

LAWS OF TRINIDAD AND TOBAGO

INCOME TAX ACT

CHAPTER 75:01

Act

34 of 1938

Amended by

22 of 1946	32 of 1969	25 of 1980	4 of 1992
1 of 1951	46 of 1969	17 of 1981	17 of 1992
22 of 1951	5 of 1970	25 of 1981	25 of 1992
23 of 1951	35 of 1971	41 of 1981	6 of 1993
33 of 1952	8 of 1972	2 of 1982	22 of 1993
20 of 1954	12 of 1972	9 of 1983	3 of 1994
30 of 1954	27 of 1972	21 of 1983	14 of 1994
26 of 1955	22 of 1974	6 of 1984	22 of 1994
11 of 1956	7 of 1975	13 of 1984	5 of 1995
34 of 1956	41 of 1975	7 of 1985	8 of 1996
23 of 1957	66 of 1975	17 of 1985	9 of 1997
18 of 1958	14 of 1976	198/1985	38 of 1997
3 of 1962	40 of 1976	1 of 1986	35 of 1998
16 of 1963	195/1976	3/1986	36 of 2000
5 of 1964	9/1977	14 of 1987	39 of 2000
29 of 1966	46 of 1977	11 of 1988	50 of 2000
42 of 1966	21/1978	6 of 1989	91 of 2000
8 of 1967	33/1978	18 of 1989	2 of 2002
28 of 1967	1 of 1979	20 of 1989	15 of 2003
2 of 1968	10/1979	37 of 1989	20 of 2003
13 of 1968	203/1979	38 of 1989	5 of 2004
5 of 1969	7 of 1980	9 of 1990	
13 of 1969	19 of 1980	6 of 1991	

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1-228	..

**Index of Subsidiary Legislation**

	<i>Page</i>
Income Tax (Miscellaneous Clearance) Regulations (132/1971) ... ..	207
Income Tax (Employment) Regulations (177/1957) ... ..	211
Income Tax (Judgment Certificate) Regulations (169/1966) ... ..	227

**Omissions**

The following Subsidiary Legislation have been omitted:

1. (a) Approved Agricultural Holdings Notices and Extension of Exemption Period of Commercial Farming Orders made under section 14.
- (b) Double Taxation Relief Orders made under section 93.
- (c) Reduction of Withholding Tax Orders made under section 96.
2. (a) Income Tax (Delegation of Powers and Duties) Order (1/1960).
- (b) Income Tax (Exemption of Tax on Interest on Savings Bonds) Proclamation (30/1962).
- (c) Income Tax (Approved Foreign Companies) Notice (100/1980).
- (d) Income Tax (Withdrawal of Approved Foreign Companies) Notice (106/1980).
- (e) Income Tax (Delegation of Functions) Order (113/1996).

(References to these may be found in the current Consolidated Index of Acts and Subsidiary Legislation).

**Note on Transfer of Provisions**

The provisions of the Income Tax Ordinance, Ch. 33 No. 1 relating to appeals (ss. 43 to 43E) have been transferred to a separate enactment entitled the Tax Appeal Board Act published in this Edition as Chapter 4:50.

**Note on TIDCO Vesting Act and Premier Vesting Act**

1. Section 4 (1) (h) of the Tourism and Industrial Development Company of Trinidad and Tobago Limited Vesting Act, Ch. 87:21 ("TIDCO Act") stipulates that any contract made before 1st May, 1995 (the appointed day of the TIDCO Act) to which section 4(1) (a) of the TIDCO Act applies and which contract was an approved plan, fund or scheme under the Income Tax Act, shall continue to be treated as an approved plan, fund or scheme for the purposes of the Income Tax Act.

2. Section 4 (1) (c) of the Premier Vesting Act, (No. 33 of 1997) is an exact replica of section 4 (1) (h) of the TIDCO Act.

**Note on Maternity Leave Pay Tax Deduction**

Section 11 of the Maternity Protection Act, (Ch. 45:57) provides for an employer to claim the full amount paid to an employee for maternity leave as a tax deduction.

**Note on Hotel Development Act, 2000**

All references in the Income Tax Act to the Hotel Development Act, (formerly Ch. 85:02) have been changed to the Tourism Development Act, (Ch. 87:22) which repealed and replaced the Hotel Development Act. Section 40 of the Tourism Development Act preserves the tax benefits conferred upon persons through Orders made under the former Hotel Development Act.

**CHAPTER 75:01**

**INCOME TAX ACT**

ARRANGEMENT OF SECTIONS

**SECTION**

1. Short title.
2. Interpretation.

**ADMINISTRATION**

3. Board of Inland Revenue.
4. Official secrecy.

**CHARGING PROVISIONS**

5. Charge to income tax.
- 5A. Business Levy.

**BASIS OF ASSESSMENT**

6. Basis of assessment.
7. Chargeable income of certain persons.
8. Exemptions.
- 8A. Savings account free of tax.
9. Government loans.

**COMPUTATION OF INCOME**

10. Computation of income generally.
- 10A. Promotional expenses.
- 10B. Human resource development.
11. Allowances in certain cases.
- 11A. Computation of wear and tear allowances.
- 11B. Allowances on buildings and structures.
12. Deductions not allowed.
13. Relief to hotel proprietors.
- 13A. Deduction for investment in approved hotel or tourism project.
- 13B. Deduction for investment in approved guest house.
14. Exemption of income from approved agricultural holdings.
15. *(Repealed by Act No. 6 of 1993).*

## SECTION

16. Allowances of trade losses.
17. Reliefs allowable to residents.
18. Personal allowance.
- 18A. Allowances for purchase of house.
- 18B. Deduction for purchase of certain shares.
19. ***(Repealed by Act No. 6 of 1989).***
20. Maintenance and alimony.
21. ***(Repealed by Act No. 9 of 1997).***
22. )
- to } ***(Repealed by Act No. 6 of 1989).***
26. )
27. Deduction in respect of Life Insurance and contribution to Widows' and Orphans' Fund.
28. Interpretation.
29. Employer's special payments to funds.
- 29A. Certificate before release of benefits.
30. Constitution of pension fund plan.
31. Rules for deductions in respect of insurance, etc.
32. Regulations.
33. Conversion of certain policies into local currency.
34. Tax on surrender value of a life insurance policy.
- 34A. ***(Repealed by Act No. 5 of 2004).***
35. Company may establish employees' profit-sharing plan.
36. ***(Repealed by Act No. 6 of 1989).***
37. Deduction for purchase of bonds.
- 37A. ***(Repealed by Act No. 6 of 1989).***
- 37B. Certain interest on housing bonds exempt.
38. Employer may establish employees' savings plan.
39. Employer's contribution to be allowed as deduction for income tax.
40. Trustees to be taxed on income derived from investment.
41. Withdrawal of contributions.
- 41A. )
- to } ***(Repealed by Act No. 6 of 1989).***
- 41B. )
42. Income tax exemptions.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

- 43. Limitation on tax exemption.
- 44. Builder excluded from tax exemptions.
- 45. Application of sections 10, 11 and 12.
- 45A. Additional income tax exemptions.
- 45B. Dividends paid out of profits exempted under section 45A similarly exempted.
- 46. Board require certificate of exemption.

**TEMPORARY RESIDENTS**

- 47. Temporary residents.

**RATE OF TAX**

- 48. Rates of tax as per Third Schedule.

**TAX CREDITS**

- 48A. Certain tax credits to be allowed.
- 48B. )
- to } (*Repealed by Act No. 9 of 1997*).
- 48E. )
- 48F. Tax credit on interest paid by mutual funds.
- 48G. )
- to } (*Repealed by Act No. 9 of 1997*).
- 48I. )
- 48J. (*Repealed by Act No. 8 of 1996*).
- 48K. Tax credit for shares in venture capital company.

**TAX ON DISTRIBUTIONS AND OTHER PAYMENTS**

- 49. Meaning of distribution.
- 50. Rates of withholding tax.
- 51. Meaning of “payment”.
- 52. Loans to directors of close companies.
- 53. Settlements in favour of participators of close companies.
- 54. Discharge of liability for withholding tax.
- 55. Certificate for deduction of tax.

SECTION

- 55A. Chargeability of distributions made by listed resident companies.
- 56. }  
to } (*Repealed by Act No. 8 of 1996*).
- 57. }
- 57A. Tax credits.
- 58. Transitional provisions in respect of deduction of tax from dividends.

**TRUSTEE, AGENT, ETC.**

- 59. Chargeability of trustees, etc.
- 60. Chargeability of agent of person residing out of Trinidad and Tobago.
- 61. Acts, etc., to be done by trustees, etc.
- 62. Lists to be prepared by representative or agent.
- 63. Manager of corporate bodies of persons.
- 64. Agent, etc., of non-resident to be assessed.
- 65. Indemnification of representative.
- 66. Deceased persons.

**MISCELLANEOUS PROVISIONS AS TO  
ASSESSMENT OF TAX**

- 67. Artificial transactions, transfers to minors and in trust.
- 68. Settlements.
- 69. Revocable settlements.
- 70. When income of settlement not income of settlor.
- 71. (*Repealed by Act No. 6 of 1989 and Act No. 35 of 1998*).
- 72. Interpretation of sections 68 to 70.
- 73. Commencement of sections 68, etc.
- 74. (*Repealed by Act No. 6 of 1989 and Act No. 35 of 1998*).
- 75. Deductions for settlements.

**RETURNS: BY WHOM TO BE MADE**

- 76. Returns of income.
- 76A. Board of Inland Revenue file number.
- 76B. Employee or officer to furnish B.I.R. file number to employer.
- 76C. Exemptions.
- 77. Power of Board to require returns.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

**PARTNERSHIPS**

78. Partnerships.

**PAYMENT OF TAX**

79. Payment of tax by instalments.  
80. Payment of tax for 1963.  
81. Payment of assessed tax.  
82. Payments on behalf of others.  
Certificate before distribution.  
Liability.

**ASSESSMENTS**

83. Board to make assessments.  
Acceptance of return.  
Refusal of return.  
Assessment in default of return.  
Additional tax on increased chargeable income.  
Additional tax for non-return of income.  
Board may remit additional tax.  
Appeal Board's discretion *re* additional tax.  
84. Appointment of agent in the United Kingdom.

**ASSESSMENT LISTS**

85. List of persons assessed and notices of assessments.

**NOTICES OF ASSESSMENTS**

86. Notices to be served on persons assessed.

**APPEALS AGAINST ASSESSMENT**

87. Right of appeal against Board decision.

**ERRORS IN ASSESSMENTS AND NOTICES**

88. Liability not affected by inaccurate or incomplete assessments, absence of assessments, errors of form or description.

SECTION

**ADDITIONAL ASSESSMENTS**

89. Assessments, additional assessments, etc.

**REPAYMENT OF TAX**

90. Circumstances under which repayment may be made.  
91. Refund of excess of tax collected under section 99.  
92. Refunds.

**RELIEF IN CASES OF DOUBLE TAXATION**

93. Relief from double taxation.  
94. Certain income deemed to be income for purposes of Act.  
95. Unilateral relief.  
96. Power to vary withholding tax.

**GENERAL POWERS OF THE BOARD**

97. Power of Board to require schedule of particulars.  
Power of Board to require persons to attend before it.

**COLLECTION AND RECOVERY OF TAX**

98. Declaration by persons to whom emoluments are paid.  
99. Deductions and payment of emoluments.  
100. Interpretation of emoluments.  
101. Board to prepare tax tables.  
102. Penalty for non-payment of tax and enforcement of payment.  
103. Interest.  
103A. Waiver of liabilities.  
104. Distraint by Board.  
105. Priority of claim for tax.  
106. Execution of warrants.  
107. Obstruction of officers.  
108. Surplus on sale.

ARRANGEMENT OF SECTIONS—*Continued*

SECTION

**RECOVERY OF TAX IN CERTAIN CASES**

- 109. Persons leaving Trinidad and Tobago or defaulting.  
Construction.
- 110. Provisions as to recovery of tax and penalties.
- 111. Certificates.
- 112. Garnishments.  
Service of garnishees.

**NOTICES**

- 113. Signatures of notices.
- 114. Service of notices.

**IMPRISONMENT OF DEFAULTERS**

- 115. In case of refusal to pay where there are no distrainable effects,  
defaulter may be imprisoned.  
Release.

**GENERAL**

- 116. Traders, etc., to keep accounts, books and records in English language.
- 117. Powers of inspection of records.
- 118. Powers of entry for certain purposes.
- 119. Offence in respect of fraud.
- 120. Failure to perform required duty.
- 121. Offences and penalties.
- 121A. Prosecution of offences.
- 122. Time limit for proceeding to recover fines and penalties.
- 123. Saving for criminal proceedings.
- 124. President may remit tax.
- 125. Regulations.  
The Appeal Board.
- 126. Transitional provisions.

**SECTION**

- 127. Discharge of tax for 1962.
- 128. Assessments deemed to be those of previous years.
- 129. Assessments already made for 1963.

**MISCELLANEOUS POWERS OF THE BOARD**

- 130. Power to obtain information as to interest paid or credited without deduction of tax.
- 131. Delegation by Board.
- 132. Indemnity for liability.

**EXPENSES ALLOWANCES TO DIRECTORS AND OTHERS**

- 133. Expenses allowances, etc.
- 134. Benefits in kind to be taken into account.
- 134A. Tax on refund of premiums.
- 135. Valuation of benefits in kind.
- 136. Meaning of “director”, “employment” and “employ”.
- 137. Saving for certain payments and expenses.
- 138. Additional provisions as to information.
- 139. Charities and non-trading bodies.
- 140. Interpretation.
- 141. Unincorporated bodies and partnerships.  
Construction of reference in Act.
- 142. General as to exemption.

**FIRST SCHEDULE.**

**SECOND SCHEDULE.** *(Repealed by Act No. 6 of 1989).*

**THIRD SCHEDULE.**

**FOURTH SCHEDULE.** *(Repealed by Act No. 8 of 1996.)*

**FIFTH SCHEDULE.**

**SIXTH SCHEDULE.**

**SEVENTH SCHEDULE.**

**EIGHTH SCHEDULE.**

**NINTH SCHEDULE.**

CHAPTER 75:01

INCOME TAX ACT

Ch. 33 No. 1.  
(1950 Ed.)  
34 of 1938

**An Act to impose a tax upon incomes and to regulate the collection thereof.**

Commencement.

[22ND DECEMBER 1938]

Short title.

1. This Act may be cited as the Income Tax Act.

Interpretation.  
Ch. 4:50.  
[26 of 1955  
16 of 1963  
29 of 1966  
30 of 1974  
6 of 1989  
5 of 2004].

2. (1) In this Act—

“Appeal Board” means the Appeal Board established under the Tax Appeal Board Act;

“assessment” includes a re-assessment;

“Board of Inland Revenue” or “Board” means the Board of Inland Revenue established by section 3;

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

“chargeable income” means the aggregate amount of the income of any person from the sources specified in section 5 remaining after allowing the appropriate deductions and exemptions under this Act;

“child” includes a step-child, an illegitimate child or an adopted child;

Third Schedule.  
Ch. 75:02.

“close company” has the same meaning as in the Third Schedule of the Corporation Tax Act;

“company” has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2(1) thereof;

“corporation tax” means the tax charged under the Corporation Tax Act by section 3 thereof;

“distribution” has the meaning assigned to that expression in section 49;

“earned income” means any income of an individual arising in respect of—

- (a) any gains or profits immediately derived by the individual from any trade, business, profession or vocation carried on, or exercised by the individual either as an individual or in the case of a partnership as a partner personally acting therein; or
- (b) any gains or profits from any employment or office including any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in section 27(1)(c) or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 28 to 33 and the estimated annual value of any quarters or board, residence or of any other allowance granted in respect of employment whether in money or otherwise; or
- (c) any pension, superannuation or other allowances, deferred pay or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person whether the individual or husband or parent of the individual has contributed to such pension, superannuation or other allowance or not;

“employer” in relation to an employee or officer means the person from whom the employee or officer receives his remuneration;

“former year of assessment” means the period of twelve months commencing on the 1st January in each year that before 20th April, 1965 [that is, the date of commencement of the 16 of 1963.

Income Tax (Amendment) Act, 1963] was the year for which tax was charged, levied and collected upon the chargeable income of any person for the year immediately preceding that year;

“guardian”, in relation to an infant, includes parent;

“incapacitated person” means an infant, person of unsound mind, idiot or insane person;

“management charges” means charges made for the provision of management services and includes charges made for the provision of personal services and technical and managerial skills;

“Minister” means the Minister responsible for Finance;

Ch. 75:02.

“non-resident company” has the meaning assigned to that expression for the purposes of the Corporation Tax Act in section 2 thereof;

“penalty” means any amount or other sum (other than interest) imposed or charged on a person in addition to any tax payable on an assessment made under the provisions of this Act, and includes a fine recoverable on summary conviction;

“person” includes, subject to subsection (2), a company;

Third Schedule.

“participator” has the same meaning as in paragraph 4 of the Third Schedule to the Corporation Tax Act;

“resident company” has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

“royalties” has the meaning assigned to that expression for the purposes of the Corporation Tax Act by section 2 thereof;

“separated” means in relation to the marital status of an individual, that the individual is living apart from his or her spouse under—

- (a) an order of a Court of competent jurisdiction;
- (b) a written agreement of separation; or
- (c) any other circumstances where the separation is likely to be permanent;

“short term capital gains” means chargeable gains accruing on the disposal of an asset within twelve months of its acquisition;

“tax” means income tax imposed by this Act;

“total income” means the aggregate amount of income of a person from the sources specified in section 5, before making any deductions allowed by—

(a) any provision of this Act other than sections 10, 11 and 16;

(b) the Income Tax (In Aid of Industry) Act; Ch. 85:04.

“trade” includes a business, and every trade, manufacture, adventure or concern in the nature of a trade or business;

“withholding tax” means the tax so referred to in section 50;

“year of income” means the period of twelve months commencing on 1st January in each year.

(2) For years of income after the year of income 1965 the provisions, other than section 50 of this Act relating to the charge of income tax shall not apply to the profits or gains accruing or arising—

(a) to a resident company; or

(b) to a non-resident company, if the profits or gains are within the charge (as defined by section 2(1) of the Corporation Tax Act) to corporation tax. Ch. 75:02.

### ADMINISTRATION

**3.** (1) For the purposes of this Act there is hereby established a Board of Inland Revenue. Board of Inland Revenue.  
[29 of 1966  
37 of 1989  
15 of 2003].

(2) The Board shall consist of five Commissioners whose offices shall be public offices within the meaning of section 3 of the Constitution of Trinidad and Tobago.

(3) The President shall appoint one of the Commissioners to be Chairman and the Chairman shall preside at all meetings of the Board.

(4) Subject to any Regulations made by the President for the purpose, the Board may regulate its own procedure.

Official secrecy.  
[16 of 1963  
9 of 1990].

**\*4.** (1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income or items of the income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a Magistrate.

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

- (a) other than a person to whom he is authorised by the President to communicate it; or
- (b) otherwise than for the purposes of this Act or any other written law administered by the Board,

is guilty of an offence.

(3) Where, under any law in force in any Commonwealth country provision is made for the allowance of relief from income tax in respect of the payment of income tax in Trinidad and Tobago, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that Commonwealth country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in Trinidad and Tobago or from income tax in that Commonwealth country aforesaid.

### CHARGING PROVISIONS

Charge to  
income tax.

**†5.** (1) Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereafter for each year of

\* This provision must be read and construed with section 7 of the Tax Information Exchange Agreements Act, Ch. 76:51, (30 of 1989) which has created an exception to this provision whereby disclosure is permitted for the purpose of giving effect to any tax information exchange agreement under the aforesaid Act. See also section 117 (6) of this Act.

