
ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Section 7 of principal Act amended.
3. Section 8 of principal Act replaced.
4. Section 10 of principal Act amended.
5. Section 15 of principal Act amended.
6. Section 18 of principal Act amended.
7. Section 21 of principal Act amended.
8. Section 25 of principal Act amended.
9. Section 29 of principal Act amended.
10. Section 30 of principal Act amended.
11. Section 31 of principal Act amended.
12. Section 32 of principal Act repealed.
13. Section 33 of principal Act amended.
14. Section 36 of principal Act amended.
15. New section 36A inserted in principal Act.
16. Section 37 of principal Act amended.
17. Section 38 of principal Act amended.
18. New section 38A inserted in principal Act.
19. Section 41 of principal Act amended.
20. New section 42A inserted in principal Act.
21. Section 45 of principal Act amended.
22. Section 46 of principal Act amended.
23. Section 47 of principal Act repealed.
24. Section 50 of principal Act amended.
25. The principal Act is amended.
26. Section 52 of principal Act replaced.

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11. Section 31 of principal Act amended.
12. Section 32 of principal Act repealed.
13. Section 33 of principal Act amended.
14. Section 36 of principal Act amended.
15. New section 36A inserted in principal Act.
16. Section 37 of principal Act amended.
17. Section 38 of principal Act amended.
18. New section 38A inserted in principal Act.
19. Section 41 of principal Act amended.
20. New section 42A inserted in principal Act.
21. Section 45 of principal Act amended.
22. Section 46 of principal Act amended.
23. Section 47 of principal Act repealed.
24. Section 50 of principal Act amended.
25. The principal Act is amended.
26. Section 52 of principal Act replaced.

27. The principal Act is amended.
28. Section 54 of principal Act is amended.
29. Section 56 of principal Act amended.
30. Sections 57, 58, 59, 60, 61, 61A, 63 and 64 of principal Act repealed.
31. Section 62 of principal Act replaced.
32. Section 65 of principal Act amended.
33. Section 78 of principal Act amended.
34. Section 83 of principal Act amended.
35. Section 86 of principal Act amended.
36. Section 89 of principal Act amended.
37. Section 93 of principal Act amended.
38. Section 96 of principal Act amended.
39. Sections 97, 98 and 106 of principal Act amended.
40. Section 97 of principal Act amended.
41. Section 116 of principal Act amended.
42. Section 119 of principal Act amended.
43. Section 120 of principal Act amended.
44. New sections 132 and 133 added to principal Act.
45. Third Schedule to principal Act amended.
46. Fourth and Fifth Schedules to principal Act replaced.

SCHEDULE



GRENADA

ACT NO. 5 OF 1996

I assent,



REGINALD OSWALD PALMER
Governor-General.

24th April, 1996.

An Act to amend the Income Tax Act 1994.

[26th April, 1996].

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same, as follows:

1. This Act may be cited as the

INCOME TAX (AMENDMENT) ACT, 1996.

Short title.

36/1994
2/1995.

and shall be read as one with the Income Tax Act 1994, hereinafter referred to as the principal Act.

2. Section 7 of the principal Act is amended as follows:

Section 7 of
principal Act
amended.

- (a) in subsection (1) by deleting the word "every" and substituting the word "a";
- (b) in subsection (5) by deleting the words "or the exercise of employment".

Section 8 of principal Act replaced.

3. Section 8 of the principal Act is repealed and the following section is substituted—

“Assessable income defined.

8. The assessable income of any person shall be—

- (a) where the person is a resident, all amounts ascertained in accordance with Part V, accrued directly or indirectly from all sources in Grenada; and
- (b) Where the person is a non-resident, but subject to section 7 (5), all amounts ascertained in accordance with Part V, accrued directly or indirectly from all sources in Grenada,

which are not exempt from tax under Part IV:

“Provided that interest which accrues to a bank or branch of a bank or person engaged in banking activities in Grenada shall be included in the assessable income of such bank or branch of a bank or person whether or not the interest is received in Grenada.”

Section 10 of principal Act amended.

4. Section 10 (1) of the principal Act is amended as follows:

- (a) by deleting paragraph (b) and substituting the following paragraph—

“(b) Any employment exercised out of Grenada by a person who is

ordinarily resident in Grenada where payment for such employment is charged directly or indirectly as an expense of a business carried on in Grenada;”;

- (b) by inserting after paragraph (c) the following paragraph—

“(d) interest from an individual who is ordinarily resident in Grenada, where that person whether resident or non resident is engaged in a business in Grenada in connection with which the indebtedness on which the interest accrued was incurred and such interest is borne by the business;”;

- (c) by deleting paragraph (e).

5. Section 15 of the principal Act is amended as follows: Section 15 of principal Act amended.

- (a) by deleting subsection (1) and substituting the following subsection—

“(1) Any income accruing to a trust, shall be included in the assessable income of the trust and the chargeable income ascertained therefrom shall be charged to tax in the name of the trustee;”;

- (b) by deleting subsections (2) and (3).

