

THE INCOME TAX ACT
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THE INCOME TAX ACT

Laws	24 of 1970,	5 of 1982,	9 of 1994,	2nd Sch.,
59 of 1954,	30 of 1970,	13 of 1982	12 of 1994,	12 of 2015,
7 of 1956,	34 of 1970,	S. 26,	41 of 2002,	30 of 2015,
29 of 1957,	18 of 1971,	21 of 1982,	28 of 2003	6 of 2016
42 of 1958,	29 of 1971	8 of 1983,	S. 2,	S. 15,
41 of 1959,	Sch.,	1 of 1984,	12 of 2004,	7 of 2016
37 of 1961.	31 of 1971,	12 of 1985	14 of 2006,	S. 51(2),
Acts	37 of 1971,	Sch.,	1 of 2008,	21 of 2016,
9 of 1963,	1 of 1972,	15 of 1985,	10 of 2009,	28 of 2017,
10 of 1963,	2 of 1972,	21 of 1985	6 of 2012,	19 of 2018,
33 of 1964,	23 of 1972,	S. 15,	13 of 2013	8 of 2019,
23 of 1965,	49 of 1973,	4 of 1986,	Sch.,	2 of 2020
27 of 1965,	53 of 1974,	9 of 1986,	21 of 2013,	Sch.,
38 of 1965	46 of 1975,	3 of 1987,	32 of 2013	14 of 2020.
Sch.,	48 of 1975,	24 of 1987,	5th Sch.,	
47 of 1965,	36 of 1976	25 of 1987,	35 of 2013	
48 of 1965,	Sch.,	8 of 1990,	Sch.,	
44 of 1966,	38 of 1976,	16 of 1990,	39 of 2013	
45 of 1966,	7 of 1977,	13 of 1991,	S. 39,	
4 of 1968,	22 of 1977,	16 of 1991	8 of 2014	
16 of 1968,	31 of 1977,	S. 64,	Sch.,	
29 of 1969,	13 of 1979	5 of 1992,	9 of 2014	
42 of 1969,	S. 17,	7 of 1994	4th Sch.,	
47 of 1969,	16 of 1980,	6th Sch.,	10 of 2015	

[1st January, 1955.]

1. This Act may be cited as the Income Tax Act. Short title.
- 2.—(1) In this Act, unless the context otherwise requires— Interpretation.
 - “actuarial reserves” means the amount set aside to ensure that promised benefits and future expenses associated with life and health insurance and annuity contracts can be paid by the company; 30/2015
S. 2(a).
 - “approved association” means any association which is an approved association under the Agricultural Marketing Act, and any other association declared by the Minister to be an approved association for the purposes of this Act, so, however, that no association shall be so declared by the Minister to be an approved association for the purposes of this Act unless— 9/1963
S. 9(1)(b).
 - (a) a substantial proportion of its members are engaged in the production of some article produced in the Island; or

- (b) its membership comprises a number of associations a substantial proportion of the members of which are so engaged;
- 13/2013
Sch. “approved charitable organization” means an organization that, subject to subsection (8), has been approved as such by the Commissioner General under section 12(h);
- 21/1982
S. 2(a). “approved farmer” means a person designated as such by the Minister pursuant to subsection (1) of section 36D;
- 9/1963
S. 9(1)(b). “approved fund” means a fund constituted in a manner approved by the Minister for purposes so approved, and declared by the Minister to be an approved fund:
Provided that no sum in respect of which no income tax is payable by reason of its being part of an approved fund, shall be used for any purposes other than purposes approved by the Minister;
- 46/1975
S. 2. “approved overseas organization” means any organization—
- (a) being a corporation, or an association of persons, not resident in the Island;
 - (b) the business of which includes granting loans, affording facilities for credit or accepting deposits; and
 - (c) which is approved for the purposes of paragraph (x) of section 12 by order made by the Minister acting after consultation with the Governor of the Bank of Jamaica;
- 35/2013
Sch. “approved public utility” means any undertaking which the Minister is satisfied—
- (a) renders, or will render, utility services to the community such as to constitute the operation of a public utility; or
 - (b) provides utility services to an undertaking that renders such services to the community, and which the Minister declares by order to be an approved public utility for the purposes of paragraph (s) of section 12;

“approved retirement scheme” means a retirement scheme registered under the Pensions (Superannuation Funds and Retirement Schemes) Act, and approved by the Commissioner under this Act; 3/1987
S. 2(b).
1/2008
S. 2(a).

“approved superannuation fund” means a superannuation fund registered under the Pensions (Superannuation Funds and Retirement Schemes) Act and approved by the Commissioner under this Act; 1/2008
S. 2(b).