† This section has been amended by the following: 29 of 1966; 46 of 1969; 14 of 1976; 10 of 1979; 203/1979; 19 of 1980; 25 of 1981; 41 of 1981; 21 of 1983; 7 of 1985; 11 of 1988; 6 of 1989; 20 of 1989; 6 of 1993; 3 of 1994; 14 of 1994; 5 of 1995; 8 of 1996; 35 of 1998; 39 of 2000; 91 of 2000; 20 of 2003.

income upon the income of any person accruing in or derived from Trinidad and Tobago or elsewhere, and whether received in Trinidad and Tobago or not in respect of—

- (a) gains or profits from farming, agriculture, forestry, fishing or other primary activity;
- (b) gain or profits from operation of mines or the exploitation of natural or mineral resources;
- (c) gains or profits from any other trade or business;
- (d) gains or profits from the practice of any profession or vocation or management charges for the provision of personal services and technical and managerial skills;
- (e) gains or profits from any employment or office including pensions or emoluments within the meaning of section 100 and any contribution of the employee paid by the employer on behalf of the employee to an approved fund or scheme referred to in section 27(1)(c) or paid by the employer on behalf of the employee under an approved pension fund plan referred to in sections 28 to 33 and the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment or office whether in money or otherwise;
- (f) short-term capital gains;
- (g) interest, discounts, annuities or other annual or periodical sums;
- (h) rents for real property and royalties from the operation of mines, quarries or other natural resources;
- (i) rentals and royalties for the use or the right to use—
  - (i) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trade marks, motion picture

films, films or tape for radio and television broadcasting, or other like properties or rights; or

- (ii) information concerning industrial, commercial or scientific knowledge, experience or skill;
- (j) premiums, commissions, fees and licence charges;
- (k) dividends or other distributions;
- (l) gains or profits or amounts deemed to be income of that person under this Act;
- (m) any annual gains or profits not falling under any of the foregoing paragraphs.

(2) In the case of income arising outside Trinidad and Tobago to a person who is not ordinarily resident or not domiciled therein tax shall be payable on the amount received in Trinidad and Tobago, so however, that where any employment or office is exercised by any such person in Trinidad and Tobago, gains or profits from the employment or office, whether received in Trinidad and Tobago or not, shall be treated as income arising therein.

First Schedule. (3) The Capital Gains (Supplementary Provisions) Rules set out in the First Schedule shall have effect for the computation of short-term capital gains and generally for the purposes of the charge to tax thereon.

(4) Where a person has ceased to hold any employment or office and any pension or annual payment is paid to him, or his widow or child, or to any relative or dependant of his by the person by whom he was employed, or by the successors of that last-mentioned person, then, notwithstanding that the pension or annual payment is paid voluntarily or is capable of being discontinued, any amount paid in respect of that pension or annual payment shall be deemed to be income of the person to whom, and for the year of income in which, it is so paid.

(5) Notwithstanding anything in this Act or any other rule of law to the contrary, where income arises to a person from any

activities on the continental shelf (this expression here having the same meaning as in the Continental Shelf Act) such income shall for all the purposes of this Act be deemed to have accrued in or to have been derived from Trinidad and Tobago. Ch. 1:52.

(6) Notwithstanding subsection (1)(e), where under a contract of employment the employer is liable to pay an amount by way of severance pay upon the termination of the employment of an employee by reason of the redundancy of the position held by the employee or upon the retirement, or other termination of the employment, by reason of ill-health—

- (a) so much of the amount as does not exceed three hundred thousand dollars shall be exempt from tax; and
- (b) the remainder, if any, of the amount—
  - (i) shall be treated as income for the year in which the employment is terminated and, irrespective of when payment is received, shall not be treated as income of any other year;
  - (ii) shall not form part of the chargeable income of the employee but shall be separately charged to tax at his average rate of tax for the year of income immediately preceding the year in which the employment is terminated.

(6A) For the purposes of subsection (6), ill-health shall not be regarded as the reason for retirement or other termination of the employment of an employee unless the Board is satisfied, on such evidence that it may require, that ill-health was the reason for the termination of employment.

(6B) The provisions of subsection (6) (a) and (b) in relation to the taxation of an amount paid by an employer to an employee on the termination of the employment of an employee by reason of redundancy, shall apply to a payment not otherwise chargeable

to tax which is made, whether in pursuance of any legal obligation or not, either directly or indirectly, in consideration or in consequence of, or otherwise in connection with, the termination of the holding of an office or employment or any change in the functions or emoluments of an employee, including any payment in commutation of annual or periodical payments, whether chargeable to tax or not, which would otherwise have been made.

(6C) For the purposes of subsection (6B), any payment made to the spouse or any relative or dependant of a person who holds or has held an office or employment, or made on behalf of or to the order of that person, shall be treated as a payment made to that person, and any valuable consideration other than money shall be treated as a payment of money equal to the value of that consideration at the date when it was given.

(6D) A payment referred to in subsection (6B) does not include a lump sum payment made—

- (a) under an approved pension scheme under section 28;
- (b) under an approved pension fund plan or an approved deferred annuity plan under section 28;
- (c) under a fund or contract approved by the Board under section 134(6A);
- (d) in connection with the termination of the holding of an office or employment by the death of the holder or made on account of the injury to or disability of the holder of the office or employment.

(7) For the purposes of subsection (6)—

“severance pay” includes any payment *in lieu* of notice and any payment made in relation to past service of the employee;

“average rate of tax” means such rate, expressed as a percentage, as results from dividing the tax payable in respect of a year of income by the amount of the chargeable income of that year.

(8) Where the gains or profits from any employment or office which are received by any person during a year of income include an amount which relates to any other year or years of income, the whole of the amount shall, subject to subsections (6) and (10), be treated as income for the year of income during which the amount was received by the person.

(9) *(Repealed by Act No. 6 of 1989).*

(10) Notwithstanding paragraph (e) of subsection (1), a person who receives a retirement severance benefit shall be exempt from income tax to the extent of not more than three hundred thousand dollars of such benefit where at the date of his retirement—

- (a) he is not entitled to a pension other than under the National Insurance Act or the Old Age Pensions Act; Ch. 32:01.  
Ch. 32:02.
- (b) he is not a member of an approved Pension Fund Plan, or of a Fund or Scheme that is a Provident Fund; and
- (c) he produces evidence to the satisfaction of the Board of Inland Revenue—
  - (i) that he has retired from insurable employment within the meaning of the National Insurance Act;
  - (ii) that he has reached the age of sixty years, but nothing in this subsection limits the effect of subsection (6).

(11) For the purposes of subsection (10), the Board of Inland Revenue may require from the employee the production of a certificate from the National Insurance Board to the effect that the requirements outlined in subsection (10)(c) have been fulfilled.

**5A.** (1) For each year of income, there shall be levied and paid to the Board at the rate of 0.2 per cent a tax to be known as a business levy on the gross sales or receipts, other than emolument income under section 100, of a person.

Business levy.  
[3 of 1994  
14 of 1994  
5 of 1995  
8 of 1996  
9 of 1997  
35 of 1998  
39 of 2000  
91 of 2000].

- (2) Subsection (1) does not apply to—
- (a) the gross sales or receipts of a person which give rise to income exempt from income tax under any Act;
  - (b) the income of a person whose emolument income under section 100 exceeds seventy-five per cent of his total income;
  - (c) the gross sales or receipts of a person whose gross sales or receipts in the preceding year of income does not exceed the sum of two hundred thousand dollars, unless there are reasonable grounds to believe that the gross sales or receipts in the particular year of income will exceed that sum; and
  - (d) the gross sales or receipts of the business of a person for a period of three years following the commencement of the business.

(3) A person is entitled to a tax credit against his business levy liability for a year of income of any payment made in respect of his income tax liability for that year of income up to a maximum of his business levy liability.

(4) *(Repealed by Act No. 5 of 1995).*

(5) The business levy shall be payable on the gross sales or receipts of each quarter ending on 31st March, 30th June, 30th September and 31st December, in each year of income.

(6) Where the Board is satisfied that a person is unable to determine, by the due date for payment in any quarter, the gross sales or receipts for any day in that quarter, that person may, with the approval of the Board, estimate the gross sales or receipts for that day.

(7) Where a person who estimates his gross sales or receipts for any day in a quarter, determines that his actual sales or receipts for that day are more than the estimated sales or receipts, that person shall pay the business levy due on the difference

between the actual sales or receipts and the estimated sales or receipts, no later than the last day of the quarter following the quarter in which the sales or receipts were estimated.

(8) Where a person to whom subsection (6) applies, pays business levy in any quarter amounting to less than ninety per cent of the business levy liability for that quarter, the difference between ninety per cent of the business levy liability and the amount paid by the end of the quarter in which the levy liability arose, shall be subject to interest from the day following the end of that quarter to the date of payment at the rate of fifteen per cent per annum.

(9) For the avoidance of doubt, it is declared that in ascertaining the chargeable income of a person, no deduction or allowance shall be made of, or on account of, the levy imposed by this section.

(10) The business levy shall be under the care and management of the Board and the provisions referred to in the Table apply in relation to the business levy as they apply in relation to income tax, but subject to any necessary modifications and adaptations.

**TABLE**

**INCOME TAX PROVISIONS APPLIED TO THE BUSINESS LEVY**

Section 2 (Interpretation)  
Sections 3 and 4 (Administration)  
Sections 59 to 65 (Trustees, Agents, etc.)  
Section 66 (Deceased persons)  
Sections 76 and 77 (Returns)  
Sections 79 to 82 (Payment of tax by instalments)  
Sections 83 and 84 (Assessments)  
Section 85 (Assessment lists, etc.)  
Section 86 (Notices of Assessment)  
Section 87 (Appeals)  
Sections 88 and 89 (Errors in assessments and additional assessments)  
Section 90(1) and (3) (Repayment of tax)

**TABLE—Continued**

- Section 92 (Refunds)
- Section 93 (Relief from double taxation)
- Section 94 (Certain income deemed to be income for the purposes of the Income Tax Act)
- Section 97 (General powers of the Board)
- Section 103 (Interest for non-payment of tax)
- Sections 104 to 108 (Collection)
- Sections 109 to 112 (Recovery)
- Sections 113 and 114 (Notices)
- Section 115 (Imprisonment of defaulters)
- Sections 116 to 124 (General Provisions)
- Section 125 (Regulations)
- Sections 130 to 132 (Miscellaneous powers of Board)
- The Sixth Schedule.

**BASIS OF ASSESSMENT**

Basis of assessment. [16 of 1963].

**6.** Tax shall be charged for each year of income upon the chargeable income of any person for that year.

Chargeable income of certain persons. [16 of 1963, 5 of 1964, 29 of 1966].

**7.** (1) The gains or profits of any person for a year of income so far as such gains or profits arise from the carrying on of any trade, business, profession or vocation shall be—

- (a) where there is an established accounting terminal date, the gains or profits of the twelve months from the established accounting terminal date occurring in the year immediately preceding the year of income;
- (b) in the case of the commencement by any person of any trade, business, profession or vocation, the gains or profits from the date of commencement of such trade, business, profession or vocation occurring in the year immediately preceding the year of income or

occurring in the year of income to such date in the year of income as may be agreed by the Board which agreed date shall thereafter be the established accounting terminal date;

- (c) in the event of a departure from the established accounting terminal date, the gains or profits for such twelve-month period as the Board in its discretion may determine in respect of the year of income in which the departure from the established accounting terminal date occurs and in respect of the next succeeding year of income; thereafter the accounting terminal date resulting from the change shall be the established accounting terminal date.

(2) Where any person ceases to carry on his trade, business, profession or vocation, the gains or profits of such person arising from his trade, business, profession or vocation for the year of income in which he ceased to carry on his trade, business, profession or vocation shall be the gains or profits from the established accounting terminal date in the year immediately preceding the year of income to the date upon which he ceased his trade, business, profession or vocation.

(3) In this section “established accounting terminal date” means the accounting date to which the accounts of any trade, business, profession or vocation of any person are ordinarily made up and accepted for the purposes of assessment under this Act or in the case of any new trade, business, profession or vocation, such date as may be agreed by the Board.

**\*8.** (1) There shall be exempt from the tax —

Exemptions.

- (a) the official emoluments received by the President, or a person performing the functions of President

\* This section has been amended by the following: 29 of 1966; 35 of 1971; 27 of 1972; 30 of 1974; 41 of 1975; 66 of 1975; 40 of 1976; 1 of 1979; 19 of 1980; 198/1985; 1 of 1986; 14 of 1987; 11 of 1988; 20 of 1989; 9 of 1990; 6 of 1991; 4 of 1992; 3 of 1994; 22 of 1994; 5 of 1995; 8 of 1996; 9 of 1997; 35 of 1998; 36 of 2000; 39 of 2000; 5 of 2004.

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- temporarily, the pension received by a retired President and by the widow of a President or retired President;
- Ch. 17:01. (b) the official emoluments received by persons exempt under the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act;
- (c) wound and disability pensions granted to members of the armed forces of any Commonwealth country;
- (d) gratuities to members of the armed forces of any Commonwealth country in respect of service rendered during the wars which began on 14th August, 1914 and 3rd September, 1939;
- (e) the income arising under a scholarship, exhibition, bursary or any other similar education endowment held by a person receiving full-time instruction at a university, college, school or other educational establishment;
- (f) the income arising from investments of any fund or scheme approved by the President under section 27(1)(c);
- (fa) with effect from 1st January, 1999, the interest income on loans made by financial institutions to fund projects within the small business sector under the Small Business Development Company Limited;
- Ch. 32:01. (g) benefits (including lump sum payments) paid out of the Employment Injury Benefit Fund and the Short Term Benefits Funds established under section 43 of the National Insurance Act;
- (h) dividends or bonus distributions, or both, paid by a registered co-operative society or dividends paid by the Agricultural Development Bank to a member or a shareholder, as the case may be, who is either resident or ordinarily resident in Trinidad and Tobago;

- (i) the income of the Council of Legal Education;
- (j) ***(Repealed by Act No. 11 of 1988).***
- (k) the income of any resident individual where the total income does not exceed twenty-five thousand dollars for a year of income;
- (l) interest payable on bonds, known as TTDFC Industrial Bonds, that are issued by Trinidad and Tobago Development Finance Company Limited;
- (la) interest payable on bonds, known as restoration bonds, that are issued by the Industrial Development Corporation for the purposes of financing a business restoration facility;
- (lb) with effect from 1st October, 1998, interest payable to resident individuals on bonds issued by the Trinidad and Tobago Mortgage Finance Company Limited for the purpose of providing loans to first-time home owners;
- (m) subject to subsection (1A), the amount of any gratuity payable under a Government Pension Act to a person who was a monthly-paid officer or employee;
- (n) ***(Repealed by Act No. 9 of 1997).***
- (o) pensions payable under the National Insurance Act; Ch. 32:01.
- (p) interest whether or not denominated in local currency, paid or credited to a resident individual—
  - (i) on all classes of savings or other accounts with banks or other financial institutions in Trinidad and Tobago;
  - (ii) on savings or other accounts with a person carrying on a trade or business in Trinidad and Tobago who, in the ordinary course of operations of such trade or business, receives and retains money in such circumstances that interest becomes payable; or

- (iii) on bonds or other similar investment instruments issued in Trinidad and Tobago;
- (pa) that portion of a dividend comprising interest which is payable to a resident individual who is a beneficiary under a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, where the profits of such trust are exempt from corporation tax;
- Ch. 79:09.
- (pb) that portion of the amount or value of a distribution comprising interest which is paid or credited to a resident individual by the Trinidad and Tobago Unit Trust Corporation;
- (q) ***(Repealed by Act No. 9 of 1997)***;
- (r) with effect from 10th January, 1996, interest on bonds issued in accordance with the National Tax Free Savings Bonds Regulations;
- Sub. Leg.  
Ch. 71:41.
- (s) ***(Repealed by Act No. 9 of 1997)***;
- (t) annuity or other periodic sum payable under an immediate annuity purchased on or after 1st January, 1994 by an individual who—
- (i) is a resident of Trinidad and Tobago; and
  - (ii) has attained the age of sixty years;
- (u) dividends paid by a venture capital company to its shareholders who are ordinarily resident in Trinidad and Tobago;
- (ua) dividends paid by the Export Import Bank to its shareholders who are ordinarily resident in Trinidad and Tobago for a period of ten years commencing from the date of the initial investment;
- (ub) dividends paid by the Export Import Bank to its shareholders who are not ordinarily resident in Trinidad and Tobago for a period of ten years commencing from the date of the initial investment;

- \**(v)* the amount or value of the dividends or other distributions paid to a resident individual—
- (i)* by a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act, where the profits of the trust are exempt from corporation tax; Ch. 79:09.
  - (ii)* under the First and Second Unit Schemes of the Trinidad and Tobago Unit Trust Corporation established by the Unit Trust Corporation of Trinidad and Tobago Act; Ch. 83:03.
- (w)* the amount or value of distributions, other than preference dividends, paid by a resident company to a resident individual;
- (x)* on the death of a person, a lump sum death benefit paid under his employer's pension plan.

(1A) Where a gratuity, other than a gratuity payable as a result of the exercise of an option to receive a gratuity and a reduced deferred pension as referred to in section 9 of the Voluntary Termination of Employment Act, is payable to a person upon his services terminating under the Voluntary Termination of Employment Act before he has attained the age of fifty years, the exemption provided by subsection (1)*(m)* does not apply but section 5(6) applies to the amount of the gratuity as if it were an amount that the employer of that person were liable to pay by way of severance pay, as referred to in section 5(6). Ch. 23:03.

(2) Nothing in section 6 of the Corporation Tax Act shall be construed so as to exempt in the hands of the recipients any dividends, interests, bonuses, salaries or wages paid or credited to any person wholly or in part out of the income so exempt. Ch. 75:02.

(3) In subsection (1)—  
 “Agricultural Development Bank” means the Agricultural Development Bank of Trinidad and Tobago established under the Agricultural Development Bank Act; Ch. 79:07.

\* Act No. 5 of 1995 section 5 (1)*(c)* stated that this paragraph was to replace the existing paragraph *(v)*. However, no paragraph *(v)* existed prior to Act No. 5 of 1995 so that paragraph *(v)* was inserted here for the first time under the said Act.

“emolument income” means all salary, wages, overtime, bonus, remuneration, perquisites including the value of board and lodging, stipend, commission or other amounts for services, director’s fees, retiring allowances or pension, arising or accruing in, or derived from, or received in Trinidad and Tobago, but does not include any salary or share of profits arising from a trade, business, profession or vocation carried on by a person either by himself or in partnership with any other person;

“Government Pension Act” means an Act under which there is payable any benefit by way of a pension or gratuity in respect of past service, the payment of which is a charge on the Consolidated Fund or other public funds;

“immediate annuity” means a contract between an individual and a person authorised to carry on an annuities business in Trinidad and Tobago under which, in consideration of a lump sum payment made by the individual, the person agrees to pay to the individual an annuity or other periodic sum commencing immediately;

Ch. 85:50. “Industrial Development Corporation” means the Industrial Development Corporation established in accordance with the Industrial Development Corporation Act;

Ch. 81:03. “registered co-operative society” means a society which has been registered under the Co-operative Societies Act;

Ch. 45:55. “spouse” includes a cohabitant as defined in the Cohabitation Relationships Act;

Savings account  
free of tax.  
[6 of 1991  
9 of 1997  
5 of 2004].

**\*8A.** Where, on or after 1st January, 2004, but before the commencement of the Finance Act, 2004 a bank, financial institution or other person—

(a) pays or credits a resident individual with the interest referred to in section 8(1)(p), (pa) or (pb); and

(b) deducts a tax at the rate of five per cent thereon,

\*The Finance Act, 2004 (Act No. 5 of 2004) came into effect on 30th January, 2004.

such bank, financial institution or other person shall pay or credit the resident individual with an amount equal to the tax deducted instead of remitting the tax to the Board.

9. The President may by Order provide that the interest payable on any loan charged on the public revenue of Trinidad and Tobago shall be exempt from the tax, either generally or only in respect of interest payable to persons not resident in Trinidad and Tobago; and such interest shall, as from the date and to the extent specified in the Order, be exempt accordingly.

Government  
loans.  
[16 of 1963].

### COMPUTATION OF INCOME

\*10. (1) In computing the income of any person for a year of income from any source specified in section 5 for the purpose of ascertaining the chargeable income of a person for that year, there shall be allowed to that person all outgoings and expenses wholly and exclusively incurred during the year of income by that person in the production of the income from that source, so, however, that—

Computation  
of income  
generally.