- (c) in subsection (6) by deleting the words “In subsections (1), (2) and (3)” and substituting the words “In subsection (1)”.

Section 18 of principal Act amended.

6. Section 18 (1) of the principal Act is amended by deleting the word "executor" and substituting the word "personal representative".

Section 21 of principal Act amended.

7. Section 21 of the principal Act is amended in subsection (3) by deleting the definition of "Partnership assessable income" and substituting the following definition—

"partnership assessable income means the assessable income of the partnership calculated as if the partnership were a person chargeable to tax; but nothing shall be deducted for employment income of partners or for interest on partners' capital but such sums shall be taken into account in apportioning among the partners the assessable income;"

Section 25 of principal Act amended.

8. Section 25 of the principal Act is amended in subsection (1)—

- (a) by renumbering paragraph (a) as paragraph "(a) (i)";
- (b) by inserting the following subparagraphs after paragraph (a) (i)—
 - "(ii) the employment income as defined in section 31 of an individual who is an employee or official of the Government of Grenada;
 - (iii) the employment income as defined in section 31 accruing in Grenada to an individual who is—
 - (A) resident in Grenada, and

(B) employed in Grenada, by a person other than the Government of Grenada subject however to the provisions of section 42(A);"

- (c) by deleting paragraph (z);
- (d) by repealing paragraph (aa) and substituting the following paragraph—
 - "(aa) interest accruing from deposits to an individual who is resident or ordinarily resident in Grenada with effect from March 31st, 1995."

9. Section 29 of the principal Act is amended in subsection (1)—

Section 29 of principal Act amended.

- (a) by inserting after paragraph (c) the following paragraphs—
 - "(d) interest other than interest exempted in paragraph (aa) of section 25 (1);
 - (da) discounts;"
- (b) in paragraph (f) by deleting the words "including receipts by way of alimony or maintenance";
- (c) by deleting paragraph (g);

Section 30 of principal Act amended.

10. Section 30 of the principal Act is amended by inserting after subsection (4) the following subsection—

“(5) Where income arises outside Grenada and such income is derived from any act incidental to business carried on in Grenada such income shall be included in the assessable income of the business in Grenada whether received in Grenada or not.”.

Section 31 of principal Act amended.

11. Section 31 of the principal Act is amended

(a) in subsection (1)—

(i) by inserting in paragraph (a) after the word “gratuity” the words “in respect of employment in Grenada.”;

(ii) by repealing paragraph (e) and substituting the following paragraph:

“(e) any pension payable to a former employee or the dependant of a former employee by the trustees of a pension fund in respect of the employment;”;

(iii) by inserting after paragraph (e) the following paragraph:

“(f) any loan or advances by a controlled company to a shareholder or associate of a shareholder deemed to be employment income under the provisions of section 31;”;

(b) in subsection (2) by deleting the words “assessable income” and substituting the words “employment income”;

(c) by repealing subsection (3) and substituting the following subsection—

“(3) where an employment is exercised in Grenada on a visit or visits to Grenada by a non-resident in the performance of duties for a non-resident employer, and the Comptroller is satisfied that the expenses associated with the visit are not allowed as a deduction against the profits of a business carried on in Grenada, the income of the non-resident shall not be charged to tax under this Act:

Provided that nothing in this subsection shall exclude from assessable income, any income accruing to—

(i) public entertainers, including, theatre, motion picture, radio or television artists and musicians; or

(ii) athletes or sportsmen.

12. Section 32 of the principal Act is repealed.

13. Section 33 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“(1) Where a controlled company makes a loan or advances any money to a shareholder therein, or to an associate of

Section 32 of principal Act repealed.
Section 33 of principal Act amended.

a shareholder, within the meaning of section 38(3), where such shareholder or associate is an employee or official of the company, the amount of such loan or advance shall, subject to this section, be deemed to be income under section 29 (1) (h) accrued to the shareholder or associate in the basis period in which the loan or advance was made, unless the shareholder or associate satisfies the Comptroller that—

- (i) the loan or advance is repaid within one year after the end of the basis period in which it is made; and
 - (ii) that the repayment was not made as part of a series of loans or advances and repayments.
- (b) in subsection (3) by deleting the words “a dividend” and substituting the word “income”.
- (c) in subsection (4) by inserting the words “or associate” immediately after the word “shareholder” in each case wherever it occurs.

Section 36 of principal Act amended.

14. Section 36 of the principal Act is amended by repealing subsection (2) and substituting the following subsection:

“(2) Subject to subsection (3) and section 38A in ascertaining the assessable income of any person for any year of assessment from any source

specified in section 29 there shall, upon due claim and subject to such evidence as the Comptroller may require, be allowed as a deduction all expenditure wholly, exclusively and necessarily incurred by that person during the basis period for that year of assessment for the purpose of producing the income from that source”.

15. After section 36 of the principal Act the following section is inserted:

New Section 36A inserted in principal Act.

