

BRITISH GUIANA

REGULATIONS

MADE UNDER

THE INCOME TAX ORDINANCE,
(Chapter 38).

UNDER SECTION 64(1) OF THE INCOME TAX ORDINANCE
THE FOLLOWING REGULATIONS HAVE BEEN MADE
BY THE GOVERNOR-IN-COUNCIL:—

1. These Regulations may be cited as the Deduction of Income Tax (Employments) Regulations, 1953, and shall be deemed to have come into force on the 1st day of January, 1953.

2. In these Regulations unless the context otherwise requires—

“deduction period” means the period during which tax is to be deducted in pursuance of a notification;

“emoluments” means all salaries, fees, wages, allowances or profits or gains whatsoever arising from an office or employment, or the amount of any annuity or pension, and references to payments of emoluments include references to payments on account of emoluments;

“employee” means any person in receipt of emoluments;

“employer” means any person paying emoluments, whether on his own account or on behalf of another person;

“notification” means a notification issued to an employer by the Commissioner requiring him to deduct tax in accordance with these Regulations;

“the Ordinance” means the Income Tax Ordinance, Chapter 38;

Other expressions have the same meaning as in the Ordinance.

3. (1) Where any emoluments are payable to any person, deductions on account of tax which is or will be payable by him for any year of assessment shall, if the Commissioner so requires, be made out of the emoluments or any arrears thereof.

(2) Subject to the provisions of these Regulations deductions shall be made at such times and in such amounts as the Commissioner shall require by notification issued under these Regulations whether or not the tax has been assessed:

Provided that if on the assessment becoming final and conclusive the deductions made exceed the tax payable, the tax overpaid shall be repaid.

4. (1) Where an employee is chargeable to tax and his employer for the time being is required by the Commissioner by means of a notification issued in that behalf to deduct the tax, or any part of the tax, from any emoluments which he pays to the employee, the employer shall deduct such tax in accordance with these Regulations.

(2) The tax included in a notification may extend to tax charged or chargeable in respect of any year of assessment subsequent to the year of assessment nineteen hundred and fifty-one.

¹(3) Where the employee is a married woman, the tax chargeable in respect of her emoluments may be included in a notification to her employer as if she were assessable and chargeable or had been assessed and charged, to tax in her own name, whether or not such is in fact the case, and these Regulations shall have effect accordingly.

(4) Any employee whose tax is to be notified to his employer for deduction shall be informed to that effect in such a manner as the Commissioner may direct.

5. The notification shall specify the name of the employee, the amount of tax which the employer is required to deduct, and the deduction period; but save as aforesaid it shall not disclose any particulars whatsoever relating to the income of the employee or to the relief from tax to which he is entitled, or to the year for which or the source of the emoluments in respect of which the tax is charged or chargeable.

6. Upon receipt of a notification the employer shall deduct the tax specified in the notification, in such instalments as may be specified therein, from the emoluments which he pays to the employee during the deduction period.

7. The Commissioner may, at any time before the expiration of a deduction period, vary the notification relating to such deduction period. Any such variation shall be effected by a further notification.

8. Any repayment due of tax overpaid by an employee, whether by way of deduction or otherwise, shall be made to the employee by the Commissioner.

9. Where a notice of objection in writing under subsection (2) of section 44 of the Ordinance is given to the Commissioner by the employee, subject to the provisions of subsection (3) of section 51 of the Ordinance, the Commissioner shall, as soon as may be, issue an amended notification authorising the deduction of so much only of the tax as is not in dispute.

10. Not later than the fourteenth day of every month, every employer shall render to the Commissioner a return in regard to each employee in respect of whom he has received a notification and to whom he has ceased at any time during the previous month to pay emoluments showing —

- (a) the name and last known address of the employee;
- (b) the date upon which the payment of emoluments ceased;
- (c) the total amount of tax deducted during the deduction period in which the payment of emoluments ceased; and
- (d) the total amount of emoluments paid or payable to the employee for the period since the previous 31st December up to and including the date on which the payment of emoluments ceased.