- (a) in the case of gains or profits from employment or office under section 5(1)(e), the outgoings or expenses allowable shall be expenses that were wholly, exclusively and necessarily incurred and defrayed in respect of travelling in the performance of the duties of the employment or office, or keeping or maintaining means of transport to enable the performance of those duties;
- (b) in the case of outgoings and expenses in respect of management charges paid to or for the benefit of a person not resident in Trinidad and Tobago and to every non-resident company (such person or company not being engaged in a trade or business in Trinidad and Tobago giving rise to such management charges) the expenses

\* This section has been amended by the following: 22 of 1951; 29 of 1966; 30 of 1974; 14 of 1976; 1 of 1979; 14 of 1987; 11 of 1988; 6 of 1989; 4 of 1992; 6 of 1993; 3 of 1994; 14 of 1994; 5 of 1995; 8 of 1996; 9 of 1997; 35 of 1998; 39 of 2000; 91 of 2000.

allowable shall, subject to subsection (2), be the amount of the management charges or one per cent of the outgoings and expenses (exclusive of such management charges) allowed under this section and section 11(1), other than paragraph (a) or (b) thereof, whichever is the lesser;

- (c) in the case of expenses incurred by way of salary or wages paid to one's spouse as an employee, the expenses shall be allowable only to the extent to which the Board is satisfied that they are reasonable in amount, and any amount not allowed shall be deemed not to be income of the spouse;
- (d) in the case of expenses incurred in respect of entertainment or meals provided for the purpose of entertainment, the amount allowed shall be seventy-five per cent of such expenses.

(2) Where the Board is satisfied that any outgoings and expenses in respect of management charges incurred in any year of income by a person is of an extraordinary and non-recurrent nature (not being capital expenditure), the Board may, in its discretion, allow so much thereof in excess of one per cent as appears to the Board to be reasonable in the circumstances, so however, that nothing in this subsection shall apply unless the Board is satisfied that the management charges were incurred in respect of services that cannot reasonably be expected to be acquired or performed or both in Trinidad and Tobago.

(3) Subject to subsections (4), (4A), (5), (5A) and (5B), where land and improvements thereon—

- (a) are used by or on behalf of the owner; or
- (b) are used rent-free by the occupier,

for the purpose of a residence, there shall be allowed a deduction of a sum not exceeding eighteen thousand dollars in respect of interest paid on a loan or overdraft wholly and exclusively used in respect of the land and improvements as if it were a deduction for expenses incurred in the production of income.

(4) Where a person and his spouse occupy as a residence land and improvements owned by both spouses jointly, a deduction under subsection (3)(a) in respect of the residence may be claimed by each spouse in such proportion as they may determine and shall be allowed accordingly save that the deduction is limited to eighteen thousand dollars in respect of each spouse.

(4A) The deduction referred to in subsection (4) may be claimed by each spouse where the spouses are joint owners and mortgagors or co-mortgagors of the property, as if it were a deduction for expenses incurred in the production of income.

(5) Where in a year of income a person claims a deduction under subsection (3) in respect of—

- (a) land and improvements used by or on behalf of the owner, a deduction shall not be allowed in the same year of income to that person for any other land and improvements used by or on behalf of the owner; or
- (b) land and improvements thereon used rent-free by the occupier, a deduction shall not be allowed in the same year of income to that person for any other land and improvements used rent-free by the occupier.

(5A) Subject to subsection (5B), where in a year of income a person claims a deduction under paragraph (a) or (b) of subsection (3), the deduction shall not be allowed unless the person satisfies the Board that the taxes payable in that year of income under the Lands and Buildings Taxes Act or the Municipal Corporations Act, in respect of the land and improvements thereon used by or on behalf of the owner or used rent-free by the occupier for residence, have been paid for the year of income to which the claim relates.

Ch. 76:04.  
Ch. 25:04.

(5B) Notwithstanding subsection (5A), the deduction under subsection (3) may be claimed by a person in computing his chargeable income for the year of income 1994, where the person satisfies the Board that the taxes payable by him in that year of income under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid on or before 30th April, 1995.

(6) The allowance of a deduction under subsection (3) in respect of land and improvements used by or on behalf of the owner in a year of income does not prevent or limit the allowance of a deduction under that subsection in respect of land and improvements used rent-free by the occupier in the same year of income.

(7) Where a person has paid interest on a loan for the purpose of financing the construction of a house which is to be used as his residence, there shall be allowed as a deduction such interest up to a maximum of eighteen thousand dollars.

(8) Notwithstanding subsections (3)(a) and (7), where a person has made payments of interest under both subsections, the maximum deduction which may be allowed in respect thereof shall not exceed twenty thousand dollars.

(9) Where in a year of income commencing 1st January, 1999, a person incurs expenditure on behalf of himself or his child in respect of tertiary education at an institution approved by the Ministry of Education, a deduction of an amount not exceeding eighteen thousand dollars may be claimed by that person in ascertaining his chargeable income for a year of income during which the person or the child receives tertiary education save that where a claim is also made under subsection (3) or (7), the aggregate deduction under this subsection and subsection (3) or (7) shall be limited to eighteen thousand dollars.

(10) Where in a year of income commencing 1st January, 1999, a person incurs expenditure on behalf of himself, his spouse or his child in respect of tertiary education at an institution approved by the Ministry of Education, a deduction of an amount not exceeding eighteen thousand dollars may be claimed by each spouse in ascertaining their chargeable income for a year of income during which the person, spouse or child received tertiary education, save that where a claim for a deduction is also made under subsection (4), (4A) or (7), the aggregate deduction under this subsection and subsection (4), (4A) or (7) shall be limited to eighteen thousand dollars for each spouse.

- (11) For the avoidance of doubt—
- (a) a person may not claim a deduction under subsection (9) where a claim is made under subsection (10); and
  - (b) the aggregate deduction that may be claimed by both spouses under subsection (10) shall not also exceed the total expenditure actually incurred under subsections (4), (4A), (7) and (10).

**10A.** (1) For the purpose of ascertaining the chargeable income of a person for a year of income from a trade or business including commercial farming carried out on an approved agricultural holding, there shall be allowed promotional expenses wholly and exclusively incurred in order to create or promote the expansion of foreign markets for the export of—

Promotional expenses.  
[3 of 1994].

- (a) architectural, engineering, design, quantity surveying or contracting services in connection with the building industry, where such services are performed by a person resident in Trinidad and Tobago for a recipient who is outside Trinidad and Tobago; or
- (b) goods and agricultural produce manufactured or produced in Trinidad and Tobago and shipped in commercial quantities,

equivalent to one hundred and fifty per cent of the amount actually expended.

(2) A person granted an allowance under this section is not entitled to a deduction under section 10 in respect of the expenses referred to in subsection (1).

(3) A person may only qualify for an allowance under this section in respect of promotional expenses incurred in order to create or promote the expansion of foreign markets for the export of services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago, where the services or goods and agricultural produce have been exported as a result of such expenditure.

(4) A person may not be allowed an allowance under this section in respect of expenses incurred on emolument income within the meaning of section 100, except in respect of expenses incurred under subsection (5)(g).

(5) For the purposes of this section, “promotional expenses” means expenses incurred in respect of goods and agricultural produce manufactured or produced in Trinidad and Tobago or services referred to in subsection (1)(a) in—

- (a) advertising in foreign markets;
- (b) providing promotional literature for overseas distribution;
- (c) participating in trade fairs, trade missions and similar promotional activities;
- (d) overseas travel for the purposes of conducting promotional activities;
- (e) providing free samples and technical information on products;
- (f) inviting buyers to Trinidad and Tobago;
- (g) the recruitment of specialist sales personnel operating in foreign markets for a maximum of two years;
- (h) conducting foreign market surveys.

(6) The provisions of subsection (1) shall not apply to expenses incurred in petroleum operations, nor in respect of expenses incurred in the export or the expanding of the export of services referred to in subsection (1)(a) or goods and agricultural produce manufactured or produced in Trinidad and Tobago to countries specified in the Sixth Schedule to the Corporation Tax Act.

Ch. 75:02.

(7) For the purposes of subsection (6), “petroleum operations” means operations related to the various phases of the petroleum industry and includes exploring for, producing, refining, transporting and marketing petroleum or petroleum products or both and manufacturing and marketing of petroleum based products and petrochemicals.

**10B.** (1) For the purpose of ascertaining the chargeable income of a person for a year of income from a trade or business, there shall be allowed, expenses reasonably incurred in the training and retraining of his employees up to one hundred and fifty per cent of such expenditure.

Human resource development.  
[35 of 1998  
39 of 2000].

(2) For the purpose of ascertaining the chargeable income of a person for any year of income commencing from the year of income 2000 from a trade, business, profession or vocation, there shall be allowed, the actual expenses incurred in granting scholarships to nationals who are not employees or associates of that person, for tertiary education at educational institutions and in areas of study accredited and approved respectively by the Ministry with responsibility for education.

(3) For the purpose of subsection (2), an “associate” includes the spouse, parent, child, brother, sister or partner of a person.

**\*11.** (1) For the purpose of ascertaining the chargeable income of any person for any year of income from any trade, business, profession or vocation, there shall be allowed—

Allowances in certain cases.

(a) where that person has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession or vocation that has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as represents the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

(b) a reasonable amount for the exhaustion by wear and tear of any plant and machinery, and any buildings used exclusively for housing such plant

\*This section has been amended by the following: 29 of 1966, 28 of 1967; 35 of 1971; 30 of 1974, 198/1985; 1 of 1986; 6 of 1989; 17 of 1992; 6 of 1993; 3 of 1994; 5 of 1995; 9 of 1997; 35 of 1998; 50 of 2000; 91 of 2000; 5 of 2004.

and machinery owned by him arising out of the use or employment of such plant or machinery in the trade, business, profession or vocation during that year;

- (c) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Board to have become bad during the year of income, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said year, notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year, so however that all sums recovered during the said year on account of amounts previously written-off or allowed in respect of bad or doubtful debts shall, for the purpose of this Act, be treated as receipts of the trade, business, profession or vocation for that year;
- (d) rates and taxes on real estate (but not including income tax);
- (e) premiums paid on any fire insurance policy entered into with an insurance company, the agents or managing directors of which are liable to pay a contribution under the provision of the Insurance Act which corresponds to section 168A of the Insurance Act 1966, (*repealed by the Insurance Act*), on property used in acquiring the income upon which the tax is payable;
- (f) any annual sums paid by such person (being an employer) in respect of an employee by way of the employer's contribution to any approved fund or scheme referred to in section 27(1)(c);
- (g) in the case of a lump sum payment made by such person (being an employer) in respect of an employee's past services by way of the employer's contribution to any approved fund or scheme referred to in section 27(1)(c), one-tenth

of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made, but only if the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme;

(h) amounts contributed by an employer or employee to a trust under an approved pension fund plan to the extent provided by sections 28 to 33;

(i) contributions paid by an employer under the system of national insurance established under the National Insurance Act; and for the purposes of this paragraph “employer” includes the employer of a domestic worker within the meaning of the National Insurance Act; Ch. 32:01.

(j) amounts contributed by an employer to an approved employees’ profit-sharing plan established under section 35;

(k) where that person is engaged in any trade, a deduction to be known as an employment allowance of such amount and subject to such conditions as specified in the Eighth Schedule; Eighth  
Schedule.

(l) where that person is engaged in any trade, a deduction to be known as an apprenticeship allowance of such amount and subject to such conditions as specified in the Ninth Schedule. Ninth Schedule.

(2) Where deductions have been allowed under subsection (1)(b) and sections 11A and 11B to any person in ascertaining his chargeable income for a year of income from any trade, business, profession or vocation, and that person ceases to have any interest in plant and machinery and buildings in respect of which the deductions have been allowed, a balancing allowance or a balancing charge shall be made, and for the purposes of ascertaining such allowance or charge, section 4 and sections 17 and 17A, as the case may be, of the Income Tax (In Aid of Industry) Act shall apply. Ch. 85:04.

(2A) Notwithstanding subsection (2), where a person ceases to have an interest in respect of assets to which section 11A relates—

- (a) a balancing allowance shall not be made until there are no assets left in the pool;
- (b) a balancing charge shall not be made until the value in the pool results in a credit balance.

(3) In computing the amount to be allowed under subsection (1)(b) in respect of a private motor car—

- (a) purchased prior to 1st January, 1993, the value of which on 1st January, 1993 exceeds one hundred thousand dollars after an allowance for exhaustion by wear and tear is deducted, the value against which the amount is computed shall be deemed to be one hundred thousand dollars;
- (b) purchased on or after 1st January, 1993 the cost of which exceeds one hundred thousand dollars, the cost against which the amount is computed shall be deemed to be one hundred thousand dollars.

(4) Subsection (3) shall not apply to a rented car.

(5) In computing the balancing allowance or balancing charge under subsection (2) on the disposal of a private motor car the value or cost of which is deemed to be one hundred thousand dollars under subsection (3)(a) or (b), the allowance or charge shall be calculated on the basis that the amount of the sale, insurance, salvage or compensation moneys shall be deemed for those purposes only to be an amount equal to the fraction of that sum of which the numerator is the actual amount of the sale, insurance, salvage or compensation moneys and the denominator is the actual value or cost of the total capital expenditure incurred, that is to say by applying the following formula:

$$\frac{\text{Proceeds from disposal}}{\text{Actual value or cost}} \times \$100,000.00$$

(6) For the purposes of subsections (3), (4) and (5), “private motor car” and “rented car” have the same meanings as in section 2 of the Motor Vehicles and Road Traffic Act.

Ch. 48:50.

(7) Subject to subsection (8), where in a year of income, a person claims an allowance under subsection (1)(b), the allowance shall not be granted unless the person satisfies the Board that the taxes payable for the year of income to which the claim relates under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid in that year of income by that person.

Ch. 76:04.

Ch. 25:04.

(8) Notwithstanding subsection (7), the allowance under subsection (1)(b) shall be granted in computing the chargeable income of a person for the year of income 1994, where the person satisfies the Board that the taxes payable by him in that year of income under the Lands and Buildings Taxes Act and the Municipal Corporations Act have been paid on or before 30th April, 1995.

**11A.** (1) For the purpose of computing the allowance under section 11(1)(b) for a year of income in respect of—

Computation of wear and tear allowances. [5 of 1995, 35 of 1998].

(a) any plant and machinery;

(b) any buildings used exclusively to house such plant and machinery,

acquired after 1st January, 1995, the plant and machinery or the buildings housing such plant and machinery shall be classified into a class specified in the Seventh Schedule, and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring the plant and machinery or buildings housing such plant and machinery.

Seventh Schedule.

(2) In computing the allowance applicable to several items in a class specified in the Seventh Schedule, the wear and tear percentage relating to that class shall be applied against the aggregate expenditure incurred in acquiring the several plant and machinery or buildings housing such plant and machinery within that class.

Seventh Schedule.

Seventh  
Schedule.

(2A) In computing the allowance applicable to the items in a class specified in the Seventh Schedule—

- (a) the value of the plant or machinery acquired in a year of income shall be added to the written-down value of the plant or machinery;
- (b) the value of the plant or machinery disposed of in a year of income shall be deducted from the written-down value of the plant or machinery so however, that in the case of—
  - (i) a sale of plant or machinery, the amount deducted shall be the proceeds of sale of the plant or machinery; and
  - (ii) loss or destruction of plant or machinery, the amount deducted shall be the money received by way of insurance or compensation;
- (c) where the plant or machinery is used both for business and private purposes, the pool shall be debited with the proportionate cost of the asset equivalent to its business use and where the asset is disposed of, the pool shall be credited with the same percentage applied to the proceeds of disposal up to the original cost of the asset;
- (d) the value of plant or machinery brought into the business from private use shall be the market value of the plant or machinery;
- (e) where plant or machinery used for business purposes is appropriated for private use, the pool shall be credited with the market value of the plant or machinery so appropriated;
- (f) in the case of any other event resulting in the cessation of interest in any plant or machinery the amount deducted from the pool shall be the market value of such plant or machinery;
- (g) where plant or machinery is sold and the buyer and the seller are associates, the disposal value

of the said plant or machinery shall be its market value;

- (h) in no event shall the amount credited to the pool exceed the original cost of the said plant or machinery.

(2B) For the purpose of subsection (2A), “associates” has the same meaning assigned to it in the Companies Act.

Ch. 81:01.

(3) Where the plant and machinery or the buildings referred to in section 11(1)(b) cannot be placed into a class under the Seventh Schedule, the Board may apply such wear and tear percentage as may be determined by it by reference to the anticipated normal working life of the plant and machinery or the buildings housing such plant and machinery.

Seventh  
Schedule.

(4) For the purposes of this section, “anticipated normal working life” means, in relating to plant and machinery or buildings housing such plant and machinery, the period which might be expected to elapse, when the plant and machinery or the buildings housing such plant and machinery are first put into use, before they are finally put out of use as being unfit for further use, it being assumed that they will be used in the normal manner and to the normal extent and are going to be so used throughout that period.

**11B.** (1) Subject to subsection (6), for the purpose of ascertaining the chargeable income of a person carrying on a trade, business, profession or vocation for a year of income, there shall be allowed as a wear and tear allowance, an amount equal to ten per cent on a declining balance of the capital expenditure incurred by that person—

Allowances on  
buildings and  
structures.  
[50 of 2000].

- (a) in the construction of a building or structure; or  
(b) in respect of capital improvements made to a building or structure,

completed on or after 1st January, 1995 and used in the trade, business, profession or vocation for the production of the income of that person for that year of income.

L.R.O.

(2) Where part of the building or structure is to be used in the production of income of a person under subsection (1) and the capital expenditure incurred in the construction of that part of the building which is not used in the production of the income—

- (a) does not exceed one-tenth of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, the allowance granted in subsection (1) shall apply to the total capital expenditure incurred in the construction of the building or structure or in the capital improvements made to the building or structure;
- (b) exceeds one-tenth but does not exceed one-half of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, the allowance granted in subsection (1) shall apply only to the capital expenditure incurred in the construction of or improvements to that part of the building or structure which is to be used in the production of income;
- (c) exceeds one-half of the total capital expenditure incurred in the construction of or improvements to the entire building or structure, no allowance shall be granted under subsection (1).

(3) Where the building or structure is used in the production of income for part of a year of income, the allowance granted under subsection (1) shall be reduced by a proportionate part equivalent to the period during which the building or structure was not used for the production of income.

(4) A person whose income derived from premiums and rents is exempt from tax under section 42(2)(b) or section 45A(2) may, in ascertaining his chargeable income for a year of income, at his option elect to claim—

- (a) the exemption under those sections; or
- (b) the allowance granted under subsection (1).

(5) A person who makes an election under subsection (4) shall do so in writing to the Board in the year of income in which the construction or the capital improvements were completed and such election shall be irrevocable.

(6) Notwithstanding subsection (1), no allowance shall be made to a person for a year of income where the person is entitled to benefits under—

- |   |            |
|---|------------|
| (a) the Fiscal Incentives Act;              | Ch. 85:01. |
| (b) the Tourism Development Act;            | Ch. 87:22. |
| (c) the Trinidad and Tobago Free Zones Act, | Ch. 81:07. |

in respect of the building or structure or the capital improvements made to the building or structure.

(7) The provisions of Part I of the Income Tax (In Aid of Industry) Act relating to initial and annual allowances on industrial buildings and structures shall not apply to a person entitled to an allowance under this section. Ch. 85:04.

(8) For the avoidance of doubt, in ascertaining the chargeable income of a person for a year of income, no allowance shall be made under subsection (1) in respect of any plant and machinery or buildings used exclusively for housing such plant and machinery in the production of the income of that person.

**12.** In ascertaining the chargeable income of any person for any year of income, no deduction shall be allowed from the income in respect of—

- |   |   |
|---|---|
| (a) any disbursements or expenses not being moneys wholly and exclusively laid out or expended for the purpose of producing the income; | Deductions not allowed.<br>[30 of 1954<br>16 of 1963<br>29 of 1966<br>11 of 1988<br>5 of 1995]. |
| (b) domestic or private expenses;   |   |
| (c) any capital withdrawn or any sum employed or intended to be employed as capital;  |   |
| (d) any capital employed in improvements;   |   |
| (e) any sum recoverable under an insurance contract of indemnity;   |   |

- (f) rent of, or cost of repairs to, any premises or part of premises not paid or incurred for the purpose of the production of the income;
- (g) any amounts paid or payable in respect of foreign income tax, except in accordance with the provisions of this Act or of any double taxation arrangements entered into with the foreign country;
- (h) sums paid by any person by way of interest upon any money borrowed by that person for use in the production of the income, unless—
  - (i) the person receiving such interest is chargeable to tax, or
  - (ii) such interest is exempt in the hands of the person entitled to receive it by virtue of the provisions of this Act or any other written law;
- (i) payments within the meaning of section 51, unless the payer has accounted for and paid over withholding tax to the Board;
- (j) rental payments incurred for the purpose of the production of income unless information relating to such payments and to the payee are furnished to the Board in a form approved by the Board;
- (k) expenses incurred by a resident individual in acquiring shares in a listed resident company under section 55A where the distributions made in respect of those shares are subject to tax under that section.