Deduction for reinvestment allowance.

“36A. (1) Where a person carrying on a business in Grenada, to the satisfaction of the Comptroller, re-invests profits for reason of expansion and increase in employment of persons ordinarily resident in Grenada other than relatives, there shall be allowed to that person for the basis period relating to the incurring of that expenditure a deduction of 25% of the amount so re-invested:

Provided that no amount shall be allowed in excess of the chargeable income.

(2) The amount of expenditure in respect of such additional employment for that basis period shall not be less than (1/5) of the total expenditure incurred on additional fixed assets, plant and machinery and employment.

(3) The number of persons so employed as a result of such expenditure shall in addition to the number otherwise employed continue to be employed for the next three years except in the case of cessation of business.”

Section 37 of principal Act amended.

16. Section 37 (1) of the principal Act is amended as follows:

(a) by inserting after paragraph (m) the following paragraph:

“(n) any expenditure incurred by that person during the basis period by way of a leave passage to any employee at the termination of a contract of service:

provided that—

- (i) a leave passage is not granted to the same person at intervals of less than 4 years; and
- (ii) the Comptroller is satisfied that the amount so granted is reasonable having regard to all the circumstances.”;

(b) by inserting after subsection (2) the following subsection:

“(3) Where expenditure is incurred by way of gratuity paid on the termination of a contract of employment by a person who is engaged in a business in Grenada there shall be allowed as a deduction the amount of such paid gratuity not exceeding 12.5% of the basic salary payable in respect of such employment over a period not exceeding three (3) years:

Provided that where the recipient of such gratuity is re-employed by the same employer who paid the gratuity and such

re-employment takes place within a period of three (3) years following the date of payment of the gratuity, the Comptroller shall revise the assessment for the basis period for which the gratuity was allowed as a deduction by—

- (i) disallowing the amount of gratuity previously allowed as a deduction; and
- (ii) re-computing the chargeable income and the tax thereon accordingly, and

the additional tax so charged shall be due and payable within one (1) month from the date of notice of the revised assessment and the provisions of this Act in relation to the collection and recovery of tax shall apply to the additional tax charged.”.

17. Section 38 of the principal Act is amended as follows:

- (a) in subparagraph (ii) of subsection (1) by deleting the words “section 37(1) other than paragraph (a) thereof” and substituting the words “sections 36A, 37 (1) and 38A other than paragraph (a) of section 37 (1);”;
- (b) by deleting subsections (4) and (5).

18. The principal Act is amended by inserting the following section after section 38 in the principal Act—

Specific restrictions on deduction of employment income.

“38A. (1) In ascertaining the chargeable income of a controlled company as defined in section 38 (3) (a), the claim for employment income shall be allowed as follows—

Section 38 of principal Act amended.

New section 38A inserted in principal Act.

- (a) in the case of associates of shareholders the amount claimed not exceeding 10% of the gains or profits after deducting therefrom all allowable expenses except employment income paid to associates of shareholders;
- (b) in the case of other employees or officials the amount claimed to the extent that the said amount is wholly, exclusively and necessarily incurred in the production of the income subject to section 38A (1).
- (2) (a) In computing the deductible expenses of a partnership, there shall be allowed as employment income accruing to relatives of the partners the lesser of the amount claimed or 10% of the gains or profits of the partnership for the basis period after deducting therefrom all other allowable expenses;
- (b) for the purposes of this subsection a "relative of a partner" means an individual who is—
- (i) the spouse of a partner, or

- (ii) a lineal ancestor, child, sister, uncle, aunt, nephew or niece of a partner and includes a person having a beneficial interest in the partnership;
- (3) (a) Where a person carries on a business in Grenada as a sole proprietor the total amount of employment income allowable in respect of relatives of the proprietor for a basis period shall not exceed 10% of the amount of gains or profits from the business for the basis period after deducting all other allowable expenses except employment income accruing to relatives of the proprietor and proprietor's drawings.
- (b) for the purposes of this subsection a relative of a proprietor means—
- (i) the spouse of the proprietor, or
- (ii) a lineal ancestor, child or other lineal descendant, brother, sister, uncle, aunt, nephew or niece of the proprietor and

shall include any person having a beneficial interest in the business.”.

Section 41 of principal Act amended.

19. Section 41 (2) of the principal Act is amended by deleting the words “sections 36 and 37,” and substituting the words “sections 36, 36A, 37, and 38A”.

New Section 42A inserted in principal Act.

20. The principal Act is amended by inserting after section 42 the following section—

Statutory allowances.

“42A. (1) In ascertaining the chargeable income of an individual, who is resident in Grenada there shall be allowed as a deduction the amount of assessable income accruing to that individual from all sources not exceeding \$60,000.

(2) Where the chargeable income of an employee or official who is resident in Grenada is less than \$60,000 in a basis period there shall be allowed as a deduction an amount of assessable income accruing to such employee or official from sources other than employment to the extent that the aggregate amount of employment income exempt under the provisions of section 25 (1) (a) and the amount of assessable income allowed as a deduction under this section does not exceed \$60,000.