11. (1) Not later than the fourteenth day of every month the employer shall pay to the Commissioner all amounts of tax which he has deducted under these Regulations during the preceding month in pursuance of a notification.

(2) The Commissioner shall give the employer a receipt on the prescribed form for the total amount so paid.

(3) Any amount of tax which an employer is required or liable to pay to the Commissioner under these Regulations shall be a debt due from him to the Government which, without prejudice to any other method of recovery, shall also be recoverable by the Commissioner in the same manner as if the employer were the person charged therewith, and the provisions of section 54 of the Ordinance shall apply accordingly.

12. If an employer fails without reasonable excuse to deduct any amount of tax which he is required by these Regulations to deduct, he shall nevertheless remain liable to pay the said amount to the Commissioner as if he had deducted it, and the provisions of regulation 11 shall with the necessary modifications apply to the payment and recovery of and the giving of a receipt for any such amount.

13. Not later than the fourteenth day of the month following the expiration of a deduction period, the employer shall render a return to the Commissioner showing in regard to each employee from whose emoluments he has been notified to deduct tax, the total amount of tax deducted during the deduction period and the amount, if any, which he has not deducted, together with the reason for his failure to deduct such amount.

14. After the expiration of any deduction period, the employee may obtain, on application to the Commissioner, a certificate of the amount of tax which has been deducted from his emoluments during that deduction period.

15. In the event of the death of an employer, any return which the deceased would have been liable to render under regulations 10 or 13 of these Regulations shall be rendered —

(a) in the case of an employer paying emoluments on his own account, by the personal representative of the deceased; and

(b) in the case of an employer paying emoluments on behalf of another person, by the person succeeding him, or if there is no person succeeding him, by the person on whose behalf the deceased paid emoluments.

16. If there has been a change in the employer from whom an employee receives emoluments in respect of his employment in any trade, business, concern or undertaking, or in connection with any property, or from whom an employee receives any annuity or pension, and the employer after the change deducts tax in accordance with a notification issued by the Commissioner in respect of that employee to the employer before the change, then, except as regards the payment and recovery of any tax which fell to be deducted before the change, all the provisions of

these Regulations shall apply to the employer after the change as if the notification had been issued to him.

17. (1) All sums which an employer has deducted or should have deducted, in pursuance of a notification, from payments of emoluments made within the period to twelve months next before the relevant date, and which the employer is liable to pay but has not paid to the Commissioner shall be included among the debts which are entitled, from the date of the accruing thereof, to a preference of payment over all debts or claims of every kind, whether specialties or on simple contract, which, subsequent to such date, are contracted or incurred by, or become due from, such employer to any other person whomsoever.

(2) For the purpose of this regulation, the expression "relevant date" means —

- (a) in relation to bankruptcy, the date of the receiving order; and
- (b) in relation to companies, the date of the order or effective resolution for winding up or of the appointment of the receiver or the taking of possession of the property of the Company, as the case may be.

18. Nothing in these Regulations shall affect the collection or recovery in the manner provided by the Ordinance of any tax with which an employee is chargeable and which is not deductible in pursuance of a notification.

19. Except where the employer is liable therefor under regulation 12 of these Regulations, any amount of tax which should, in pursuance of a notification, have been deducted from emoluments paid to the employee but has not been so deducted shall be deemed to be due and payable by the employee and may be recovered from the employee in the manner provided by the Ordinance.

20. A notification shall be served on the employer to whom it is addressed and the provisions of section 63 of the Ordinance shall apply to such service in the like manner as to service of notices.

21. Nothing in these Regulations regarding deduction of tax shall affect the deduction of tax in any case where tax is deductible from emoluments otherwise than by virtue of these Regulations.

Made in Council this 24th day of April, 1953.

JOHN C. MALONE,
Acting Clerk to the Executive Council.