Relief to hotel  
proprietors.  
[30 of 1954  
29 of 1966  
11 of 1988  
6 of 1989  
3 of 1994  
50 of 2000  
2 of 2002].

**13. (1)** Notwithstanding anything to the contrary contained in this Act—

- (a) in any case approved by the President in which the erection of a hotel or of any extension to a hotel is commenced after 1st of July 1954 and in which a licence has been granted to any person in respect of such hotel under the Tourism Development Act, the proprietor of

such hotel shall be exempt from income tax in respect of the income arising from such hotel in each of the five years of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed, and thereafter shall be allowed in each of any five of the eight years of assessment next following to set-off against the income arising from such hotel one-fifth of the capital expenditure upon such hotel or extension thereof, as the case may be, so however, that no such set-off be allowed in any year of assessment later than the thirteenth year of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed;

- (b) in any case approved by the President in which a licence has been granted to any person under the Tourism Development Act but which is not within the contemplation of paragraph (a), the proprietor of the hotel to which such licence relates shall be allowed in each of any five of the eight years of assessment next after the year of assessment in which the licence is granted to set-off against the income arising from the hotel one-fifth of the capital expenditure upon such hotel, so however that no such set-off be allowed in any year of assessment later than the eighth year after the year of assessment in which the capital expenditure was incurred. Ch. 87:22.

(2) Where the capital expenditure is allowed to be set-off against the income arising from a hotel, section 11(1)(b) shall not apply in respect of such expenditure.

(3) For the purposes of this section, the question whether the erection or extension of a hotel was commenced before 1st July, 1954 shall be for determination by the President. The President shall also for the purposes of this section determine

on what date the erection or extension of a hotel is completed. His determination in each case shall be final.

(4) Relief under subsection (1)(a) shall not be granted to any person unless such person—

- (a) applies in writing to the President through the Minister, for approval of the case before commencing the erection or extension, as the case may be, of the hotel; and
- (b) notifies the Minister in writing of the date on which he intends to commence the erection or extension, as the case may be, of the hotel.

(5) Where any case is approved by the President for the purposes of subsection (1)(a), the Minister shall—

- (a) report to the President the dates on which, in his opinion, the erection or extension, as the case may be, of the hotel was commenced and completed;
- (b) issue to the Board a certificate stating the fact of such approval and the dates fixed by the President as the dates on which the erection or extension, as the case may be, of the hotel was commenced and completed.

(6) The Minister, or any person authorised by him in writing to do so, may at any reasonable time enter upon the premises on which a hotel or any extension of a hotel is to be, or is being, erected, for the purpose of obtaining such information as will enable the Minister to report to the President in accordance with the requirements of subsection (5)(a).

(7) The President may by Regulations make any provision which in his opinion is necessary or expedient for the better carrying into effect of the provisions of this section.

(8) In this section—

“capital expenditure” means such sum as the Board is satisfied has been expended on—

- (a) advertising, publicising and promoting the business of the hotel prior to the commencement of such business;

- (b) the purchase of building materials for the construction of the hotel and on effecting such construction;
- (c) the purchase of any existing hotel where—
  - (i) an existing hotel has been purchased;
  - (ii) there has been a *bona fide* change of ownership; and
  - (iii) the purchaser qualifies for relief under the Tourism Development Act in respect of the buildings comprising the hotel; but no account shall be taken of any sum paid in respect of the purchase price of the land on which such hotel stands or in respect of goodwill; Ch. 87:22.
- (d) the purchase of articles of hotel equipment and on the installation of such articles of hotel equipment,

and for the purposes of this definition “articles of hotel equipment” and “construction” have the same meanings as are respectively assigned to the said expressions in the Tourism Development Act;

“hotel” has the same meaning as is assigned to that expression in the Tourism Development Act.

“Minister” means the Minister responsible for Industry.

**13A.** (1) Subject to subsection (2), where in a year of income a person makes an investment in the equity capital of an approved hotel or tourism development project, there shall be allowed as a deduction in ascertaining the chargeable income of that person for that year of income, such investment up to a maximum of twenty-five per cent of the investment. Deduction for investment in approved hotel or tourism project. [6 of 1989 3 of 1994].

(2) The deduction in subsection (1)—

- (a) shall not be allowed unless a certificate of the Minister under subsection (4) is submitted to the Board in support of the claim for the deduction; and

(b) shall be spread equally over a period of three successive years including the year in which the investment is made.

(3) The Minister may approve as an approved hotel or tourism development project any activity conducted on a commercial basis which, in his opinion, is a business venture that promotes the development of hotels and tourism.

(4) Where a project is approved under subsection (3), the Minister shall, on the application of a person who invests in the approved project, issue to that person a certificate stating—

- (a) the date on which approval for the project is granted;
- (b) the nature of the project in respect of which approval is granted;
- (c) the date and extent of the investment of the person in the approved project;
- (d) any other information which the Minister considers necessary.

(5) In this section—

“approved hotel or tourism development project” or “approved project” means a hotel or tourism development project approved by the Minister under subsection (3);

“equity capital” means newly issued shares other than redeemable preference shares;

“Minister” means the Minister to whom responsibility for tourism is assigned.

Deduction for investment in approved guest house. [2 of 2002].

**13B.** (1) Subject to this section, where an individual converts a house into an approved guest house there shall be allowed in the year in which the certificate of completion for the approved guest house was issued, a deduction of the approved capital expenditure incurred by the individual in respect of the conversion to such guest house.

(2) The deduction referred to in subsection (1) shall not be allowed unless the individual—

- (a) obtains from the Minister, approval for conversion into a guest house prior to the commencement of conversion; and
- (b) furnishes the Board with a certificate of completion of the conversion issued by the appropriate State agency.

(3) The individual referred to in subsection (1) shall, prior to the commencement of a conversion, apply to the Minister for approval of the conversion, such application being accompanied by—

- (a) the building plans for the conversion;
- (b) any other requisite approvals which may be required from other State agencies for the conversion; and
- (c) any other information as may be required by the Minister.

(4) The Minister shall, where the individual meets the requirements under subsection (3) and after consultation with the Tourism and Industrial Development Company of Trinidad and Tobago, grant written approval to the individual for the conversion, such approval stating—

- (a) the date on which approval for the conversion is granted;
- (b) the nature of the conversion in respect of which approval is granted; and
- (c) any other information which the Minister considers necessary.

(5) In this section—

“approved capital expenditure” means such sum as the Board is satisfied has been expended on the purchase of building materials used in the conversion of a house into a guest house;

“approved guest house” means a building in respect of which approval is granted by the Minister under subsection (4), comprising not more than six separate bedrooms occupied for the purpose of providing for reward sleeping accommodation together with services and facilities ancillary thereto provided for its guests, not being persons resident in the guest house under a contract of service;

“Minister” means the member of Cabinet to whom responsibility for tourism is assigned.

Exemption of  
income from  
approved  
agricultural  
holdings.  
[30 of 1974  
46 of 1977  
25 of 1980  
73/1984  
11 of 1988  
6 of 1993].

**14.** (1) Notwithstanding anything to the contrary contained in section 5, but subject to this section, the gains or profits from commercial farming carried out on an approved agricultural holding shall be exempt from tax for a period of ten years from the date of approval of the agricultural holding under section 14(5).

(1A) Where a person has enjoyed a period of exemption for ten years or more, the exemption from tax of his gains or profits from commercial farming shall cease to have effect from 1st January, 1993.

(1B) Where a person has enjoyed a period of exemption for less than ten years, the period of exemption shall continue for a further period not exceeding ten years from the date of approval of the agricultural holding under section 14(5).

(1C) For the purpose of determining whether a person has enjoyed a period of exemption for ten years or more, the date of the approval of the agricultural holding under section 14(5) shall be treated as the commencement date of the period of exemption.

(2) Where, in any year of income during the period of exemption, a loss is incurred, that loss or where the loss occurs in more than one year of income the aggregate of those losses shall be carried forward until the end of the period of exemption and there shall be deducted from that loss or the aggregate of those losses any profits made during the period of exemption and the remainder of that loss or such losses, if any (hereinafter referred to as the “net loss”) shall be dealt with in accordance with subsection (3).

(3) Any net loss incurred by any person during the period of exemption shall be set-off against his income of succeeding years of income in the manner provided by section 16.

(4) Where, during the period of exemption, an approved agricultural holding is—

- (a) sold or otherwise disposed of; or
- (b) increased so that it ceases to qualify as an approved agricultural holding,

the net loss, calculated in accordance with subsection (2), incurred by a person before the occurrence of either of these two events shall be set-off against his income of succeeding years of income in the manner provided by section 16.

(5) For the purposes of this section, the Minister may by Notice approve any parcel of land as an approved agricultural holding, but no such approval shall be given in respect of a parcel of land which—

- (a) exceeds one hundred acres in area;
- (b) is used as a pleasure ground, private garden or an allotment garden;
- (c) is used or preserved mainly for sporting or other recreational purposes, unless the Minister is satisfied that the use of such land for agricultural purposes does not conflict with its main usage.

(6) In this section—

“approved agricultural holding” means a parcel of land, held by way of freehold, leasehold or other form of occupancy including mere user, which is used or is capable of being used for the purpose of farming that is approved by the Minister under subsection (5);

“Minister” means the Minister responsible for agriculture.

**15. (Repealed by Act No. 6 of 1993).**

**16.** (1) Subject to subsection (2), where the amount of a loss incurred in the year of income in any trade, business, profession or vocation carried on by any person either solely or in partnership is

Allowances of trade losses. [11 of 1956, 16 of 1963, 30 of 1974, 11 of 1988, 2 of 2002].

such that it cannot be wholly set-off against his income from other sources for the same year, the amount of such loss shall, to the extent to which it is not allowed against his income from other sources for the same year, be carried forward, and shall, subject as is hereinafter provided, be set-off against what would otherwise have been his chargeable income for succeeding years.

(2) (a) The amount of any such 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.

(b) (*Repealed by Act No. 11 of 1988*).

(c) The amount of any such loss shall be set-off as far as possible against what would otherwise have been his chargeable income for the first succeeding year, and so far as it cannot be so set-off, then against the said income for the next succeeding year and so on.

(d) No loss incurred in connection with any hotel in any year in respect of which any allowance is granted under section 13 shall be set-off against the profits arising from any other trade, business, profession or vocation carried on by the person to whom the allowance is granted.

(e) No loss incurred in connection with a guest house in any year in respect of which an allowance is granted under section 13A, shall be set-off against the profits arising from any other trade, business, profession or vocation carried on by the person to whom the allowance is granted.

(3) The amount of any loss incurred by a person in any year of income from sources specified in section 5(1)(a), (b) or (c) shall not be set-off in that year or any succeeding year against gains or profits from the sources specified in section 5(1)(d) or (e).

Reliefs  
allowable to  
residents.  
[16 of 1963  
66 of 1975  
46 of 1977  
6 of 1989].

**17.** In ascertaining the chargeable income for any year of an individual who is resident in Trinidad and Tobago, there shall, upon due claim and subject to such evidence as the Board may require, be allowed any deduction to which he is entitled under this Act.

- 18.** (1) A person to which section 17 applies who—
- (a) has not attained the age of sixty years, shall be entitled to a personal allowance of twenty-five thousand dollars;
  - (b) has attained the age of sixty years, shall be entitled to a personal allowance of forty thousand dollars.
- (2) An individual who is not resident in Trinidad and Tobago who is in receipt of income accruing in or derived from Trinidad and Tobago and has attained the age of sixty years, shall be entitled to a personal allowance of forty thousand dollars.

Personal allowance.  
 [26 of 1955  
 16 of 1963  
 5 of 1964  
 29 of 1966  
 66 of 1975  
 14 of 1976  
 21/1978  
 31/1978  
 25 of 1981  
 2 of 1982  
 14 of 1987  
 6 of 1989  
 9 of 1997  
 91 of 2000  
 2 of 2002  
 5 of 2004].

**18A.** (1) Subject to subsections (2), (3) and (4), where in a year of income commencing 1st January, 2003, an individual who is a resident acquires by way of purchase or construction, a house to be used as his residence and was not the owner of a house at any time prior to 1st January, 2003, that person shall be entitled to an allowance of ten thousand dollars per year in respect of such acquisition.

Allowances for purchase of house.

(2) The allowance referred to in subsection (1) may be claimed by such individual referred to in subsection (1), for each of the first five years commencing from the year in which the house is acquired.

(3) Where in a year of income an individual claims the allowance referred to in subsection (1), the allowance shall not be granted unless the individual—

- (a) furnishes the Board with proof of ownership of the house;
- (b) satisfies the Board that the house which is to be used as his residence is a first-time acquisition; and
- (c) satisfies the Board that the taxes payable by him in that year of income under the Land and Buildings Taxes Act and the Municipal Corporations Act, have been paid in respect of the year to which the claim relates.

Ch. 76:04.  
 Ch. 25:04.

(4) Where an individual acquires by way of purchase or construction, a house together with one or more other individuals, the allowance under subsection (1) may be claimed by the individual in such proportion as may be determined by the owners, save that—

- (a) the individual claiming the allowance shall satisfy the Board that he is a first-time owner who occupies the house as a residence; and
- (b) the aggregate allowance shall not exceed ten thousand dollars in any year.

(5) For the purposes of this section, “first-time acquisition” means—

- (a) the purchase for the first time of a completed house or any share therein on or after 1st January, 2003; or
- (b) the construction for the first time of a house completed on or after 1st January, 2003.

Deduction for purchase of certain shares. Ch. 81:03.

**18B.** (1) An individual, who purchases shares in a society registered under the Co-operatives Societies Act whereby there is a net increase for the year of income in the total nominal value of shares up to ten thousand dollars held by him, in that society is entitled in the year of income to a deduction of an amount equal to the increase, but not exceeding ten thousand dollars per annum.

(2) An individual claiming a deduction under subsection (1) shall furnish the Board with a certificate from every society in which he held shares in the year of income in respect of which the deduction is being claimed and the certificate shall show—

- (a) the number of shares held by him at the end of the year of income immediately preceding the year in which the deduction is being claimed and the nominal value of these shares; and
- (b) the number of shares purchased or withdrawn by him in the year of income in respect of which a

deduction is being claimed and the nominal value of his shareholding at the end of that year of income.

(3) Where in the year of income immediately preceding the year of income in which the deduction is being claimed, an individual was allowed a deduction in respect of shareholding in a society other than that in which he holds the shares in respect of which he makes a claim, he shall in addition to the certificate referred to in subsection (2), furnish the Board with a certificate from that other society and that certificate shall show—

- (a) the number of shares held in that society at the end of the year of income immediately preceding and the nominal value of those shares; and
- (b) the number of shares held in that society at the end of the year of income in respect of which the deduction is being claimed and the nominal value of those shares.

**19. (Repealed by Act No. 6 of 1989).**

**20.** (1) Subject to subsection (2), an individual to whom section 17 applies who, in the year of income has paid—

Maintenance and alimony. [66 of 1975 5 of 1995].

- (a) a maintenance or separation allowance in accordance with the terms of a registered deed of separation or an order of any Court of competent jurisdiction to his or her spouse from whom he or she is separated; or
- (b) alimony to a former spouse from whom he or she is divorced under a divorce recognised under the laws of Trinidad and Tobago,

shall be entitled to a deduction equal to the amount of such allowance or alimony.

(2) The deduction allowable under this section shall not apply unless the spouse or former spouse, as the case may be, receiving such maintenance or separation allowance or alimony is chargeable to tax thereon under this Act.

(3) Payments made under this section to a spouse or former spouse in a year of income regarding the maintenance of a child, not exceeding the sum of one thousand two hundred dollars in respect of any one child, shall be deemed not be the income of that spouse or former spouse.

**21. (Repealed by Act No. 9 of 1997).**

**22. }  
to } (Repealed by Act No. 6 of 1989).  
26. }**

Deduction in respect of Life Insurance and contribution to Widows' and Orphans' Fund. Ch. 23:54.

**\*27. (1)** An individual to whom section 17 applies who—

**(a) }  
(b) } (Repealed by Act No. 6 of 1989).**

**(c)** has made a contribution under the Widows' and Orphans' Pensions Act or under any similar written law in the United Kingdom or in any Commonwealth country, or to any approved fund or scheme;

Ch. 32:01.

**(d)** being an insured person within the meaning of the National Insurance Act, has paid a contribution under the system of national insurance established by that Act, or

Ch. 2:03.

**(e)** has made a contribution under the Retiring Allowances (Legislative Service) Act,

shall be allowed, subject to section 28(15), a deduction of the contribution in accordance with sections 28 to 32.

(1A) Subsection (1)(e) shall be deemed to come into operation on 1st January, 1996.

Ch. 23:54

(2) Nothing in subsection (1)(d) shall apply to so much of the contribution of an employed person who is registered or eligible to be registered under the system of national insurance established by the National Insurance Act as is paid out of contributions of a contributor under the Widows' and Orphans' Pensions Act in accordance with section 18(3) thereof.

\* This section has been amended by the following: 20 of 1954; 26 of 1955; 16 of 1963; 5 of 1964; 29 of 1966; 35 of 1971; 12 of 1972; 66 of 1975; 14 of 1976; 21/1978; 7 of 1980; 6 of 1989; 9 of 1997; 35 of 1998; 2 of 2002.

- (3) } *(Repealed by Act No. 6 of 1989).*
- (4) }
- (5) }

(6) For the purposes of this section, a contribution of an employee paid by an employer on behalf of the employee to an approved fund or scheme referred to in subsection (1)(c) shall be deemed to be a contribution to such fund or scheme by the employee.

(7) In this section—

“approved” means approved by the Governor-General before the passing of the Income Tax (Amendment) Act 1963; 16 of 1963.

“any Commonwealth country” includes Pakistan and South West Africa.

(8) *(Repealed by Act No. 6 of 1989).*

**28.** (1) In this section and in section 11(1)(h) and sections 29 to 32— Interpretation.  
[16 of 1963  
5 of 1964  
29 of 1966  
8 of 1972  
22 of 1993  
9 of 1997  
35 of 1998  
2 of 2002  
5 of 2004].