(3) Where the amount of employment income accruing to an individual referred to in section 25 (1) (a) (iii) exceeds \$60,000 the amount of exempt employment income shall be restricted to \$60,000 and the excess shall be subject to a surcharge at the rate

applicable to chargeable income as specified in the Fifth Schedule.”.

Fifth Schedule.

21. Section 45(1) of the principal Act is amended as follows:

Section 45 of principal Act amended.

- (a) by inserting after the words “deemed to be” the words “the greater of”;
- (b) by deleting the full stop after the word “assessment” where it last occurs and inserting the words “or the remainder of such gross investment income after deducting therefrom the appropriate deductions allowable under sections 36, 36A, 37, 38 and 38A.”

22. Section 46 of the principal Act is amended:

Section 46 of principal Act amended.

- (a) in subsection (1), by deleting the words “twenty-five percent” and substituting the words “thirty percent”;
- (b) in subsection (2), by deleting the word “fifteen” and substituting the word “seven”.

23. Section 47 of the principal Act is repealed.

Section 47 of principal Act repealed.

24. Section 50 of the principal Act is amended

Section 50 of principal Act amended.

- (a) by repealing subsection (1) and substituting the following subsections as subsections (1), (2), (3);

“(1) Where a person whether or not engaged in a business in Grenada makes

payment to a non-resident person of interest, not exempt under section 25 (1) (aa), discounts, commissions, fees, management charge, rent, lease premium, licence charge, royalties or other payment whether or not the payer is entitled to deduct such payment in computing the chargeable income of a business, the payer shall deduct tax at the rate specified in the third schedule and pay the amount of tax so deducted to the Comptroller within seven days after the date of payment or credit to the payee."

"(2) In any case where such a payment as described in subsection (1) accrues but is not paid as at the accounting date for the basis period, the person liable to make such payment shall make an advance payment to the Comptroller of the appropriate amount of tax payable under subsection (1) at the time when the return for the business in respect of the basis period is submitted and shall be entitled to recover the tax so paid when the amount accrued is paid or credited to the payee."

"(3) Where the tax in respect of payment made under this section by a person engaged in a business is not paid to the Comptroller in accordance with subsection (1) or (2) the Comptroller shall disallow the amount claimed as if it were an expense not wholly, exclusively and necessarily incurred in the production of the income."; and

- (b) by renumbering the original subsections (2) and (3) as subsections (4) and (5), respectively.

25. The principal Act is amended by inserting after section 50 the following sections: The principal Act is amended.

Deduction of tax from income of non-residents.

"51. (1) Notwithstanding any other provision in this Act, where a person engaged in a business in Grenada pays to a non-resident person employment income which is allowed as a deduction in computing the chargeable income of the business for the basis period, the payer shall deduct from the amount of employment income tax at the rate specified in the third Schedule and shall pay the tax so deducted to the comptroller within seven (7) days after the date of payment of the employment income.

(2) Where an amount of employment income referred to in subsection (1) accrues but is not paid as at the accounting date for the basis period the person liable to make such payment shall make an advance payment to the Comptroller of the appropriate amount of the tax payable under subsection (1) at the time when the return for the business for that basis period is submitted and shall be entitled to recover the tax so paid whenever the accrued amount of employment income is paid or credited to the non-resident person.

(3) Where the tax under this section is not paid in accordance with subsection (1) or (2) as the case may be the Comptroller

shall disallow the amount of employment income claimed as if it were an expense not wholly, exclusively and necessarily incurred in the production of income.

Deduction of tax from non-resident partner.

51A. (1) Where income from a partnership accrues to a non-resident partner the precedent partner or the agent shall deduct tax from such income at the rate specified and shall pay the amount of tax so deducted to the Comptroller within seven days from the date of payment or credit to the non-resident partner.

(2) Where an amount of income referred to in subsection (1) is not paid or credited as at the accounting date for the basis period, the precedent partner or the agent shall make an advance payment of the amount of tax payable under subsection (1) at the time when the return for the partnership for that basis period is submitted and shall be entitled to recover the tax so paid whenever the amount of such income is paid or credited to the non-resident partner."

Section 52 of principal Act replaced.

26. Section 52 of the principal Act is repealed and replaced by the following section:

Deduction of tax from certain payments to residents.

"52. (1) Where a person in Grenada whether or not engaged in business pays to another person—

- (a) interest not exempt under section 25(1) (aa);
- (b) discounts;

- (c) rental in excess of \$24,000 per annum where the rented premises are used mainly as a residence, lease premium or licence;
- (d) commissions;
- (e) fees;
- (f) royalty or
- (g) management charge

repealed & replaced 33/96

the payer shall deduct tax at the rate of 30% and shall pay such tax to the Comptroller within seven days from the date of payment or credit to the payee.

