision of any vehicles or office equipment, furniture or machinery in connection with the carrying on of petroleum operations.
- (c) any expenditure incurred in or on —
- (i) preparing a site for petroleum production, including delineation work and feasibility studies done to determine the best means of operation;
 - (ii) the intangible costs of preparing for and drilling production wells, such costs including, by way of example only, all costs of labour, fuel, repairs, hauling and supplies and materials without salvage value, incurred in —

- (i) drilling, hoisting and cleaning well ;
 - (ii) clearing and draining ground, road making, surveying and other preparations for drilling; or
 - (iii) constructing and erecting drilling rig, drilling and producing platform, tank, pipeline and other plant, machinery or equipment necessary for producing petroleum;
- (d) any expenditure incurred prior to the year of commencement in or on —
- (i) general administration and management directly connected with petroleum operation ;
 - (ii) any interest accrued on any loan taken by the assessee and for the time being utilised to finance petroleum operations:

“petroleum information” means geological, geophysical, and technical information, being information that relate to the presence, absence or extent of deposits of petroleum in an area, or is likely to be of assistance in determining the presence, absence or extent of such deposit ;

“petroleum production licence” means a petroleum production licence granted under Part IV of the Petroleum (Exploration and Production) Act 1986;

“production area” has the meaning assigned to it by the Petroleum (Exploration and Production) Act 1986;

“year of commencement”. in relation to any production area, means the year of assessment in which any person, carrying on petroleum operation in that area, first produces petroleum therefrom under a programme of continuous production and sale.

(2) In ascertaining the chargeable income, from petroleum operations, of any person engaged in the business of carrying on such operations (hereinafter referred to as the petroleum assessee), there shall be allowed as a deduction an allowance to be known as petroleum capital expenditure allowance, which shall be —

- (a) for the year of assessment being the year of commencement, the deduction that shall be allowed under subsection (3); and
- (b) for any year of assessment subsequent to the year of commencement, the aggregate sum of any deductions, that shall be allowed under subsection (3) and (5).

(3) In the year of assessment which is the year of commencement, and in every subsequent year of assessment, until the aggregate sum of the petroleum capital expenditure incurred by a petroleum assessee in the years preceding the year of commencement is completely recouped, there shall be allowed as a deduction, by way of petroleum capital expenditure allowance, twenty per cent, or such lower per cent as the assessee may elect, of the aforesaid aggregate sum of the petroleum capital expenditure.

(4) Where in or before the year immediately preceding the year of commencement any amount has been received by a petroleum assessee as consideration for the assignment by him of the whole or part of his interest in a petroleum licence or rights under a petroleum contract, for the purposes of subsection (3) the aggregate sum of the petroleum capital expenditure incurred by such assessee in the years preceding the year of commencement shall be reduced by the amount so received by the petroleum assessee.

(5) Where in the year, immediately preceding any year of assessment subsequent to the year of commencement, a petroleum assessee has incurred any petroleum capital expenditure, in that year of assessment and in every subsequent year of assessment, until such petroleum capital expenditure is completely recouped, there shall be allowed as a deduction by way of petroleum capital expenditure allowance twenty per cent, or such lower per cent as the assessee has elected for the purpose of subsection (3), of such petroleum capital expenditure.

(6) Notwithstanding anything to the contrary contained in the preceding subsections, where in the year, immediately preceding any year of assessment subsequent to the year of commencement, a petro-

leum assignee has assigned the whole or part of his interest in a petroleum licence or right under a petroleum contract —

- (a) the petroleum capital expenditure allowance deductible, under the provision of this section, in that year of assessment, and subsequent year of assessment, on account of petroleum capital expenditure incurred by that petroleum assignee in the year in which the assignment is made and in any year prior thereto, shall be reduced in proportion to the extent to which the interest of the assignor in the petroleum licence or the right of the assignor in the petroleum contract has been assigned; and
- (b) any petroleum capital expenditure allowance to which the assignee would otherwise have been entitled in any year of assessment, in respect of petroleum capital expenditure incurred by the assignee in the year in which the assignment was made, or in any subsequent year, shall be increased by an amount equal to the amount by which the petroleum capital expenditure allowance of the assignor for the corresponding year of assessment has been reduced pursuant to paragraph (a).

(7) Where in a certain year the chargeable income of a petroleum assignee a deduction by way of petroleum capital expenditure allowance was made under this section in any year of assessment, then, in ascertaining the chargeable income of that petroleum assignee in respect of the same or any previous or subsequent year of assessment, to the extent to which such deduction was made, no further deduction shall be made under any other provision of this Act in respect of the petroleum capital expenditure in respect of which such petroleum capital expenditure allowance was allowed to be deducted.

PART III

AMENDMENT OF INCOME TAX (IN AID OF INDUSTRY) ACT

4. The Income Tax (In Aid of Industry) Act is hereby amended in the following respects —

- (1) in paragraphs (a) and (b) of section 2(1), by the insertion, after the words “diamond mining company”, of the words “or a company carrying on petroleum operations”;

Amendment
of Income
Tax (In Aid
of Industry)
Act.

- (2) in sections 22(1), 23(1), 24(1) and (4) and 25(1), by the substitution, for the words “oil well or other source of mineral deposits of a wasting nature”, of the words “or other source of mineral deposits of a wasting nature other than petroleum”;
- (3) in section 26(2), by the substitution, for the words “mineral deposits of any mine, oil well”, of the words “mineral deposits, other than petroleum, of any mine”;
- (4) in section 50(2) —
 - (i) in the opening portion, by the substitution, for the words “oil well or other source of mineral deposits”, of the words “or other source of mineral deposits other than petroleum”;
 - (ii) in paragraph (b), the deletion of the word “oil well”;
- (5) in section 58(1), by the insertion, after the definition of the expression “mineral deposits”, of the following definitions:—

“petroleum” has the meaning assigned to it in the Petroleum (Exploration and Production) Act 1986;

“petroleum operations” has the meaning assigned to it in the Income Tax Act;”;
- (6) in paragraph 3 of the First Schedule, by the substitution, for the words “oil well, or other mineral deposits”, of the words “or other mineral deposits other than petroleum”;
- (7) in paragraph 1 of the Second Schedule, by the substitution, for the words “oil well or other source of mineral deposits of a wasting nature”, of the words “or other source of mineral deposits of a wasting nature other than petroleum”.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Income Tax Act, Cap. 81:01. —

(a) to make inapplicable section 16(1)(c) (relating to allowing a deduction in certain cases in respect of expenditure incurred in replacement of plant or

machinery) and section 17 (relating to allowance for wear and tear) in ascertaining the chargeable income from petroleum operations:

(b) to remove the restriction contained in paragraph (c) of the proviso to section 19 (relating to carrying forward and allowing set-off of losses) in respect of loss incurred in petroleum operations; and

(c) to make provision for allowing a deduction on account of petroleum capital expenditure.

2. The Bill also seeks to amend the Income Tax (In Aid of Industry) Act, Cap. 81:02, to exclude petroleum operations from the scope of the provisions of that Act.

Carl B. Greenidge,
Minister of Finance.

Bill No. 2/1986

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