(a) “actuarial reserve” means—

(i) in the case of an approved pension fund plan, the cash equivalent of the benefits that would be payable to an employee if he left the service of the employer on the date at which the reserve is determined, including the amount of any tax payable in respect of the said benefits;

(ii) in the case of an approved deferred annuity plan, the surrender value which would be payable on the date at which the reserve is determined if the contract were capable of being surrendered, including the amount of any tax payable in respect of the said surrender value;

(aa) “actuary” means a Fellow by examination of the Institute of Actuaries in England, of the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America or an

Ch. 84:01.

actuary possessing such other qualifications as may from time to time be approved by the officer designated to be the Supervisor of Insurance under the Insurance Act by the Minister to whom responsibility for finance is assigned;

(ab) “annuitant” means an individual referred to in paragraph (b)(i) or (b)(ii) to whom, under an approved deferred annuity plan, any annuity for life is agreed to be paid or is to be provided;

(b) “deferred annuity plan” means—

(i) a contract between an individual and a person authorised to carry on an annuities business in Trinidad and Tobago, under which, in consideration of payment by the individual of any periodic or other amount as consideration under the contract, that person agrees to pay to the individual, commencing at maturity, an annuity for life, in this section and in sections 29 to 32 referred to as an approved deferred annuity plan; or

(ii) an arrangement under which payment is made by an individual—

(A) in trust to a company of any periodic or other amount as a contribution under the trust; or

(B) in trust to a company, approved by the President for the purposes of this section that is authorised by law to issue investment contracts providing for the payment to or to the credit of the holder thereof of a fixed or determinable amount at maturity, of any periodic or other amount as a contribution under any such contract between the individual and that investment company,

to be used, invested or otherwise applied by that company or that investment company, as the case may be, for the purpose of providing to the individual, commencing at maturity, an annuity for life;

- (c) “approved deferred annuity plan” means a deferred annuity plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the Regulations;
- (d) “approved pension fund plan” means a pension fund plan approved by the Board for the purposes of this Act as complying with the requirements of this section and the Regulations;
- (e) “benefit” means any amount paid or payable under an approved pension fund plan or an approved deferred annuity plan otherwise than as a contribution or premium, as the case may be;
- (f) “contribution” means other than in paragraph (b)(ii)(A) and in paragraph (k)(ii) any periodic or other amount paid or payable under a pension fund plan as a contribution referred to in paragraph (j) for the purpose stated in that paragraph;
- (g) “employee” means any person employed in the service of another at a weekly, monthly or other periodic remuneration other than the directors not actively engaged in the day-to-day management of a company, whether the company is incorporated or not;
- (ga) “first-time acquisition” means —
  - (i) the purchase of a completed house or any share therein; or
  - (ii) the construction of a house completed after the commencement of the Finance (No. 2) Act, 1993, 22 of 1993.

by an individual who has not previously owned a house in Trinidad and Tobago;

- (h) “maturity” means the date fixed under an approved deferred annuity plan for the commencement of any annuity the payment of which is provided for by the plan;
- (i) “non-contributory plan” means a pension fund plan under the terms of which no payment of any amount is made by employees as a contribution to the plan;
- (j) “pension fund plan” means an arrangement under which payment is made by—
  - (i) an employee in trust to trustees or a corporation sole of any periodic or other amount as a contribution under the trust; and
  - (ii) by an employer in respect of that employee in trust to the said trustees or corporation sole of any periodic or other amount as a contribution under the trust,to be used, invested or otherwise applied by the said trustee or trust corporation, as the case may be, in accordance with the Regulations for the purpose of providing to the employee commencing on retirement a pension for life;
- (k) “premium” means any periodic or other amount paid or payable under an approved deferred annuity plan—
  - (i) as consideration for any agreement referred to in paragraph (b)(i) to pay an annuity; or
  - (ii) as a contribution referred to in paragraph (b)(ii) for the purpose stated in that subparagraph;
- (l) “refund of contributions” means any amount paid or payable under an approved pension fund plan on the withdrawal from a plan before five years

contribution is made of an employee, or on approval of an application by the Board therefore for any other reason, as or on account of—

- (i) a return of the employee's contributions;
  - (ii) reasonable interest on the employee's contributions;
- (m) "refund of premiums" means any amount paid or payable under an approved deferred annuity plan on or after the death of the annuitant thereunder in the event of his death before maturity, as or on account of—
- (i) a return of premiums;
  - (ii) reasonable interest of premiums; or
  - (iii) a share or interest in or a bonus out of profits or gains;
- (n) "Regulations" means Regulations made under section 32;
- (o) "trustee" means a person in whom a trust in respect of an approved pension fund plan is vested in accordance with section 30 and includes a member of a Management Committee where the trust is vested in a trust corporation;
- (p) "trust corporation" has the meaning assigned to it by the Trustee Ordinance;\*
- (q) "withdrawal of contributions" means the withdrawal of all or part of the actuarial reserve payable under an approved pension fund plan to an employee under forty-one years who has been a member of the Plan sponsored by his present employer for not less than five years of paid employment, being an amount which—
- (i) is applied to the satisfaction of the Board towards the first-time acquisition by the employee of a house, other than a house

Ch. 8 No. 3.  
(1950 Ed).

\*This Ordinance has been repealed by the Trustee Act, 1981 (Act No. 21 of 1981) but up to the date of the revision of this Chapter, Act No. 21 of 1981 had not yet been brought into operation.

- already wholly or partially owned by the employee's spouse, for use by the employee as his residence in Trinidad and Tobago;
- (ii) is not more than ten per cent of the maximum purchase price of a house for which the deed of conveyance is exempt from stamp duty;
  - (iii) will not, in the opinion of a qualified actuary, jeopardise the benefits payable to existing and future members of the plan;
- (r) "withdrawal of premiums" means the withdrawal of all or part of the actuarial reserve payable under an approved deferred annuity plan after not less than five years to an annuitant under forty-one years from the effective date of the plan, being an amount which—
- (i) is applied to the satisfaction of the Board towards the first-time acquisition by the annuitant of a house, other than a house already wholly or partially owned by the annuitant's spouse, for use by the annuitant as his residence in Trinidad and Tobago;
  - (ii) is not more than ten per cent of the maximum purchase price of a house for which the deed of conveyance is exempt from stamp duty.

16 of 1963.

(2) After the passing of the Income Tax (Amendment) Act 1963—

- (a) the President shall not approve any fund or scheme under section 27;
- (b) no deductions under section 11(1)(f) and (g) or under section 27(1)(c) on account of a contribution to an approved fund or scheme that is a Provident Fund, shall be allowed with respect to any new contributor under such approved fund or scheme.

(3) Where an approved fund or scheme (within the meaning of section 27) is registered under Part VI of the Insurance Act the fund or scheme shall unless converted under subsection (4) continue to be treated as an approved fund or scheme under section 27 for the purposes of this Act, notwithstanding any amendment to its Rules directed to be made by the Supervisor of Insurance—

- (a) for the purpose of the qualification of the fund or scheme for registration; or
- (b) in order to comply with the requirements of any regulations made under the National Insurance Act for the purpose of the harmonisation of the fund or scheme with the system of national insurance established by that Act.

(4) An approved fund or scheme within the meaning of section 27 may at any time be converted into an approved pension fund plan if it complies with the provisions of this section and the regulations and the Board approves the plan save that where such approved fund or scheme is so converted the regulations shall not apply to pension accrued at the date of approval of the plan.

(5) The Board shall not approve for the purposes of this Act any pension fund plan or deferred annuity plan unless, in its opinion, it complies with the following conditions:

- (a) the pension fund plan or deferred annuity plan does not, subject to subsections (6) and (7)—
  - (i) provide for the payment of any benefit before retirement or maturity except by way of a—
    - (A) refund of contributions;
    - (B) refund of premiums;
    - (C) withdrawal of contributions; or
    - (D) withdrawal of premiums;
  - (ii) provide for the payment of any benefit after retirement or maturity except by way of gratuity and pension, or—
    - (A) an annuity to the annuitant for his life; or

- (B) an annuity to the annuitant for the lives, jointly, of the annuitant and spouse and to the survivor of them for his or her life,  
commencing at maturity and with or without a guaranteed term, not exceeding fifteen years, as the case may be;
- (b) the pension fund plan or deferred annuity plan does not—
- (i) subject to subsection (6), provide for the payment of any amount by way of pension or of an annuity except equal annual or periodic amounts throughout the lifetime of the employee after retirement or the annuitant, as the case may be, or in the case of a deferred annuity plan equal annual or other periodic amounts (not exceeding the corresponding annual or other periodic amounts aforementioned) throughout the period, if any, after the death of the annuitant, for which payment of the annuity is provided for by the deferred annuity plan;
  - (ii) provide for the payment of any contribution after retirement or premium after maturity, as the case may be; or
  - (iii) provide for retirement or maturity before such time as the employee or annuitant attains fifty years of age;
- (c) the pension fund plan or deferred annuity plan includes a provision stipulating that no pension or annuity payable thereunder is capable either in whole or in part of surrender, commutation or assignment;
- (d) the pension fund plan or deferred annuity plan in all other respects complies with this section and sections 29 to 32 and the regulations; and

- (e) where the pension fund plan or deferred annuity plan provides for a withdrawal of contributions or a withdrawal of premiums, the pension fund plan or deferred annuity plan includes a provision—
- (i) stipulating that in the event of a person making a withdrawal of contributions as well as a withdrawal of premiums, the combined amount withdrawn shall not exceed ten per cent of the maximum purchase price of a house for which the deed of conveyance is exempt from stamp duty;
  - (ii) stipulating that where a person makes a withdrawal of contributions or a withdrawal of premiums or both, the amount withdrawn shall be applied towards the acquisition of a house within six months of the date of withdrawal or such later date as the Board may allow;
  - (iii) enabling a person to make only one withdrawal of contributions and one withdrawal of premiums, except that where a house has not been acquired and the sum withdrawn is returned to the pension fund plan or deferred annuity plan within six months of the date of withdrawal or such later date as the Board may allow, the person may make one further withdrawal;
  - (iv) prohibiting more than two persons from applying their withdrawal of contributions or withdrawal of premiums towards the joint acquisition of a single house; and
  - (v) stipulating that a person who makes a withdrawal of contributions may repay the amount withdrawn by way of additional voluntary contributions.

(6) The Board may approve for the purposes of this Act any pension fund plan notwithstanding that the pension fund plan—

- (a) is a non-contributory plan; and
- (b) contains such other terms and provisions not inconsistent with this section as are authorised or permitted by the regulations.

(7) The Board may approve for the purposes of this Act any deferred annuity plan notwithstanding that the plan—

- (a) provides for the payment of a benefit after maturity by way of dividend;
- (b) provides for the commutation of any annuity payable thereunder if the amount so payable expressed in terms of a monthly rate is less than sixty-five dollars;
- (c) in the case of an annuity for a guaranteed term, provides for the annuity to be assignable by will, or, in the event of the death of any person to whom any such annuity is payable, to be assignable by the heir, executors, administrators or other legal representatives of such person in the distribution of his estate, so as to give effect to any testamentary disposition, or to the rights of any person on an intestacy, or to its appropriation to a legacy or a share or interest in the estate;
- (d) is adjoined to a contract or other arrangement that is not a deferred annuity plan; or
- (e) contains such other terms and provisions, not inconsistent with this section, as are authorised or permitted by the regulations.

(8) No tax is payable under this Act by a trust on the chargeable income of the trust for a period during which the trust was governed by an approved pension fund plan.

(9) All amounts received by a person in a year of income as a benefit under an approved pension fund plan or an approved deferred annuity plan except by way of a—

- (a) withdrawal of contributions;

- (b) withdrawal of premiums; or
- (c) lump sum equivalent to the capitalised value of twenty-five per cent of the annual pension or annuity less any withdrawal of contributions with interest or withdrawal of premiums with interest to the extent that such withdrawal has not been replaced by additional contributions or premiums prior to the retirement or maturity date,

shall be deemed to be the income of the person.

(9A) Subject to subsection (9B), where a person who has made a withdrawal of contributions or a withdrawal of premiums for the first-time acquisition of a house for use as his residence sells the house within five years of the date of withdrawal of the contributions or premiums, the amount withdrawn shall be included in computing the chargeable income of the person in the year in which the house is sold.

(9B) Notwithstanding subsection (9A), where the person who sells his house within five years of the date of withdrawal of contributions or premiums—

- (a) acquires another house within four months of the sale of the first house; or
- (b) obtains the approval of the Board to sell the house on grounds of financial hardship,

the amount of the withdrawal shall not be included in computing the income of that person.

(9C) Where a person makes a withdrawal of contributions or a withdrawal of premiums or both and fails to apply the total amount withdrawn towards the acquisition of a house within six months of the date of withdrawal or such later date as the Board may allow, the amount withdrawn shall be included in computing the chargeable income of the person in the year in which the amount is withdrawn.

(10) Where an amount is payable by a trustee or trust corporation under an approved pension fund plan or by a

company under an approved deferred annuity plan for a year of income by way of a refund of contributions or refund of premiums, as the case may be, there shall be deducted or withheld a tax equal to ten per cent of the amount payable, and—

- (a) that tax shall be paid to the Board by the fifteenth day of the month following that in which that tax was deducted or withheld and the remainder when received by the employee or annuitant, shall be deemed not to be the income of that person for the purposes of this Act;
- (b) there shall be payable a penalty of one hundred per cent of the tax owed for failure to pay to the Board by the fifteenth day of the month following that in which the tax was deducted or withheld; and
- (c) there shall be payable from the due date, interest at the rate of twenty per cent a year on the amount of tax remaining unpaid.

(11) Where, at any time after a pension fund plan or deferred annuity plan has been approved by the Board for the purposes of this Act, the plan is revised or amended or a new pension fund plan or a new deferred annuity plan is substituted therefor, and the plan as revised or amended or the new pension fund plan or the new deferred annuity plan substituted therefor, as the case may be, (hereinafter in either case in this subsection referred to as the “amended plan”) does not comply with the requirements of this section for its approval by the Board for the purposes of this Act, the following rules apply:

- (a) the amended plan shall be deemed, for the purposes of this Act, not to be an approved pension fund plan or deferred annuity plan, as the case may be;
- (b) there shall be included in computing the income of a person for a year of income all

- amounts received by him in the year that, by virtue of subsection (9), would have been so included—
- (i) if the amended plan had been an approved pension fund plan or an approved deferred annuity plan, as the case may be, at the time he received those amounts; and
  - (ii) if those amounts had been received by him otherwise than by way of a refund of contributions or a refund of premiums, as the case may be;
- (c) there shall be deducted or withheld from any amount paid to a person, in a year of income as a benefit under the amended plan, by the person paying that amount, an amount equal to twenty-five per cent thereof, and—
- (i) any amount so withheld or deducted shall be remitted to the Board on the fifteenth day of the month following that in which the tax was withheld or deducted, on account of the payee's tax for the year under this Act;
  - (ii) there shall be payable a penalty of one hundred per cent of the tax owed for failure to remit to the Board by the fifteenth day of the month following that in which the tax was deducted; and
  - (iii) there shall be payable interest at a rate of twenty per cent a year on that tax by the fifteenth day of the month following that in which the tax was deducted;
- (d) where an amount is deducted or withheld under this subsection from any amount paid to a person as a benefit under an amended plan, it shall be deemed, for all purposes of this Act, to have been received at that time by the person to whom the benefit was paid.

(12) For the purposes of subsection (11)—

- (a) a reference to an amount paid as a benefit under an amended plan shall be deemed to include any amount paid under that amended plan, otherwise than as a contribution or premium, as the case may be, or an amount that would, by virtue of paragraph (f) or (k) of subsection (1), as the case may be, be regarded as contribution or premium if that amended plan were a pension fund plan or deferred annuity plan; and
- (b) an arrangement under which a right or obligation under an approved pension fund plan or an approved deferred annuity plan is released or extinguished either wholly or in part and either in exchange or substitution for any other right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the plan) or under which payment of any amount by way of loan or otherwise is made on the security of a right under an approved pension fund plan, or an approved deferred annuity plan shall be deemed to be a new plan substituted for that approved pension fund plan or approved deferred annuity plan, as the case may be.

(13) Where any amount has been paid in a year of income as a contribution or premium under a pension fund plan or a deferred annuity plan that was, at the end of that year of income, an approved pension fund plan or an approved deferred annuity plan, the amount so paid shall be deemed, for the purposes of this Act, to have been paid in that year as a contribution or premium under an approved pension fund plan or an approved deferred annuity plan, as the case may be.

(14) In ascertaining the chargeable income of any person for any year of income there shall be allowed a deduction of the premiums paid by him as an annuitant under an approved deferred annuity plan to the extent provided by this section and by sections 29 to 33.

(15) Where a person claims a deduction under section 27(1)(c), (d) or (e), section 31(1), and under this section, the deduction shall be limited to an aggregate amount of twelve thousand dollars.

**29.** (1) Where an employer has made a special payment or payments on account of an approved pension fund plan in respect of the past services of employees—

Employer's special payments to funds. [16 of 1963 29 of 1966].

- (a) pursuant to a recommendation of a qualified actuary in whose opinion the resources of the plan require to be augmented by the amount of one or more special payments to ensure that all the obligations of the plan to employees may be discharged in full; or
- (b) to enable employees with service prior to the constitution of the approved pension fund plan to receive benefits that relate to such service,

and has made the payment so that it is irrevocably vested in or for the plan and the payment has been approved by the Board then subject to subsection (2) the whole amount of the payment is deductible in computing the chargeable income of the employer for the year of income.

(2) Where the payment under subsection (1) is equal to or greater than the ordinary annual contribution of the employer to the approved pension fund plan there may be deducted in computing the chargeable income of the employer for the year of income and for the next nine years one-tenth of the whole amount paid under subsection (1).

(3) In the case where a special contribution is made by an employee for the purposes of subsection (1)(b) the whole of the contribution may be deducted in computing the chargeable income of the employee for the year of income.

**29A.** (1) Every trustee, trust corporation or other person authorised to carry on the business of pension funds or deferred annuities, before releasing any benefits from—

Certificate before release of benefits. [22 of 1993].

- (a) an approved pension fund plan in respect of a withdrawal of contributions; or

- (b) an approved deferred annuity plan in respect of a withdrawal of premiums,

shall obtain a certificate from the Board that—

- (i) there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are payable by the individual to whom the benefits are to be released;
- (ii) the Board is satisfied that the sum to be withdrawn is to be applied toward the first-time acquisition by the employee or annuitant of a house, other than a house already wholly or partially owned by the spouse of the employee or annuitant, for use by the employee or annuitant as his residence in Trinidad and Tobago; and
- (iii) the Board is satisfied that no more than two persons are applying their withdrawal of contributions or withdrawal of premiums towards the acquisition of the house.

(2) A person who releases any benefits to an individual in respect of a withdrawal of contributions or a withdrawal of premiums without obtaining a certificate required under subsection (1) is guilty of an offence.

(3) Any person who knowingly or recklessly provides false information to the Board for the purpose of obtaining the issue of a certificate under subsection (1) is guilty of an offence.

**30.** (1) Every approved pension fund plan under this Act shall be constituted by trust irrevocably vested—

- (a) in not less than three trustees where the trustees are individuals; or
- (b) in a trust corporation.

(2) Subject to subsection (3), where the trustees are individuals at least one trustee shall be a representative of the employees selected by the employees and where the trustee is a trust corporation there shall be established a Management

Committee of not less than three members at least one of whom is a representative of the employees selected by the employees.

(3) No employer shall be capable of being a trustee in respect of any plan.

**\*31.** (1) An individual to whom section 17 applies who—

(a) ***(Repealed by Act No. 6 of 1989).***

(b) has made a contribution under such written laws or to such approved fund or scheme as is mentioned in section 27(1)(c) or to an approved pension fund plan or has paid premiums under an approved deferred annuity plan, shall be allowed a deduction of the contributions made or premiums paid, or both;

(c) being an insured person within the meaning of the National Insurance Act, has paid a contribution as is mentioned in section 27(1)(d), shall be allowed a deduction of seventy per cent of the annual amount of the contribution so paid.

Rules for deductions in respect of insurance, etc.

Ch. 32:01.

(2) In this section “premiums” includes premiums paid for a waiver of premium benefit.

(3) ***(Repealed by Act No. 6 of 1989).***

(4) } ***(Repealed by Act No. 9 of 1990).***  
 (5) }

**32.** (1) The President may make Regulations generally for the purpose of carrying out the provisions of sections 28 to 31 and such Regulations may provide for the granting of pensions and gratuities to employees under an approved pension fund plan.

Regulations.  
[16 of 1963].

(2) The Regulations shall be laid on the Table of the Senate and the House of Representatives within thirty days of the making thereof.

\* This section has been amended by the following: 16 of 1963; 5 of 1964; 29 of 1966; 35 of 1971; 66 of 1975; 14 of 1976; 195/1976; 9/1977; 21/1978; 6 of 1989; 9 of 1990; 6 of 1993; 9 of 1997; 35 of 1998.

(3) Where the President is satisfied that it is equitable that any regulation should have retrospective effect in order to confer a benefit upon or remove a disability attaching to any employee that regulation may be given effect for that purpose.

(4) A regulation having retrospective effect shall be subject to affirmative resolution of Parliament.

Conversion of certain policies into local currency. [29 of 1966, 6 of 1989, 39 of 2000].

**33.** (1) Notwithstanding the provisions of sections 27 to 32, but subject to this section, no deduction shall, for the year of income 1966, and subsequent years of income, be allowed—

(a) (*Repealed by Act No. 6 of 1989*).

(b) in respect of any contribution made to any approved fund, plan or scheme, unless the benefits payable under such fund, plan or scheme are payable only in the currency of the East Caribbean Currency Authority or in the currency of Trinidad and Tobago or if payable in the currency of some other country, are converted within a reasonable period of time to be made payable in the currency of Trinidad and Tobago, such period to be determined by the Minister.

(2) Nothing in this section shall apply—

(a) (*Repealed by Act No. 6 of 1989*).

(b) to any such contribution as is mentioned under subsection (1)(b) if the person who makes such contribution entered outside Trinidad and Tobago into the agreement to make such contribution and if at the time of entering into such agreement the beneficiary was not resident and not domiciled in Trinidad and Tobago and if the benefits payable under the fund, plan or scheme to which such contribution relates are not payable in Trinidad and Tobago;

(c) to any such contribution as is mentioned under subsection (1)(b), where any sum is payable by

an insurer under section 195 of the Insurance Act in the currency in which the premiums had been paid. Ch. 84:01.