(2) The tax deducted under subsection (1) shall be allowed as a credit against the tax liability under section 56.

(3) Where the tax is not deducted and paid in accordance with subsection (1) the Comptroller shall ~~in the case of a business~~ disallow the amount claimed as if it were an expense not wholly, exclusively and necessarily incurred in the production of income.

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(4) Where withholding tax is not deducted and paid to the Comptroller in accordance with this section the amount of such tax shall not be allowed as a credit in computing the tax liability of the payee under section 56."

SS 5-9 inserted 33/96

Principal Act amended.

27. The principal Act is amended by inserting the following section after section 52—

Deposit interest.

“53. A person engaged in a business of deposit banking in Grenada shall deduct from interest accrued, payable or paid to a person who is not resident or not ordinarily resident in Grenada on amounts deposited in any account with the person carrying on the business of deposit banking tax at the rate of zero (0) per centum of the amount of interest and shall subject to the rate, account to the Comptroller within (7) days from the date of payment for any tax deducted.

Section 54 of principal Act amended.

28. Section 54 of the principal Act is amended in subsection (1) by inserting after the word “employer” the words “except the Government of Grenada”.

Section 56 of principal Act amended.

29. Section 56 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “every” and substituting the word “a”;
- (b) in subsection (2) by deleting paragraph (b);
- (c) by renumbering paragraph (c) as paragraph (b) and
- (d) by inserting the following as paragraph (c)—

“(c) in respect of payments under section 52 at the rate specified therein.”

Sections 57, 58, 59, 60, 61, 61A, 63 and 64 of principal Act repealed.

30. Sections 57, 58, 59, 60, 61, 61A, 63 and 64 of the principal Act are repealed.

31. Section 62 of the principal Act is repealed and the following section is substituted—

Section 62 of Principal Act replaced.

Set-off for tax paid.

“62. Where any tax has been paid in advance pursuant to section 93 or otherwise, the tax paid shall be set off against the tax charged under section 56 for the year of assessment in relation to which such income accrued.”

32. Section 65 of the principal Act is amended by deleting paragraph (a) of subsection (1) and substituting the following paragraph—

Section 65 of principal Act amended.

“(a) a resident individual other than an employee or official of the Government of Grenada whose only source of income is employment and such income does not exceed \$60,000 during a year of assessment; and”.

33. Section 78 of the principal Act is amended—

Section 78 of principal Act amended.

- (a) in paragraph (a) of subsection (1) by deleting the word “shall” and substituting the word “may” and by deleting the word “every” and substituting the word “any”;
- (b) in subsection (2) by deleting the words “make an assessment” and substituting the words “the tax computed”.

34. Section 83 of the principal Act is amended in subsection (1) by deleting the word “every” and substituting the word “or”

Section 83 of principal Act amended.

Section 86 of principal Act amended.

35. Section 86 of the principal Act is amended in subsection (6)—

- (a) by deleting the number "63" in paragraph (d) and adding the word "or" at the end thereof; and
- (b) by deleting paragraph (e);

Section 89 of principal Act amended.

36. Section 89 of the principal Act is amended in subsection (3)—

- (a) by deleting the word "63" in paragraph (d); and
- (b) by deleting paragraph (e).

Section 93 of principal Act amended.

37. Section 93 of principal Act is amended—

- (a) by repealing subsections (3) and (4) and substituting the following subsections:

"(3) Subject to subsection (4), every person to whom this section applies shall pay to the Comptroller on or before 30 April 1996, and thereafter at the end of each calendar month in each year of assessment an instalment equal to one twelfth of the tax as ascertained by him on his estimated chargeable income for that year of assessment and the final instalment of any balance of tax upon filing his annual tax return on or before 31 March of the subsequent year, or within three months after the end of the basis period determined in accordance with subsection (2) of section 11.

(4) (a) A person carrying on business with a basis period ending on a date other than 31 December as provided for in section 11, shall pay instalment tax for each year of assessment on or before the end of the first month in which the business commenced and thereafter on or before the end of each calendar month of the basis period;

(b) where liability to tax arises in relation to income other than from business unless otherwise provided in this Act tax shall be paid in accordance with the Third Schedule.";

Third Schedule.

- (b) by deleting the word "quarterly" in subsections (7) and (8) wherever it occurs and in each case substituting the word "monthly";
- (c) in subsection (9) by deleting the words "highest rates" and substituting the words "appropriate rate".

38. Section 96 of the principal Act is amended—

- (a) by deleting paragraph (c); and
- (b) by deleting the words "fifteen days" and inserting the words "seven days".

Section 96 of principal Act amended.

39. Sections 97 (1), 98 (4) (b) and 106 are amended by deleting the words "sections 46, 48, 50, 52, or 54" wherever they occur and in each case substituting the words "sections 46, 48, 50, 51, 51A, 52, 53 or 54"

Sections 97, 98, and 106 of principal Act amended.

Section 97 of principal Act amended.

40. Section 97 (1) of the principal Act is amended by deleting the words "in sections 46, 48, and 96".

Section 116 of principal Act amended.

41. Section 116 of the principal Act is amended by deleting the words "and to imprisonment for one year" appearing in the concluding words thereof and substituting the words "or to imprisonment for one year or both".

Section 119 of principal Act amended.

42. Section 119 of the principal Act is amended—

(a) in sub-paragraph (i) of paragraph (a) by inserting the words "; 51 or 51A" immediately after the word "50".

(b) by deleting subparagraph (ii) and inserting the following subparagraph—

"(ii) to any person to which sections 48, 52, or 53 applies; or".

Section 120 of principal Act amended.

43. Section 120 of the principal Act is amended—

(a) by deleting the words "; or" at the end of sub-paragraph (vii) and substituting the word ";"; and

(b) by deleting paragraph (b).

New Sections 132 and 133 added to principal Act.

44. The principal Act is amended by adding after section 131 the following sections:

Apportionment of taxes for the 1996 year of assessment.

"132. (1) Notwithstanding the provisions of section 7 (1) Act requiring an assessment to be made on the chargeable income of a person for a period of twelve (12) months, in respect of the year 1996 tax shall be charged on the chargeable income for the period January 1 to December 31, 1996.

(2) In computing the tax liability for the year of assessment 1996 total amount of credits to be allowed shall not exceed 1/4 of the amount to which an individual is entitled under the provisions of sections 58, 59, 60 and 61.

(3) In ascertaining the chargeable income of an individual for the year of assessment 1996 the income accrued for the period April 1 to December 31, 1996 there shall be allowed as a deduction under the provisions of section 42A amount not exceeding 3/4 of the amount allowable under section 42A.

(4) Any refund of tax or payment of tax due for the year of assessment 1996 shall be computed at the end of the year.

133. Nothing in this Act contained shall take away or interfere with the right of the Government or the Comptroller of Inland Revenue to recover any tax which was recoverable before the coming into operation of this Act." Saving.

45. The Third Schedule to the principal Act is amended by deleting paragraphs (1), (2), (3) and (4) and substituting the following paragraphs: Third Schedule to principal Act amended.

"1. Application.— (1) This Schedule applies to every person who makes any payment by way of—

- (a) interest or discounts;
- (b) rental, lease premium or licence;

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- (c) royalty;
- (d) management charge;
- (e) commission or fee, not being in respect of an employment to which section 54 applies;
- (f) annuities or other periodic payments; or

any other payment, to any person including a non-resident, which the payer is entitled to deduct in computing the chargeable income for a basis period but subject to sub-paragraph (2) does not apply to any other payments to a non-resident carrying on business in Grenada.

(2) This Schedule also applies to any payment to a non-resident person in respect of independent personal services performed in Grenada.

(3) Where the accounts of a business are maintained on an accrual basis, and during the basis period for a year of assessment any amount of the kind specified in sub-paragraphs (1) and (2) is charged as an expense but payment is not made, tax shall be deducted and paid to the Comptroller as if payment had been made on the last day of that basis period.

2. Deduction to be made by person making payment. Where any payment is made to which this Schedule applies, then such amount shall not form chargeable income of the person to whom the payment is made and the person making the payment shall deduct tax from the gross amount of

the income from such source at the rate specified in paragraph (3).

3. Rates of tax to be deducted. Except otherwise provided under this Act, tax shall be deducted from the actual amount paid at the rate of 30% ^{15%} every dollar of such payment and shall be the final liability in respect of such income.

4. Certificate and record of payments made and tax deducted. (1) Every person who has deducted any tax under this Schedule shall furnish to the person to whom payment is made a certificate showing the gross amount of the payment made and the tax deducted therefrom.

(2) Every person making any payment to which this schedule applies shall maintain a record showing in relation to each calendar year—

- (a) the nature of payment to each payee;
- (b) the gross amount thereof;
- (c) the amount of tax deducted therefrom, and
- (d) the name and address of the payee,

and the record shall be kept available for examination by the Comptroller as and when required."

46. The Fourth and Fifth Schedules to the principal Act are repealed and substituted as contained in the Schedule hereto.

Fourth and Fifth Schedules to principal Act replaced.

SCHEDULE

(SECTION 46)

"FOURTH SCHEDULE

(Sections 52 and 54)

DEDUCTION OF TAX BY EMPLOYERS

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Registration of employers.
2. Deduction of tax.
3. Payment to a recovery by Comptroller.
4. Payment of remuneration free of tax.
5. Certificate of remuneration and tax deducted.
6. Personal liability of employer and employee.
7. Employer to keep records.
8. Employer's monthly return of tax deductions and remittances.
9. Employer's annual return of tax deductions and remittances.
10. Duties and liabilities of representative employers.
11. Liability to deduct tax not abated by other rights or obligations.
12. Definitions.

1. Registration of employers.— (1) Every employer except the Government of Grenada who pays or becomes liable to pay remuneration to any employee shall register as an employer with the Comptroller.