**34.** (1) Where a life insurance policy is surrendered before the policy holder attains the age of sixty years there shall be deducted or withheld from any sum paid to a person in a year of income as the surrender value thereof, by the person paying that sum, tax equal to five per cent thereof and any amount so deducted or withheld shall forthwith be remitted to the Board. Tax on surrender value of a life insurance policy. [5 of 1969, 11 of 1988, 6 of 1989, 20 of 1989, 9 of 1990, 5 of 1995, 9 of 1997, 5 of 2004].

(2) Where tax has been paid to the Board under subsection (1)—

- (a) the person making the payment shall as against any person entitled to the payment, be acquitted and discharged of so much money as is represented by the tax as if that sum had actually been paid;
- (b) the balance of the surrender value when received by the person entitled thereto shall be deemed not to be income of that person for the purposes of this Act.

(3) A life insurance policy shall be taken to have been surrendered if the policy ceases to be an active policy on the books of the company, other than by way of maturity or on death.

(4) In determining whether a policy has ceased to be an active policy on the books of the company, an amount in respect of the tax charged under subsection (1) shall be taken to be included in the amount of the debts owing to the company under the policy and upon the debts owing to the company under, or secured by, the policy and the amount of the overdue premium equalling the surrender value thereof, the policy shall be treated as having ceased to be an active policy on the books of the company.

(5) Where subsection (4) applies, the company shall be liable to account for and pay over to the Board the amount of such tax and may thereupon forfeit the policy under section 136 of the

Ch. 84:01.

Insurance Act; so however that if the policy is reinstated by the company, acting in its discretion in any case, the tax paid to the Board under this subsection shall be refunded to the company.

(6) In this section—

“surrender value” means the total cash surrender value of a life insurance policy determined (before making allowance for any debts owing to the company under, or secured by, the policy, and the amount of any overdue premium), by the company’s actuary;

“life insurance policy” means a policy issued in the course of the ordinary life insurance business of an assurance company.

(7) This section shall not apply to life insurance policies issued after 31st December, 1988.

**34A. (Repealed by Act No. 5 of 2004).**

Company may establish employees’ profit-sharing plan. [30 of 1974 35 of 1998].

**35.** (1) Subject to this section, a company may establish an employees’ profit-sharing plan to which contributions may be made annually by that company.

(2) An employees’ profit-sharing plan shall not be approved by the Board unless it is satisfied that the plan provides—

- (a) for the annual distribution of profits by way of bonus (hereinafter referred to as “the annual bonus distribution”) to all permanent employees;
- (b) that not less than forty per cent of the annual bonus distribution shall be utilised to purchase shares in the company;
- (c) that the annual bonus distribution to employees does not discriminate against any employees or class of employees; but nothing in this paragraph shall, however, be construed as precluding the allocation of bonus distributions of different amounts to any employee by reason of—
  - (i) different salary or wage levels; or
  - (ii) length of service; and

- (d) for its constitution by a trust under which the property of the plan is irrevocably vested in—
- (i) not less than three persons where the trustees are individuals; or
  - (ii) a trust corporation.

(3) A company shall transfer not less than forty per cent of the annual bonus distribution to the trustee of an approved employees' profit-sharing plan to be applied towards the purchase of shares in the company and the remainder, if any, may be applied by the company towards cash payments to the employees.

(4) Where the whole or any part of the annual bonus distribution of a company is applied towards the purchase of shares in the company, the whole or such part of the profits that has been so applied shall be deemed not to be the income of the employee or the trustee.

(5) The trustee shall—

- (a) allocate all the shares purchased by him to the employees in proportion to their entitlement thereto;
- (b) pay over to each employee any distribution in respect of shares held in trust for that employee, who shall be entitled to the dividend income allowance provided by section 56 in respect of such distribution;
- (c) furnish each employee, not later than 31st December in each year, with a statement showing—
  - (i) the number of shares allocated to him during that year; and
  - (ii) the total number of shares held on his behalf at the date on which the statement was furnished.

(6) Where shares have been allocated to an employee pursuant to this section the trustee shall—

- (a) at the request of the employee, transfer such shares to the employee, or his nominee—
  - (i) where the employee is still in the employment of the employer, at any time after the expiration of five years from the date of the allocation of the shares; or
  - (ii) where for any reason other than retirement or death the employee ceases to be in the employment of the employer, at any time after cessation of such employment;
- (b) on the retirement date of the employee, or on the cessation of employment, where an employee retires prematurely as a result of mental or physical infirmity, transfer such shares to the employee or his nominee; or
- (c) on the death of the employee before his retirement date, transfer such shares to the personal representative of the employee.

In this subsection “retirement date” means, in relation to an employee, the date fixed under an approved employees’ profit-sharing plan as the date of retirement from employment of that employee.

(7) Where shares are transferred pursuant to subsection (6)(a) the market value of the shares at the date of transfer shall be deemed to be income accrued to the beneficial owner of the shares on that date and the full amount of such income shall be separately charged to tax at the following rates:

	<i>Rate of Tax on every dollar</i>
For every dollar of the first \$5,000	... 5%
For every dollar of the next \$5,000	... 15%
For every dollar of the next \$5,000	... 20%
For every dollar of the remainder	... 25%

(8) Notwithstanding the provisions of subsection (6)(a) and of subsection (7), a transfer of shares shall not be made under subsection (6)(a) until the tax chargeable under subsection (7) has been paid to the Board.

(9) Where shares are transferred pursuant to subsection (6)(b) or (c), no income shall, by reason of such transfer, be deemed to have accrued to the beneficial owner of the shares.

(10) Where an approved employees' profit-sharing plan is vested in—

- (a) individuals, at least one trustee shall be a representative of the employees selected by them; or
- (b) a trust corporation, a management committee shall be established comprising not less than three individuals at least one of whom shall be a representative of the employees selected by them.

(11) No employer shall be capable of being a trustee of any plan established under this section, but nothing herein shall be construed as preventing an employer from appointing a representative under subsection (10) either as a trustee or a member of the management committee, as the case may be.

(12) In this section—

“approved employees' profit-sharing plan” means an employees' profit-sharing plan approved by the Board for the purposes of this Act as complying with the requirements of this section;

“company” means any body corporate, whether public or private, or unincorporated association but does not include a partnership;

“employees' profit-sharing plan” means an arrangement whereby the whole or part of a company's annual bonus distribution is transferred to a trustee to be applied towards the purchase of shares in the company to be held by the trustee to the use and benefit of the employees of the company and otherwise dealt with in accordance with this section.

**36. (Repealed by Act No. 6 of 1989).**

Deduction for purchase of bonds.  
[46 of 1977 203/1979 19 of 1980 25 of 1981 21 of 1983 14 of 1987 11 of 1988 6 of 1989].

**37. (1) } (Repealed by Act No. 6 of 1989).  
(2) }**

(3) Subject to subsection (4), interest on treasury bonds is exempt from income tax.

(4) The exemption referred to in subsection (3) applies only to such portion of treasury bonds held by any person which will not exceed the sum of sixty thousand dollars as at 31st December, 1986, and increasing that sum by four thousand dollars per year in each of the next five succeeding years.

**37A. (Repealed by Act No. 6 of 1989).**

Certain interest on housing bonds exempt.  
[11 of 1988 6 of 1989].

**37B.** Where an individual to whom section 17 applies holds tax free housing bonds, the interest on that portion of the value of the bonds that does not exceed eighty-four thousand dollars is exempt from tax.

Employer may establish employees' savings plan.  
[46 of 1977 5 of 1995].

**38. (1)** Subject to this section, an employer may with the approval of the Board establish an employees' saving plan to which contributions may be made annually by the employer and the employee.

(2) All persons in the employ of an employer are eligible to become members of an employees' savings plan (hereinafter referred to as "the plan").

(3) The Board shall not approve the establishment of a plan unless it is satisfied that—

- (a) membership in the plan is voluntary;
- (b) the plan is intended as a supplement and not as a substitute for any approved pension fund plan or deferred annuity plan;
- (c) the plan is to be constituted by trust vested—
  - (i) in not less than three trustees where the trustees are individuals; or
  - (ii) in a trust corporation;

- (d) the funds of the plan are to be invested in assets originating and situated in Trinidad and Tobago;
- (e) where the employer is a public company, any investment in the company by way of shares or debentures would not exceed one-third of the total assets of the plan; and
- (f) the plan provides for contributions—
  - (i) not exceeding five per cent of the salary or wages of an employee, subject to a maximum of two thousand four hundred dollars, to be made by an employer (hereinafter referred to as “the employer’s contribution”); and
  - (ii) at least equal to but not exceeding twice the amount of the employer’s contribution to be made by an employee.

(4) The President may, in order to confer a benefit on the employees, approve with retrospective effect any plan which was in operation before the commencement of this Act where he is satisfied that the plan is not inconsistent with the provisions of this Act.

(5) Where pursuant to subsection (4) a plan has been approved with retrospective effect, the provisions of this Act shall apply to that plan as if this Act had been in operation on the date from which the plan was given retrospective effect.

**39.** (1) Every employer who establishes a plan shall, for the purpose of computing his chargeable income for the year of income, be allowed a deduction of the amount contributed by him to the plan in respect of each employee who is a member of the plan.

Employer’s contribution to be allowed as deduction for income tax. [46 of 1977].

(2) For the purpose of computing the chargeable income of an employee, no deduction may be allowed in respect of his contribution to a plan.

(3) The employer’s contribution shall not form part of the chargeable income of the employee except where such contribution is withdrawn pursuant to section 41(3).

Trustee to be taxed on income derived from investment. [46 of 1977].

**40.** (1) Where the funds of a plan are invested the trustees of the plan shall be taxable on the income derived from the investment—

- (a) at prevailing scale rates for the appropriate year of income, where the income does not exceed five thousand four hundred dollars; or
- (b) at a flat rate of fifteen per cent where the income exceeds five thousand four hundred dollars.

(2) An employee is entitled to a proportionate share in the income derived from investing the funds of the plan established by the employer.

(3) The share to which the employee is entitled shall be calculated on the amount contributed by him, on the employer's contribution and on the interest accruing in respect of such contributions.

(4) The trustees of a plan shall on or before 31st December in each year—

- (a) submit to the Board accounts of revenue and expenditure in respect of the plan; and
- (b) furnish to each employee who is a member of the plan a statement showing the amounts—
  - (i) contributed by the employee;
  - (ii) of interest to which the employee is entitled in respect of his contribution;
  - (iii) of the employer's contribution;
  - (iv) of interest to which the employee is entitled in respect of the employer's contribution; and
  - (v) withdrawn by the employee.

Withdrawal of contributions. [46 of 1977, 14 of 1987, 6 of 1989, 5 of 1995].

**41.** (1) An employee may without being liable to tax at anytime withdraw—

- (a) all or part of the contribution made by him to the plan and the interest accruing in respect thereof;
- (b) all or part of the interest accruing in respect of the employer's contribution.

(2) An employee or his personal representative, as the case may require, may, without being liable to tax, withdraw the employer's contribution—

- (a) on the death of the employee;
- (b) on the termination of the employee's employment by virtue of redundancy;
- (c) on the retirement of the employee at any time after he has attained the age of fifty; or
- (d) on the retirement of the employee before he has attained the age of fifty where such retirement is on the grounds of ill-health or infirmity.

(3) Where an employee withdraws the employer's contribution in circumstances other than those specified in subsection (2), the amount of the contribution withdrawn shall be treated as income for the year of income during which the contribution was withdrawn.

(4) An employee who ceases to be in the employ of a particular employer may, without being liable to tax, transfer from one plan to another the contribution made by him to the plan and the employer's contribution and any interest accruing on such contributions and the amount so transferred shall be deemed not to have been withdrawn.

(5) For the purposes of this section and of sections 38, 39 and 40—

“employer” means a company, a partnership or a sole trader each of which has in its employ at least fifteen persons;

“employees' savings plan” or “plan” means an arrangement whereby the contributions made by an employer and an employee in accordance with this Act are held by trustees in order to encourage savings and investment by employees.

(6) *(Repealed by Act No. 6 of 1989).*

41A. }  
to } *(Repealed by Act No. 6 of 1989).*  
41B. }

Income tax  
exemptions.  
[3 of 1962  
29 of 1966  
13 of 1969  
14 of 1976  
46 of 1977  
1 of 1979  
203/1979  
19 of 1980  
25 of 1981  
14 of 1987  
6 of 1989  
18 of 1989].  
Ch. 33:01.

**42.** (1) In this section and in sections 43 to 46, “Minister” means the Minister responsible for Housing; and “prescribed” means prescribed by Regulations made under the Housing Act.

(2) Notwithstanding any of the provisions of this Act, there shall be exempted from income tax—

- (a) ***(Repealed by Act No. 6 of 1989).***
- (b) subject to subsection (7), premiums and rents derived from the letting of any newly constructed houses whether constructed on, before or after 31st December, 1978 of the class specified in section 43;
- (c) gains or profits derived from the initial sale of newly constructed houses of the class specified in section 43 by any person registered in the prescribed manner as a trader in such houses;
- (d) interest on and any service charge payable under a loan granted by an approved mortgage company for the construction of a house and interest on a loan secured by, and any service charge payable under, a mortgage held by an approved mortgage company if the rate of interest charged in respect of the loan does not in either case, exceed the prescribed tax free interest rate;
- (e) interest on a loan secured by and any service charge payable under any mortgage on a newly constructed house, if the loan is of not less than ninety per cent of the value of the house and if the rate of interest charged in respect of the loan does not exceed the prescribed tax free interest rate.

(3) ***(Repealed by Act No. 6 of 1989).***

(4) Paragraphs (b), (c), (d) and (e) of subsection (2) do not apply in respect of a newly constructed house that was constructed by way of rental, mortgage or aided self-help projects to which public funds of Trinidad and Tobago have been contributed by way of subsidising any such project and not merely by way of a loan from the public funds.

(5) The exemption provided under subsection (2)(e) applies in respect of a newly constructed house the cost of construction of which, inclusive of the cost or value, whichever is the less, of the land, in the opinion of the National Housing Authority, having regard to normal building costs prevailing at the time of its construction, would not exceed—

- (a) twenty-five thousand dollars, where construction commenced after 31st December, 1967, but not later than 31st December, 1973;
- (b) forty thousand dollars, where construction commenced after 31st December, 1973, but not later than 31st December, 1975;
- (c) sixty thousand dollars where construction commenced after 31st December, 1975, but not later than 31st December, 1976;
- (d) eighty thousand dollars where construction commenced after 31st December, 1976, but not later than 31st December, 1979; or
- (e) two hundred and fifty thousand dollars where construction commenced after 31st December, 1979.

(6) For the purposes of subsection (2)(e), “service charge” means a service charge prescribed by the Minister as the charge for administering a mortgage that is not a guaranteed mortgage.

(7) The exemption as to rent referred to in subsection (2)(b) shall not be granted where the monthly rental income, whether payable to the owner or to any other person, in any month of the year of income—

- (a) in respect of an unfurnished letting, exceeds seven hundred and fifty dollars;
- (b) in respect of an unfurnished letting, in connection with which services are provided, exceeds eight hundred and twenty-five dollars;
- (c) in respect of a furnished letting, exceeds nine hundred dollars; or

(d) in respect of a furnished letting in connection with which services are provided, exceeds nine hundred and seventy-five dollars.

(8) In subsection (7)—

“furnished letting” means a house rented with furniture consisting of a stove, a refrigerator, a bed and living and dining room furniture;

“services” includes any utility for which the landlord pays the supplier of that utility.

Limitation on  
tax exemption.

**\*43.** (1) The exemptions provided under section 42(2)(b) and (c) apply in respect of a house the cost of construction of which, exclusive of the cost or value of the land, in the opinion of the Minister, having regard to normal building costs prevailing at the time of its construction, would not exceed—

- (a) twenty thousand dollars, where construction commenced after 31st December, 1957, but not later than 31st December, 1967;
- (b) twenty-five thousand dollars, where construction commenced after 31st December, 1967, but not later than 31st December, 1972;
- (c) thirty thousand dollars, where construction commenced after 31st December, 1972, but not later than 31st December, 1973;
- (d) forty thousand dollars, where construction commenced after 31st December, 1973, but not later than 31st December, 1975;
- (e) eighty thousand dollars where construction commenced after 31st December, 1976 but not later than 31st December, 1977;
- (f) eighty thousand dollars where construction commenced after 31st December, 1976 but not later than 31st December, 1979;

\* This section has been amended by the following: 3 of 1962; 13 of 1969; 7 of 1975; 14 of 1976; 46 of 1977; 203/1979; 19 of 1980; 25 of 1981; 18 of 1989.

(g) two hundred and fifty thousand dollars, where construction commenced after 31st December, 1979.

(2) The exemption provided under section 42(2)(b) is operative for a period of ten years beginning with the date of the completion of the newly constructed house.

(3) The exemption provided under section 42(2)(b) ceases to apply in respect of a house where, in the opinion of the Minister, the cost of repairs, alterations or improvements made to the house when added to the cost of construction as determined under subsection (1) exceeds—

- (a) twenty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1957, but not later than 31st December, 1967;
- (b) twenty-five thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1967, but not later than 31st December, 1972;
- (c) thirty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1972, but not later than 31st December, 1973;
- (d) forty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1973, but not later than 31st December, 1975;
- (e) sixty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1975, but not later than 31st December, 1976;
- (f) eighty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1976 but not later than 31st December, 1979; or
- (g) two hundred and fifty thousand dollars, where the repairs, alterations or improvements were made after 31st December, 1979.

(4) Subsection (3) does not apply where the Minister has, before the repairs, alterations or improvements are made, authorised the making thereof.

(5) The Minister of Finance may from time to time by Order amend—

- (a) section 42(5) and subsection (1), by specifying the cost of construction of newly constructed houses in respect of which exemptions under section 42(2) would apply and the date after which construction of the house should commence; and
- (b) subsection (3), by specifying the cost of construction of a house built after a specified date, and of repairs, alterations or improvements made thereto, in respect of which exemption under section 42(2) would cease to apply.

Builder excluded from tax exemptions. [3 of 1962 29 of 1966].

**44.** (1) Nothing in section 42 creates any exemption from liability to income tax in respect of income derived from the exercise of the trade or profession of a builder; and if a question arises under that section as to whether any amount ought properly to be regarded as profit derived from a transaction of sale or as being wholly or in part attributable to the exercise of the trade or profession of a builder, the question shall be determined by the Board.

(2) A person aggrieved by a determination under subsection (1) may appeal in the manner herein provided.

(3) In this section “builder” means a person who builds houses for sale or for rent.

Application of sections 10, 11 and 12. [3 of 1962 29 of 1966 25 of 1981 11 of 1988 6 of 1989 25 of 1992 6 of 1993 3 of 1994]. Ch. 75:02.

**45.** Sections 10, 11 and 12 have effect in relation to premiums and rents referred to in section 42(2)(b) and interest referred to in section 42(2)(d) and (e) as if section 42 and paragraph 1 of the Fifth Schedule of the Corporation Tax Act had not been enacted.

**45A.** (1) In this section—

“relevant authority” means in the case of—

- (a) residential properties, the Minister with responsibility for Housing;
- (b) industrial and commercial properties, the Minister with responsibility for Industry, after consultation with the Industrial Development Corporation;

Additional  
income tax  
exemptions.  
[25 of 1992  
6 of 1993  
3 of 1994  
8 of 1996].

“residential property” has the same meaning as is assigned to “house” in section 2 of the Housing Act.

Ch. 33:01.

(2) Notwithstanding any of the provisions of this Act, there shall be exempt from income tax until the year of income 2000—

- (a) subject to subsection (4), premiums and rents derived from the letting of any residential, industrial and commercial properties the construction of which begins after 1st January, 1993 and is completed by 31st December, 1996;
- (b) gains or profits derived from the initial sale of such properties.

(3) The income tax exemption given under subsection (2)(a) is granted to the owner of the property, whether such owner is the builder or a subsequent owner thereof.

(4) The income tax exemption given under subsection (2) shall not be granted—

- (a) in respect of a residential property unless the cost of construction, exclusive of the cost or value of the land, in the opinion of the relevant authority, having regard to normal building costs prevailing at the time of construction in respect of that property, exceeds two hundred and fifty thousand dollars; and
- (b) unless a certificate from the relevant authority is produced in support of the claim for exemption.

(5) The certificate referred to in subsection (4)(b) shall certify—

- (a) the date of commencement of construction;
- (b) the date of completion of construction;
- (c) that the property is eligible for an income tax exemption under this section; and
- (d) the date of the initial sale of the property.

(6) The relevant authority shall maintain a register of properties which qualify for an exemption under subsection (2) and may on request by a subsequent owner issue a certificate to him.