(2) Every person except the Government of Grenada being an employer on the day on which the Act is passed, shall register with the Comptroller in the prescribed form within thirty days after that day and every person who becomes an employer after the day on which the Act is passed shall so register within thirty days after the end of the month in which he becomes an employer.

(3) Every employer who changes his business address or ceases to be an employer shall notify the Comptroller accordingly within thirty days of such change of address or of his ceasing to be an employer, as the case may be.

2. Deduction of tax.— (1) Subject to this paragraph the amount of tax to be deducted shall be at the rate of 30% of the chargeable income.

(2) Where the accumulated remuneration of an employee or official other than a person employed by the Government of Grenada during a basis period amounts to \$60,000 the excess shall be subject to tax at the rate of 30% thereof for the remainder of the basis period.

(3) Notwithstanding subparagraph (2) the Comptroller may direct an employer to deduct tax at any time during the basis period and in such amount as would satisfy the tax payable by an employee or official for a year of assessment.

(4) Where, during any calendar year any employee receives income from more than one source of employment at the same time, the amount of tax to be deducted shall be such amount as is directed by the Comptroller.

(5) Where, during any calendar year, an employee is a non-resident individual the amount of tax to be deducted shall be such amount as is directed by the Comptroller.

(6) In any circumstance not covered by the foregoing sub-paragraphs the Comptroller shall direct the amount of tax to be deducted.

3. Payment to or recovery by Comptroller. Any tax deducted under this Schedule shall—

- (a) be due and payable within the time specified in section 96; and
- (b) when it becomes due and payable, be a debt due to Government and, if unpaid, shall be liable to interest at the rate specified in section 97 and may be recovered in the manner provided in sections 98, 99 or 105.

4. Payment of remuneration free of tax.— (1) Where any agreement between an employer and an employee provides for the employer to pay as remuneration to the employee an amount expressed to be free of tax, the amount to be paid under the agreement shall be deemed to be such an amount of remuneration as, after deduction of tax, would leave an amount equal to the remuneration paid free of tax.

(2) In any case to which subparagraph (1) applies—

- (a) the employer shall be liable to pay to the Comptroller an amount equal to the difference between the remuneration deemed to be paid and the amount of remuneration paid;
- (b) such amount shall be deemed to be the tax to be deducted under this Schedule; and
- (c) the employee shall be deemed to have received as income from employment the amount deemed to have been paid by the employer.

5. Certificate of remuneration and tax deducted.— (1) Every employer who has deducted any tax under this Schedule in any calendar year shall furnish to an employee to whom remuneration has been paid, and to the Comptroller when requested by either party a certificate in the prescribed form the contents of which shall include—

(a) the total remuneration accrued to that employee; and

(b) the total of the amounts of tax deducted from such remuneration.

(2) The certificate referred to in subparagraph (1) shall specify the period of employment to which it relates and shall be furnished to the employee or former employee and to the Comptroller within seven days of the request to do so.

(3) Any employee who has not received a certificate within the time specified in subparagraph (2) shall notify the Comptroller of such failure by the employer to furnish the certificate.

(4) An employee, who is requested to furnish a return of income for any year of assessment, shall attach to such return the certificate furnished to him under this paragraph.

(5) The certificate to be furnished under this paragraph by an employer to an employee may be delivered—

- (a) by hand to such employee or his authorised agent; or

- (b) by registered letter addressed to that employee at his usual or last known postal address; or
- (c) where the chargeable income of that employee is not chargeable to tax in his name, by hand or registered letter addressed to the person chargeable:

Provided that in the event of inability to deliver a certificate in the manner provided by this sub-paragraph the employer shall retain such certificate and forward it to the Comptroller.

6. Personal liability of employer and employee.— (1) where, in any calendar year, an employer fails to deduct any tax under paragraph 2 he shall, in addition to any penalty for which he may be liable, be personally liable to pay to the Comptroller within the time specified in section 96 the amount which he has failed to deduct.

(2) Where an employer pays to the Comptroller the amount of tax which he failed to deduct, such amount shall be deemed to have been deducted under this Schedule.

(3) The employer shall be entitled to recover from the employee any amount paid to the Comptroller under sub-paragraph (2).

(4) Where, in relation to any payment of remuneration an employer has failed to deduct tax under paragraph 2, but the Comptroller is satisfied that tax deducted under this Schedule from earlier or later payments of remuneration is sufficient to meet the amount of tax which he has failed to deduct, the Comptroller may absolve the employer from his liability under sub-paragraph (1).

(5) Where an employer pays an amount to the Comptroller under this paragraph, he shall not be required to include any such amount in a certificate under paragraph 8 unless and until he recovers the amount from the employee.

(6) Where any amount of tax which has been set off under section 62 pursuant to a certificate under paragraph 8 has not been deducted by the employer, the employer and the employee shall be jointly and severally liable to pay to the Comptroller the amount which has been so set off and such amount shall be recoverable under the Act:

Provided that where the Comptroller is satisfied that the employee alone was responsible for the incorrect amount being shown on his certificate under paragraph 8, the employer shall be absolved from liability under this sub-paragraph.