(7) Sections 10, 11 and 12 have effect in relation to premiums and rents referred to in section 45A(2)(a) and gains or profits referred to in section 45A(2)(b) as if section 45A had not been enacted.

Dividends paid out of profits exempted under section 45A similarly exempted. [6 of 1993].

**45B.** A company that is in receipt of income or profits that are exempt from income tax under section 45A may, provided separate accounts are kept of such income or profits—

- (a) within eight years after the date of completion of construction of the property, if the premiums and rents would be exempt from tax under the said section; or
- (b) within two years after the date of sale of the property, if the gains or profits would be exempt from income tax under the said section,

distribute sums not exceeding in the aggregate the exempt income or profits to the members of the company and those sums when so distributed are exempt from income tax in the hands of the members of the company.

Board require certificate of exemption. [3 of 1962 29 of 1966].

**46.** In assessing the chargeable income of a person under this Act, the Board may, as a condition precedent to applying any of the provisions of sections 42 to 45 to the assessment of income, require that person to produce a certificate in the prescribed

form from the Minister to the effect that in the opinion of the Minister the provisions of sections 42 to 45 inclusive, may properly be so applied.

**TEMPORARY RESIDENTS**

**47.** Tax shall not be payable in respect of any income arising outside Trinidad and Tobago of any person who is in Trinidad and Tobago for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Trinidad and Tobago at one or more times for a period equal in the whole to six months of the year of income.

Temporary residents. [26 of 1955 16 of 1963].

**RATE OF TAX**

**\*48.** There shall be levied and paid on the chargeable income of every person tax at the rates set forth in Part I of the Third Schedule.

Rates of tax as per Third Schedule.

**TAX CREDITS**

**48A.** Upon due claim and subject to such evidence as the Board may require, there shall be allowed against the amount of the tax assessed, in respect of each year of income for which tax is assessed, any tax credit to which a person is entitled under this Act, but so that the sum of the tax credits allowed shall not exceed the amount of the tax assessed.

Certain tax credits to be allowed. [6 of 1989 9 of 1997].

48B. }  
 to } *(Repealed by Act No. 9 of 1997).*  
 48E. }

**48F.** (1) An individual over the age of sixty years who is resident in Trinidad and Tobago and who, in a year of income receives—

Tax credit on interest paid by mutual funds. [8 of 1996 9 of 1997].

(a) a dividend as a beneficiary under a trust operated by a financial institution carrying on unit trust business and licensed under the Financial Institutions Act;

Ch. 79:09.

\* This section has been amended by the following: 16 of 1963; 29 of 1966; 42 of 1966; 11 of 1988; 6 of 1989; 4 of 1992; 22 of 1993; 22 of 1994; 5 of 1995; 8 of 1996; 9 of 1997.

(b) the amount or value of a distribution paid by the Unit Trust Corporation of Trinidad and Tobago,

Ch. 75:02.

out of interest in respect of which tax has been deducted under section 3B of the Corporation Tax Act, is entitled in relation to that year of income to a tax credit equivalent to the tax deducted on that portion of the interest that relates to the dividend or distribution received by the individual.

(2) The tax credit referred to in subsection (1) shall not be granted unless a certificate from the trust or the Unit Trust Corporation of Trinidad and Tobago is produced in support of the claim for relief.

(3) The certificate shall state the amount of tax deducted on that portion of the interest that relates to the dividend or distribution received.

202/1996.

(4) Notwithstanding the repeal of section 3B of the Corporation Tax Act by the Provisional Collection of Taxes (No. 2) Order, 1996, this section shall continue to have effect for the purposes of subsection (5) as though section 3B of the Corporation Tax Act had not been repealed.

(5) Notwithstanding section 48A, where a person is, in relation to the year of income ending 31st December, 1996, entitled to a tax credit under subsection (1) which exceeds the amount of tax for which he is assessed in respect of that year of income, he shall be entitled in relation to that year of income to a refund equivalent to the difference between the amount of the tax credit and the amount of the tax assessed.

48G. }  
to } (Repealed by Act No. 9 of 1997).  
48I. }

48J. (Repealed by Act No. 8 of 1996.)

**48K.** (1) In this section—

“Administrator” means the Administrator of the Venture Capital Incentive Programme appointed by the President under section 3 of the Venture Capital Act;

Tax credit for shares in venture capital company. [22 of 1994 9 of 1997 38 of 1997]. Ch. 81:08.

“marginal rate percentage” means the percentage equivalent to the highest marginal rate of tax for persons in a year of income;

“tax credit certificate” means a tax credit certificate issued by the Administrator under the Venture Capital Act in respect of shares issued by a venture capital company;

“venture capital company” means a company registered as a venture capital company under section 5 of the Venture Capital Act.

(2) Subject to this section, a person who is resident in Trinidad and Tobago and who obtains a tax credit certificate under the Venture Capital Act in respect of shares issued by a venture capital company is entitled to a tax credit equivalent to the marginal rate percentage of the amount received by the venture capital company for those shares.

(3) The tax credit is allowed only—

- (a) to the original purchaser of the shares issued by the venture capital company; and
- (b) for the year of income in which the shares were purchased.

(4) Notwithstanding subsection (3) and section 48A, where the amount of the tax credit as computed under subsection (2) cannot be wholly set-off against the tax assessed for the person, the amount of the unclaimed tax credit may be carried forward by the person and set-off against his tax assessed for succeeding years of income.

(5) The amount of the unclaimed tax credit may be set-off as far as possible against the tax assessed for the person in the first succeeding year of income, and in so far as it cannot be so set-off, then against the tax assessed for the next succeeding year of income and so on.

## TAX ON DISTRIBUTIONS AND OTHER PAYMENTS

Meaning of  
distribution.  
[34 of 1956  
29 of 1966  
30 of 1974].

- 49. (1)** In relation to any company “distribution” means—
- (a) any dividend paid by the company including a capital dividend;
  - (b) any other distribution of the assets of the company (whether in cash or otherwise) in respect of shares of the company, except so much as represents the repayment of share capital, or is equal in amount or value to any new consideration given on the distribution;
  - (c) any redeemable share capital or security issued by the company in respect of shares in the company, to the extent that such share capital or security is not issued for a new consideration;
  - (d) any interests or other distributions out of assets of the company in respect of securities of the company (except so much, if any, of any such distribution as represents the principal thereby secured), where the securities are either—
    - (i) securities issued as mentioned in paragraph (c);
    - (ii) subject to subsection (2), securities convertible directly or indirectly into shares of the company;
    - (iii) securities under which a consideration given by the company for the use of the principal secured is to any extent dependent on the result of the company’s business or any part of it, under which the consideration so given represents more than a reasonable commercial return on the use of that principal; or
    - (iv) securities issued by the company to a non-resident company, where the former is a subsidiary of the latter or both are subsidiaries of a third company;

(e) any such amount as is required to be treated as a distribution by subsection (3) or (4).

(2) Subsection (1)(d)(ii) does not apply to securities issued by a company, not being a private company within the meaning of section 28(1) the Companies Act, by means of a prospectus where the issue of such securities had been approved by the Minister after being satisfied— Ch. 81:01.

- (a) as to the period within which and the price at which such securities may be converted into shares of the company;
- (b) as to the rate of interest payable on such securities;
- (c) as to the total value of such securities in relation to the issued share capital of the company;
- (d) as to the absence of any control by the company over the transferability of such securities;
- (e) that in the issue of such securities preference was given to citizens of Trinidad and Tobago and to bodies of persons established in Trinidad and Tobago; and
- (f) of such other matters as he thinks fit.

(3) Notwithstanding subsection (2), any interest paid during the period commencing on 1st January, 1971 and ending on 31st December, 1973, on securities referred to in that subsection, shall be deemed to be a distribution for the purposes of the dividend income allowance provided by section 56.

(4) In subsection (1)(d)(iv), a body corporate shall be deemed to be a subsidiary of any other body corporate if and so long as not less than half of its share capital of all classes of stock or half of the total combined voting power in respect of all classes of stock is owned by that other body corporate, whether directly or through any other body corporate, or other bodies corporate, or partly through any other body corporate or other bodies corporate.

(5) Where on a transfer of assets or liabilities by a company to its members or to a company by its members the amount or value of the benefit received by a member (taken

according to its market value) exceeds the amount or value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the difference.

- (6) Where, after 1st January, 1966, a company—
- (a) repays any share capital, or has done so at any time after the commencement of the accounting period for the year of income 1966; and
  - (b) at or after the time of that repayment (but not before the year of income 1966) issues as paid up otherwise than by the receipt of a new consideration any share capital, not being redeemable share capital,

the amount so paid up shall be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of the share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as a distribution.

- (7) Where—
- (a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, or has done so after the commencement of the accounting period for the year of income 1966; and
  - (b) any amount so paid up does not fall to be treated as a distribution,

then, for the purposes of subsections (1) to (6), distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

(8) In subsection (7), “relevant distributions” means so much of any distribution made in respect of shares representing

the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.

(9) For the purposes of subsections (7) and (8), all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares, or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

(10) In this section “whole-time service director” has the same meaning as in the Third Schedule of the Corporation Tax Act. Ch. 75:02.

(11) In this section, “new consideration” means consideration not provided directly or indirectly out of assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution, so however that where share capital has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up the share capital shall be treated as new consideration also for that share capital.

(12) A distribution shall be treated under this section as made, or consideration as provided, out of assets of a company if the cost falls on the company.

(13) The following kinds of expenditure when paid by a close company to a participator shall be treated as distributions:

- (a) interest or other consideration paid or given by the company to a participator who is also a director (other than a whole-time service director) or an associate of such participator for the use of money advanced by any person, or to a person who is an associate of such director for the use of money so advanced;
- (b) any annuity or other annual payment other than interest;

(c) any rent, royalty or other consideration paid for the use of property other than money.

(14) For the purposes of subsection (13)(c) in the case of tangible property or copyrights, the excess only over what the Board may consider to be reasonable consideration therefor shall be treated as a distribution.

Rates of  
withholding tax.

Third Schedule.

**\*50.** (1) There shall be levied and paid income tax, in this Act referred to as withholding tax, at the rate set out in Part II of the Third Schedule—

(a) on any distribution made to any person not resident in Trinidad and Tobago and to every non-resident company;

(b) on any payment made to any person not resident in Trinidad and Tobago or to any person on behalf of such non-resident person, and to every non-resident company (where such person or company is not engaged in trade or business in Trinidad and Tobago), so however that in the case of a payment arising outside Trinidad and Tobago to such a person or company withholding tax shall not be payable.

(1A) Subsection (1) shall not apply to—

(a) any distribution made by the Export Import Bank to any non-resident company or non-resident international agency for a period of ten years commencing from the date of the initial injection of private sector funds into the Export Import Bank;

(b) the interest payable on funds borrowed by the Export Import Bank from any institutions outside Trinidad and Tobago.

\* This section has been amended by the following: 16 of 1963; 29 of 1966; 42 of 1966; 66 of 1975; 11 of 1988; 6 of 1989; 6 of 1991; 5 of 1995; 36 of 2000.

(2) Where, after 1st January, 1966, a person or company makes any payment or distribution to any such person as is mentioned in subsection (1), or to any non-resident company, the person or the company shall under this subsection, within thirty days, account for and pay withholding tax in respect of the payment or distribution aforesaid at the rate referred to in subsection (1).

(2A) For the purposes of subsection (1) payment made to a person not resident in Trinidad and Tobago for services rendered to an approved enterprise in connection with an approved activity carried on in a free zone under the Trinidad and Tobago Free Zones Act is a payment outside Trinidad and Tobago.

Ch. 81:07.

(2B) For the purposes of subsection (1), a payment made to a non-resident company pursuant to a lease agreement made by the non-resident company to let aircraft and related equipment to BWIA International Airways Limited, shall be treated as a payment arising outside Trinidad and Tobago to such non-resident company.

(3) Where the payment or distribution is made to a person who is not resident in Trinidad and Tobago or to a non-resident company, and such person or company is resident in a country with which there is a double taxation agreement or Order under section 93, the person or company making the payment shall, nevertheless, deduct tax at the rate specified in Part II of the Third Schedule, unless the person or company making the payments satisfies the Board that a reduced rate of withholding tax applies under or by virtue of the double taxation agreement or Order under section 93.

Third Schedule.

(4) A person liable under subsection (2) to account for and pay over withholding tax to the Board who fails to do so is guilty of an offence, and the provisions of section 99(4) shall apply accordingly.

(5) Notwithstanding the provisions of section 5, where a payment or distribution that is subject to withholding tax is made to any person not resident in Trinidad and Tobago or to any non-resident company, income tax under section 5 or corporation tax shall not be payable in respect of such payment or distribution.

*L.R.O.*

(6) Where an office or a branch or agency of any non-resident company engaged in trade or business in Trinidad and Tobago remits or is deemed to remit any part of the profits of such non-resident company accruing in or derived from Trinidad and Tobago, such office or branch or agency of the non-resident company shall be liable to account for and pay over withholding tax in respect of such profits in accordance with the provisions of this section as if the remitting of such profits was a distribution.

(7) For the purpose of subsection (6) an office or a branch or agency of a non-resident company shall be deemed to have remitted all the profits thereof, except to the extent that the office or the branch or agency has reinvested to the satisfaction of the Board such profits or any part thereof in Trinidad and Tobago, other than in the replacement of fixed assets.

(8) In subsections (6) and (7) “profits” means—

Ch. 75:04.

(a) in relation to any company charged to tax under the Petroleum Taxes Act, profits computed by applying ordinary accounting practices in accordance with section 28(2) of that Act, after deducting however any petroleum profits tax, refinery throughput tax, and any unemployment levy paid in respect of such profits, so however that any such profits shall be deemed to include any amount authorised to be deducted as submarine well allowance or submarine production allowance by the Income Tax (In Aid of Industry) Act in ascertaining the taxable profits of any company for the purposes of the petroleum profits tax, and all such amounts shall be included accordingly;

Ch. 85:04.

(b) in relation to any other company, the chargeable profits of that company, for each year of income, after deducting however, any corporation tax paid in respect of such profits.

**51.** In sections 49 and 56—

“payment” means a payment without any deductions whatsoever, other than a distribution, not being a payment to which section 99 applies with respect to—

Meaning of  
“payment”.  
[16 of 1963  
29 of 1966  
42 of 1966  
32 of 1969].

- (a) interest, discounts, annuities or other annual or periodic sums;
- (b) rentals;
- (c) royalties;
- (d) management charges or charges for the provision of personal services and technical and managerial skills;
- (e) premiums (other than premiums paid to insurance companies and contributions to pension funds and schemes), commissions, fees and licences;
- (f) such other payment as may from time to time be prescribed.

**52.** (1) Subject to subsection (2), where, after 1st January, 1966 a close company, otherwise than in the ordinary course of its business carried on by it which includes the lending of money, makes any loan or advances any money to an individual who is a participator in the company or an associate of a participator, the amount of such loan or advance shall be deemed to be a distribution made in the year of income in which the loan was made, unless the loan is repaid within one year after the end of such year of income and it is established that the repayment was not made as part of a series of loans and repayments.

Loans to  
directors of  
close  
companies.  
[29 of 1966].

(2) Where in any subsequent year of income a participator or associate repays any part of a loan deemed to be a distribution made under subsection (1), relief shall be given to such participator or associate by setting-off against the tax payable on his chargeable income for the year the tax attributable to the proportionate part of the loan which was included in his chargeable income for the year in which the loan was deemed to be a distribution.

Settlements in favour of participators of close companies. [29 of 1966].

**53.** Any income which by virtue of any settlement made directly or indirectly by a close company may accrue to or may be received by a participator of the company or an associate of a participator shall be deemed to be a distribution by the company to such participator or associate, as the case may be.

Discharge of liability for withholding tax. [29 of 1966].

**54.** Where a person or a company is liable under section 50 to account for withholding tax deducted or withheld in respect of any payment or distribution made by them, the person or company shall, as against any person entitled to the payment or distribution, be acquitted and discharged of so much money as is represented by the withholding tax as if that sum had actually been paid.

Certificate for deduction of tax. [29 of 1966 5 of 1995 8 of 1996].

**55.** (1) Where, after 1st January, 1966 (that is, the date of the commencement of the Finance Act 1966), a person or a resident company makes any payments or distribution which is subject to withholding tax, the payer shall furnish to the recipient of the payment or distribution a statement in writing showing the gross amount of the payment, the amount of the withholding tax and the actual amount paid.

(2) The duty imposed by subsection (1) shall be enforceable at the suit or instance of the person entitled to the statement.

Chargeability of distributions made by listed resident companies. [8 of 1996].

**55A.** (1) *(Repealed by Act No. 8 of 1996).*

(2) With effect from 1st January, 1995, there shall be charged upon the income accruing in a year of income to a resident individual in respect of a preference dividend payable by a listed resident company, a tax at the rate of fifteen per cent of the preference dividend actually paid and the dividend so paid shall be deemed not to be the income of the individual for the purposes of this Act.

(2A) Subsection (2) applies to an unlisted resident company.

(3) A resident company shall, at the time when a preference dividend is paid to a resident individual, deduct

therefrom a tax at the rate of fifteen per cent of the amount of the preference dividend actually paid and the tax so deducted shall on or before the fifteenth day of the month following that in which the tax was deducted, be remitted to the Board on account of the liability of the individual to the tax.

(4) The provisions of section 34A(2), (4) and (6) apply *mutatis mutandis* to this section.

(5) For the purposes of this section “listed resident company” means a resident company whose securities have been admitted for quotation on the Trinidad and Tobago Stock Exchange under the Securities Industry Act.

Ch. 83:02.

56. }  
 to } ***(Repealed by Act No. 8 of 1996).***  
 57. }

**57A.** (1) An exporter who has paid consolidated special levy and is eligible for a tax credit under section 24(7) of the Finance Act, 1988, may claim in his return of income the tax credit computed in accordance with section 24(9) and (10) of that Act.

Tax credits.

11 of 1988.

(2) If it is proved to the satisfaction of the Board that the amount of the tax credit claimed is properly due to the claimant in respect of the goods exported during the period for which the return relates, the Board may set-off the amount of the tax credit against the tax payable for the year of income for which the return is furnished.

(3) Where, in setting-off the amount of the tax credit against the tax payable for any year of income, the amount of the tax credit exceeds the tax payable, the excess shall, subject to sections 90 and 92, be refunded.

**58.** (1) Where, before 27th September, 1966 (that is, the date of passing of the Finance Act, 1966) any company acting under the former provisions of this Act has deducted from the amount of any dividend paid to any shareholder tax at the rate payable by the company on the income out of which the dividend was paid,

Transitional provisions in respect of deduction of tax from dividends. 29 of 1966. [8 of 1967].

and that dividend is included in the chargeable income of such shareholder for the year of income 1966, the net amount received in respect of the dividend shall, for all purposes of this Act, be deemed to be the gross amount of the dividend notwithstanding that such dividend, by virtue of the former provisions of this Act, is deemed to represent income of such an amount as would, after deduction of tax, be equal to the net amount received.

Ch. 33 No. 1.  
(1950 Ed.).  
29 of 1966.

(2) In this section, the expression “former provisions of this Act” means sections 23, 23A and 23B of the Income Tax Ordinance which were repealed by section 20 of the Finance Act 1966.

#### TRUSTEE, AGENT, ETC.

Chargeability of  
trustees, etc.

**59.** (1) Subject to subsection (2), a receiver, trustee, guardian, curator or committee having the direction, control or management of any property or concerned on behalf of any person, shall be chargeable to tax in respect of income derived from such property or concern in like manner and to the like amount as such person would be chargeable if he had received such income, and every such receiver, trustee, guardian, curator or committee shall be answerable for doing all matters and things required to be done under this Act for the purpose of assessment and payment of tax.

(2) Nothing in this section shall affect the liability of any person represented by any such receiver, trustee, guardian, curator or committee to be himself charged to tax in his own name.

Chargeability of  
agent of person  
residing out of  
Trinidad and  
Tobago.  
[16 of 1963  
29 of 1966].

**60.** (1) A person not resident in Trinidad and Tobago (hereinafter in this section referred to as a non-resident person), whether a British subject or not, shall be assessable and chargeable in the name of his trustee, guardian, curator or committee, or of any attorney, factor, agent, receiver, branch or manager, whether such attorney, factor, agent, receiver, branch or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in Trinidad and Tobago and in the actual receipt of such income.