(7) Where it is proved to the satisfaction of the Comptroller that any amount of tax has been deducted from the remuneration of any employee, notwithstanding that the employer has failed to pay such amount to the Comptroller, no action shall be taken by the Comptroller for the recovery thereof from that employee.

7. Employer to keep records. Every employer shall, in respect of each of his employees, maintain a record showing in relation to each calendar year, the amounts of—

- (a) remuneration accrued to that employee; and
- (b) tax deducted from such remuneration, and such record shall be kept available for examination by the Comptroller as and when required.

8. Employer's monthly return of tax deductions and remittances. Every employer shall, when making any payment under section 96 furnish a return showing the amount of tax deducted and remitted.

9. Employer's annual return of tax deductions and remittances.— (1) Every employer shall, in respect of each calendar year—

- (a) within one month after the end of that year; or
- (b) where he ceases to be an employer during that year, within seven days after such cessation,

or within such further time as the comptroller may allow, furnish to the Comptroller a return showing the total amount of tax deducted by him in respect of each of his employees during that year and the total payments of such tax made to the Comptroller.

(2) In the event of there being any deficiency between the total amount of tax deducted and the total payments of such tax made to the Comptroller, the employer shall be required to account to the Comptroller for such deficiency.

(3) The return referred to in subparagraph (1) shall be accompanied by copies of all certificates issued under sub-paragraph 1 of paragraph 8.

10. Duties and liabilities of representative employers.— (1) Every representative employer, in relation to any remuneration paid by him in his representative capacity to any employee shall be subject to the same duties and liabilities under this Schedule as if such remuneration had been paid by him in his personal capacity.

(2) Any tax which should be deducted by a representative employer under this Schedule, any interest due by him under section 97, or fine imposed under section 120 or 121 on him shall be recoverable from him but to the extent only of any assets of the person whom he represents which may be in his possession or may come to him while acting in his representative capacity.

(3) The executor of the estate of any deceased employer or the trustee of the estate of any bankrupt employer shall fulfil such obligations of that employer under this Schedule as were not fulfilled at the time of his death or bankruptcy.

11. Liability to deduct tax not abated by other rights or obligations. The liability of an employer to deduct tax under this Schedule shall not be abated or extinguished by reason of—

- (a) the fact that the employer has a right or is, otherwise than in terms of any law, under an obligation to deduct any other amount from the employee's remuneration and such right or obligation shall, notwithstanding any thing to the contrary contained in any other law, be deemed to refer only to the balance of remuneration remaining after tax has been deducted; and
- (b) the provisions of any law which may provide that the amount of remuneration shall not be reduced or be subjected to attachment.

12. Definitions. In this Schedule—

“employee” means any person who, in respect of an employment, as defined in section 2, receives remuneration from an employer, and includes any person to whom remuneration accrues—

- (a) as a director of a company;
- (b) from a former employer or the trustee of a pension fund, as a consequence of a former employment;
- (c) as a dependent of a deceased person where such remuneration accrued to that dependent as a consequence of the former employment of that deceased person;

“employee of the Government of Grenada” means a person who in respect of an employment as defined in section 2 receives remuneration from the Government of Grenada but does not include an employee of a statutory body in Grenada.

“employer” means any person who pays remuneration to an employee, and includes—

- (a) the Government of Grenada;
- (b) a representative employer; and
- (c) the trustee of any pension fund;

“remuneration” means any amount accrued to an employee by way of employment income within the meaning of section 31 and includes any advance payment of remuneration or any payment on account of remuneration;

“representative employee” means—

- (a) in the case of a company, the principal officer or, where such company is in liquidation, the liquidator;
- (b) in the case of partnership, the precedent partner;
- (c) where the employer is the Government, a local authority, a corporation or other authority established by statute or a body corporate or unincorporated (not being a company or partnership), the person responsible for paying remuneration on behalf of such employer;
- (d) in the case of an employer in respect of whose chargeable income a representative taxpayer is chargeable to tax, the representative taxpayer;
- (e) in the case of a non-resident employer, the agent having responsibility to pay remuneration on behalf of such employer,

but nothing in this definition shall be construed as relieving any employer from any duty or liability imposed upon him by this Schedule.

FIFTH SCHEDULE

RATES OF TAX

(Section 56)

On the chargeable income of—

- (a) an individual..... 30 percent
- (b) a company..... 30 percent.”

Passed by the House of Representatives this 15th day of March, 1996.

ALICE ROBERTS
Ag. Clerk to the House of Representatives.

Passed by the Senate this 29th day of March, 1996.

NOLAN MURRAY
Clerk to the Senate.

GRENADA

PRINTED BY THE GOVERNMENT PRINTER, AT THE WEST INDIAN PUBLISHING CO.
ST. GEORGE'S
1996.