A non-resident person shall be assessable and chargeable in respect of any income arising, whether directly or indirectly, through or from any attorneyship, factorship, agency, receivership, branch or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent, receiver, branch or manager.

(2) Where a non-resident person carries on business with a resident person, and it appears to the Board that, owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged and is so arranged that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Board by whom the assessment is made, or to the Appeal Board by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Board or Appeal Board may, if it thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provision of this Act relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged; and the amount of the percentage shall in each case be determined having regard to the nature of the business, and shall, when determined by the Board, be subject to an appeal to the Appeal Board as provided by section 87.

(4) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where such broker, general commission agent or agent is not an authorised person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of subsections (2) and (3) in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of subsections (2) and (3) in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of Trinidad and Tobago by the non-resident person, the person in whose name the non-resident person is so chargeable may, if he thinks fit, apply to the Board or, in the case of an appeal, to the Appeal Board to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct; and, on proof to the satisfaction of the Board or Appeal Board of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

Acts, etc., to be done by trustees, etc.

**61.** The person who is chargeable in respect of an incapacitated person, or in whose name a non-resident is chargeable, shall be answerable for all matters required to be done by virtue of this Act for the assessment of the income of any person for whom he acts and for the payment of the tax chargeable thereon.

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

- (a) a true and correct statement of all such income;
- (b) the name and address of every person to whom the same shall belong.

Lists to be prepared by representative or agent. [16 of 1963 29 of 1966].

(2) Any person who refuses, fails or neglects to comply with the provisions of this section is guilty of an offence.

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

Manager of corporate bodies of persons.

**64.** Any resident agent, trustee, mortgagor or other person who pays or transmits any dividend, interest, rent, loan, royalty, management charge or other income derived from any source within Trinidad and Tobago to a non-resident person shall be deemed to be the agent of such non-resident person and shall, subject to section 50, be assessed and pay the tax accordingly.

Agent, etc., of non-resident to be assessed. [29 of 1966].

**65.** (1) Every person answerable under this Act for the payment of tax on behalf of another person may retain out of any money coming to his hands on behalf of such other person so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Act.

Indemnification of representative.

(2) For the purposes of this section, every person who is liable under any contract to pay money to a non-resident shall be deemed to be the person having the control of money and to be acting in a representative capacity for the payment of income tax belonging to the non-resident, and all money due by him under the

contract shall be deemed to be money which comes to him on behalf of the non-resident.

Deceased  
persons.  
[16 of 1963].

**66.** (1) Subject to subsection (2) and section 89(2) and (3), when any person dies during the year of income and such person would, but for his death, have been chargeable to tax for the year of income, or when any person dies during the year of income, or within six years after the expiration thereof, and no assessment has been made upon him for that year, the personal representative of such person shall be liable for and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person, if he were alive, would be liable to do under this Act.

(2) In the case of a person dying during the year of income, if his personal representative distributes his estate before the commencement of the year of income, such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate.

#### MISCELLANEOUS PROVISIONS AS TO ASSESSMENT OF TAX

Artificial  
transactions,  
transfers to  
minors and in  
trust.  
[22 of 1951  
26 of 1955  
16 of 1963  
5 of 1964  
29 of 1966].

**67.** (1) Where the Board is of opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious, or that full effect has not in fact been given to any disposition or settlement within the meaning of section 72 the Board may disregard any such transaction or disposition or settlement within the meaning of section 72 and the persons concerned shall be assessable accordingly.

(2) Where, under or by virtue of a disposition made directly or indirectly by any disponer, the whole or any part of what would otherwise have been the income of that disponer is payable to or for the benefit, whether present or future and whether on the fulfilment of a condition or the happening of a contingency, or as the result of the exercise of a power or discretion conferred on any person, or otherwise, of a minor, such income shall be deemed to be the income of the disponer and not the income of

any other person during the minority of such minor and subsequent to such minority shall continue to be so deemed unless the Board is satisfied that the disposition was not made for the purpose of avoiding tax.

(3) Where a person transfers property in trust and provides that a corpus of the trust shall revert either to the donor or to such persons as he may determine at a future date, or where a trust provides that during the lifetime of the donor no disposition or other dealing with the trust property shall be made without the consent, written or otherwise, of the donor, such person shall nevertheless be liable to be taxed on the income derived from the property transferred in trust, or from property substituted therefor, as if such transfer had not been made.

(4) Subsection (1) shall have effect whether the transaction or disposition was effected or made before or after the commencement of this Act.

(5) Subsection (2) shall have effect (whether the disposition was effected or made before or after the commencement of this Act) in regard to assessments made in respect of the former year of assessment 1951 and each succeeding former year of assessment and subsequent years of income.

(6) Subsection (3) shall apply to all transfers made or trusts created after 4th December, 1941.

(7) In this section, "disposition" includes any settlement, trust, grant, covenant, agreement, arrangement or transfer of assets, and "minor" means a person under the age of twenty-one years.

(8) A discretion conferred on the Board by this section may be exercised, on appeal under section 87, by the Appeal Board.

(9) Nothing in this section shall prevent any income under any disposition from being treated for the purpose of tax as the income of the persons making the disposition in any case in which this section does not apply.

**68.** Any income which, by virtue of any settlement made directly or indirectly by any person, may accrue to or may be

Settlements.  
[16 of 1963].

received by any other person for a period which cannot exceed six years, shall be deemed for all the purposes of this Act to be the income of the settlor, if living, and not to be the income of any other person.

Revocable  
settlements.  
[16 of 1963].

**69.** (1) All income which in any year of income accrued to or was received by any person under a revocable settlement shall be deemed to be income of the settlor for such year of income and not income of any other person.

(2) Where in any year of income the settlor, or any relative of the settlor, or any person under the direct or indirect control of the settlor or of any of his relatives, by agreement with the trustees of a settlement in any way, whether by borrowing or otherwise, makes use of any income arising, or of any accumulated income which has arisen under such settlement to which he is not entitled thereunder, then the amount of such income or accumulated income so made use of shall be deemed to be income of such settlor for such year of income and not income of any other person.

(3) For the purposes of this section, a settlement shall be deemed to be revocable if under its terms the settlor—

- (a) has a right to reassume control, directly or indirectly, over the whole or any part of the income arising under the settlement or of the assets comprised therein; or
- (b) is able to have access, by borrowing or otherwise, to the whole or any part of the income arising under the settlement or of the assets comprised therein; or
- (c) has power, whether immediately or in the future and whether with or without the consent of any other person, to revoke or otherwise determine the settlement and, in the event of the exercise of such power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property comprised in the settlement or to the income from the whole or any part of such property,

but a settlement shall not be deemed to be revocable by reason only that under its terms the settlor has a right to reassume control, directly or indirectly, over any income or assets relating to the interest of any beneficiary under the settlement in the event that such beneficiary should predecease him.

**70.** (1) Where income under a settlement may accrue to or may be received by any person other than the settlor, then unless under the settlement the income either accrues to or is received by—

(a) an individual who is not in the service of the settlor, or accustomed to act as the attorney-at-law or agent of the settlor,

(b) } (*Repealed by Act No. 35 of 1998*).

(c) }

When income of settlement not income of settlor.  
[16 of 1963  
30 of 1974  
14 of 1976  
35 of 1998].

the income shall be deemed to be the income of the settlor and not the income of any other person.

(2) (*Repealed by Act No. 35 of 1998*).

(3) Notwithstanding subsection (1) where income which has accrued to any person is assigned by that person under a deed of covenant or other instrument of assignment to his or her spouse, such income shall be deemed to be the income of the assignor and not the income of the spouse.

**71.** (1) (*Repealed by Act No. 6 of 1989*).

(2) (*Repealed by Act No. 35 of 1998*).

**72.** In sections 68 to 70—

“relative” means a husband, wife, ancestor, lineal descendant, brother or sister;

“settlement” includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

“settlor”, in relation to a settlement, includes any person by whom the settlement was made.

Interpretation of sections 68 to 70.  
[16 of 1963].

**73.** Sections 68 to 70 and section 72 have effect from 5th December, 1962.

Commencement of section 68, etc.  
[16 of 1963].

**74.** (1) *(Repealed by Act No. 35 of 1998).*

(2) } *(Repealed by Act No. 6 of 1989).*  
 (3) }

(4) *(Repealed by Act No. 35 of 1998).*

\* (5) In this section—

“disposition” has the same meaning as in section 67(7) and includes a settlement as defined by section 72;

“disponer” in relation to a disposition includes any person by whom the disposition was made;

“total income” means the aggregate amount of the income of the disponer from the sources specified in section 5 before making any deductions allowed by any provision of this Act other than sections 10, 11 and 16 and the Income Tax (In Aid of Industry) Act.

Ch. 85:04.

Deductions for settlements. [29 of 1966].

**75.** Where under or by virtue of any disposition (as defined by section 74) made directly or indirectly by any person any income may accrue to or may be received by any other person, such income shall to the extent that it is not otherwise directed to be regarded by any provision of this Act be treated as the income of the donee, and not as the income of any other person.

#### RETURNS: BY WHOM TO BE MADE

Returns of income. [66 of 1975 11 of 1988 5 of 1995 35 of 1998 91 of 2000 2 of 2002].

**76.** (1) Every person liable to furnish a return of income in respect of any year of income either personally or in a representative capacity, shall furnish a return in such form as may be approved by the Board within four months after the end of that year of income.

(2) The return shall be signed by the person liable to furnish the return of income or by an agent authorised to sign on his behalf and shall contain—

- (a) a calculation of the tax payable in respect of the chargeable income, if any, disclosed therein; and
- (b) an address for service of notices.

\*This provision now stands on its own as the remaining provisions of section 74 have been repealed.

(3) For the purposes of this section, “every person liable to furnish a return of income” includes—

- (a) every person liable to pay tax under this Act;
- (b) every partnership;
- (c) every person who in that or any previous year of income has made a loss in respect of which he may be entitled to claim a deduction in the year of income or any subsequent year of income;
- (d) subject to subsection (4), every person who derives any income from any source specified in section 5, irrespective of the amount of such income; and
- (e) every person who derives any income which would be charged to tax under this Act but for the provisions of any other written law which exempts such income from the charge to tax.

(4) Notwithstanding subsection (3)—

- (a) an individual who is resident in Trinidad and Tobago, whose sole source of income is from an office or employment; or
- (b) a person not resident in Trinidad and Tobago, whose income derived from Trinidad and Tobago consists only of income to which the provisions of section 50 other than subsection (6) thereof apply,

shall be relieved of the obligation of furnishing a return of income under subsection (1).

(5) Any person liable to furnish a return of income in respect of any year of income who fails, neglects or refuses to do so is guilty of an offence.

(6) Any person who fails, neglects or refuses to furnish a return of income for the year of income 1987 and subsequent years after six months from the time required to file the return, shall thereafter in addition to any other penalty provided in this Act, unless the Board otherwise directs, be liable to a penalty of

one hundred dollars for every six months or part thereof during which such failure, neglect or refusal continues.

(7) Any person who has not furnished a return of income for any year of income preceding the year of income 1987 and fails, neglects or refuses to furnish any such return on or before 31st October, 1988 shall, in addition to any other penalty provided in the Act, be liable to a penalty of one hundred dollars in respect of any such return for every six months or part thereof during which such failure, neglect or refusal continues.

Board of Inland Revenue file number. [17 of 1985].

**76A.** (1) Notwithstanding any other law, any person who makes an application to or is issued any permission, licence, authority or any such other document by any—

- (a) Government Department;
- (b) Public Authority including a local authority;
- (c) Public Corporation or other State Agency; or
- (d) the Central Bank,

may be required to furnish the person processing the application or issuing the document with his Board of Inland Revenue file number (hereinafter referred to as “the B.I.R. file number”).

(2) Where any person referred to in subsection (1) fails to furnish the B.I.R. file number when required to do so, the Central Bank or Public Agency referred to in subsection (1) shall not process the application or issue the document.

(3) In this Act “the Board of Inland Revenue file number” means the Board of Inland Revenue file number assigned by the Board to a taxpayer for the purpose of processing an income tax return under section 76.

Employee or officer to furnish B.I.R. file number to employer. [17 of 1985]. Sub. Leg. Ch. 75:01.

**76B.** Every employee or officer from whose emoluments tax was deducted by the employer shall furnish his employer with his B.I.R. file number, and the employer shall record that number on the certificate issued by him under regulation 12 of the Income Tax (Employment) Regulations.

**76C.** The following persons are exempted from compliance with the provisions of section 76A: Exemptions.  
[17 of 1985].

- (a) any person of the age of sixteen years and under;
- (b) any person specified in section 8(1)(a) and (b) of the Act but only in respect of emoluments or pension referred to in that section;
- (c) temporary residents in Trinidad and Tobago not in receipt of income where the total period of residence in Trinidad and Tobago does not exceed six weeks;
- (d) a person who satisfies the Board that he is not in receipt of income or is not required to furnish a return of income under section 76(4), and who is in receipt of a certificate issued by the Board to that effect in respect of a year of income.

**77.** (1) Notwithstanding section 76(4), the Board may, by notice, require any person, or the attorney of any person, or the secretary, attorney, manager, agent, or other principal officer of a company residing in Trinidad and Tobago, to make returns under this Act within the time specified in such notice. Power of Board to require returns.  
[16 of 1963  
29 of 1966  
2 of 2002].

(2) Any person who, after being required by the Board to make a return, fails or neglects to do so within the time specified is, whether or not any liability to tax is involved, guilty of an offence.

### PARTNERSHIPS

**78.** (1) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the income of any partner from the partnership for the year of income shall be deemed to be the share to which he is entitled in the income of the partnership for that year (such income being ascertained in accordance with the provisions of this Act) and shall be included in the return of income to be made by such partner under the provisions of this Act. Partnerships.  
[16 of 1963].

(2) (a) The precedent partner, that is to say, the partner who of the partners resident in Trinidad and Tobago—

- (i) is first named in the agreement of partnership;
- (ii) if there be no agreement, is named singly or with precedence to the other partners in the usual name of the firm; or
- (iii) is the precedent acting partner, if the partner named with precedence is not an acting partner,

shall make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Act and shall declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year.

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

(3) Any person who refuses, fails or neglects to deliver any return required under this section is guilty of an offence.

#### PAYMENT OF TAX

Payment of tax by instalments. [16 of 1963 5 of 1964 29 of 1966 8 of 1967 11 of 1988 25 of 1992]. Third Schedule.

**79.** (1) Subject to this section, every person shall pay to the Board on or before 31st March, 30th June, 30th September and 31st December, respectively, in each year of income, an amount equal to one-quarter of the tax as estimated by him at the rates set out in Part I of the Third Schedule on his estimated chargeable income for the year and, on or before 30th April in the next year, the remainder of the tax, as estimated by him.

(2) For the purposes of subsection (1), the estimated chargeable income of any person for a year of income shall be taken to be the chargeable income as disclosed in his return, if any, of total income for the preceding year of income.

(3) Where the estimated chargeable income of any person for the year of income as provided for by subsection (2) is, in the opinion of such person, likely to be less than the chargeable income of the preceding year, on an application by such person for the purpose, the Board may revise the estimated chargeable income of that person and the amount of tax chargeable thereon, and the provisions of subsection (1) shall apply accordingly.

(3A) Where the estimated chargeable income of any person for a year of income is likely to exceed or exceeds the chargeable income of the preceding year of income, the quarterly instalments by that person shall be paid on the basis of the estimated chargeable income of the year of income.

(3B) Where a person to whom subsection (3A) applies had paid quarterly instalments which amount to less than the tax liability disclosed in the return of the year of income, such person shall, with effect from 1st January, 1992, pay interest under section 103 on the difference between—

- (a) the tax liability on the chargeable income of the previous year of income plus 80 per cent of the increase in the tax liability of the current year on the previous year of income; and
- (b) the total amount paid by the end of the fourth quarter.

(4) The Board may estimate the amount of tax payable by any person where—

- (a) that person fails to make the return required by section 76(1);
- (b) no tax was payable in the immediately preceding year of income,

and, upon making demand therefor in writing of such person, subsection (1) shall apply accordingly, as if the Board's estimate was the estimate of such person.

(5) Where an individual is in receipt of emoluments within the meaning of section 100 in a year of income, the provisions of subsection (1) shall not apply to that individual in respect of that

part of his income arising or accruing to him from emoluments received by him in the year of income, but the instalment of tax payable under subsection (1) shall be at the highest rates as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(6) Where amounts have been deducted or withheld under section 99(1) from the emoluments received by an individual in a year of income, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year, are equal to or greater than three-quarters of his total income for the year, he shall, on or before 30th April in the next year, pay to the Board the remainder of his tax for the year as estimated by him.

(7) Where the income of an individual for a year of income consists solely of income from emoluments within the meaning of section 100 that individual shall, on or before 30th April in the next year, pay to the Board the remainder of his tax, if any, as estimated by him.

Payment of tax  
for 1963.  
[16 of 1963  
5 of 1964  
29 of 1966].

Third Schedule.

**80.** (1) Notwithstanding section 79, but subject to this section, every person shall for the year of income 1963 pay to the Board on or before the 30th June an amount equal to one-half and on or before the 30th September and the 31st December, respectively, an amount equal to one-quarter of the tax at the rates in the Third Schedule on his estimated chargeable income for 1963, and on or before the 30th April in the next year, the remainder of the tax, if any.

16 of 1963.

(2) For the purposes of subsection (1), the estimated chargeable income of any person for the year of income 1963 shall be taken to be the chargeable income as disclosed in his return, if any, of total income for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act, 1963 not been passed.

(3) Where an individual is in receipt of emoluments within the meaning of section 100 in the year of income 1963,

the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in that year of income, but the instalment of tax payable under subsection (1) shall be at the highest rates, as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.

(4) For the purposes of subsection (1), where—

(a) any person has failed to make the return referred to in subsection (2);

(b) no tax was payable for what would have been the year of assessment 1963 had the Income Tax (Amendment) Act, 1963 not been passed,

16 of 1963.

the Board may estimate the amount of tax payable by such person, and upon making demand therefor in writing of such person, the provisions of subsection (1) shall apply accordingly, and tax shall be paid on such estimate.

(5) Where amounts have been deducted or withheld under section 99 from the emoluments received by an individual in the year of income 1963, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year are equal to or greater than three-quarters of his total income for the year, he shall, on or before the 30th April, 1964, pay to the Board the remainder of tax, if any.

(6) Where the income of an individual for the year of income 1963 consists solely of income from emoluments within the meaning of section 100, that individual shall, on or before the 30th April, 1964, pay to the Board the remainder of his tax, if any, as estimated by him.

**81.** (1) Every person shall, within thirty days from the day of the service on that person of the notice of assessment, pay to the Board any part of the tax stated in the notice to be payable by him, any interest and any penalties then remaining unpaid in respect of the remainder.

Payment of assessed tax. [16 of 1963 29 of 1966].

(2) Where any person disputes an assessment under subsection (1), such person shall nevertheless within the time limited by subsection (1) pay to the Board the part of the tax stated in the notice to be payable by him and any interest and any penalties then remaining unpaid that is not in dispute.

(3) Notwithstanding anything in this section to the contrary, where in the opinion of the Board any person is attempting to avoid payment of tax the Board may direct that all taxes, penalties and interest be paid forthwith upon assessment.

Payments on behalf of others. [16 of 1963 29 of 1966 35 of 1998].

**82.** (1) Every person required by this Act to deliver a return of the income of any other person for a year of income shall, within thirty days from the date of service on such person of the notice of assessment, pay all taxes, penalties and interest payable by or in respect of that person to the extent that he has or had, at any time since the year of income, in his possession or control property belonging to that person or his estate and shall thereupon be deemed to have made that payment on behalf of that person.

Certificate before distribution.

(2) Every assignee, liquidator, administrator, executor, trustee in bankruptcy and other like person, before distributing any property under his control, shall obtain a certificate from the Board certifying that there are not outstanding any taxes, interest or penalties that have been assessed under this Act and are chargeable against or payable out of the property.

(2A) Every assignee, liquidator, administrator, executor, trustee in bankruptcy and other like person shall submit to the Board full details of the assets and property distributed within three months of such distribution.

Liability.

(3) Distribution of property without a certificate required by subsection (2) shall render the person required to obtain the certificate personally liable for the unpaid taxes, interest and penalties.

### ASSESSMENTS

Board to make assessments. [16 of 1963 29 of 1966 35 of 1998].

**83.** (1) The Board shall proceed to assess every person chargeable with the tax as soon as may be after the day prescribed for delivering the returns.