“approved tourism undertaking” means an undertaking which the Minister— 35/2013
Sch.

(a) is satisfied is, or will be, a hotel or resort cottage within the meaning of section 2 of the Tourist Board Act; and

(b) declares by order to be an approved tourism undertaking for the purposes of section 12(s);

“approved venture capital company” means a company designated as such by the Minister pursuant to subsection (1) of section 36A; 21/1982
S. 2(b).

“beneficiary”, in relation to an approved superannuation fund or approved retirement scheme, means— 1/2008
S. 2(c).

(a) the person designated by a participant in the fund or scheme to benefit from his entitlement in the fund or scheme;

(b) the person who has a beneficial interest in the fund or scheme under the last will and testament of a participant in the fund or scheme; or

(c) a person who has a beneficial interest in the fund or scheme under any enactment; and

3/1987
S. 2(b).

“body corporate subject to income tax” means any body corporate, wherever resident, other than one whose entire income is by section 12 or any other enactment exempted or relieved from income tax;

3/1987
S. 2(b).

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

“building society” means any society incorporated under the Building Societies Act;

30/2015
S. 2.

“business organization” means—

(a) a company or a body of persons; or

(b) a partnership, or an individual, carrying on a business;

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

32/2013
5th Sch.

“charitable purpose” has the meaning given to it under the Charities Act;

39/2013
S. 39(3)(a)(i).

“collective investment scheme” has the meaning assigned to it by section 17A of the Securities Act;

L.N.
165/1999.

“Commissioner” means the Commissioner of Taxpayer Audit and Assessment appointed under section 11E of the Revenue Administration Act;

21/2013
S. 2.

“Commissioner General” means the Commissioner General for Tax Administration Jamaica appointed under the Revenue Administration Act;

“Commissioner of Taxpayer Appeals” means the Commissioner of Taxpayer Appeals appointed under section 11B of the Revenue Administration Act. L.N. 8B/2002.

“the Commonwealth” shall be deemed to include those territories and their dependencies which are named in any order made under section 95; 7/1956 S. 2(1)(b).

“company” means any company incorporated or registered under any enactment in force in the Island and any company which, though incorporated or registered outside the Island, carries on business or has an office or place of business therein;

“connected persons” shall be construed in accordance with subsection (2); 30/1970 S. 2(1)(b).

“control”, in relation to a body corporate, means the power of a person to secure by means of the holding or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income of the partnership; 30/1970 S. 2(1)(c).

“deferred pensioner” means a member of a fund or scheme who has ceased being an active member of the fund or scheme, but is entitled to receive a pension at a future date from the fund or scheme; 1/2008 S. 2(d).

“director” means, except where otherwise provided— 34/1970 S. 6.

- (a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person;
- (c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate,

and includes any person, other than a person giving advice purely in a professional capacity, on whose direction or instructions any director (as so defined) is accustomed to act;

34/1970
S. 6.

“distribution” has the meaning assigned to it by section 34, and the amount of a distribution shall be determined in accordance with section 36;

37/1971
S. 2.

“earned income” means in relation to any individual—

- (a) any income arising in respect of any remuneration from any office or employment of profit held by the individual, or in respect of any pension, superannuation or other allowance, 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 in any office or employment of profit, or given to the individual in respect of past services of any deceased person, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation allowance or deferred pay or not; and

(b) any income from any property which is attached to or forms part of the emoluments of any office or employment of profit held by the individual; and

(c) any income which is immediately derived by the individual from the carrying on or exercise by him of his trade, business, profession or vocation, either as an individual or in the case of a partnership, as a partner personally acting therein,

so, however, that where the income of a wife is deemed to be the income of the husband, any reference in this definition to the individual includes either the husband or the wife;

“educational institution” has the meaning assigned to it by the Education Act; 4/1986 S. 2(a).

“emoluments” includes, in relation to any office or employment of profit— 4/1986 S. 2(a).

(a) all salaries, fees, wages, all provision or payment, as the case may be, in respect of living or other accommodation, entertainment, utilities, domestic or other services and other benefits, perquisites and facilities whatsoever (whether or not similar to any of the foregoing and whether in money or otherwise); and

(b) without prejudice to the provisions of section 13, all sums paid to any person by an employer in respect of expenses whether reimbursable or not;

(c) all annuities, pensions, superannuation or other allowances payable in respect of past services in any office or employment of

profit, whether legally due or voluntary, and including lump sums paid in commutation or in lieu of a pension or other periodical superannuation payment, and any payment of money made, or other valuable consideration given, to any person being the holder or past holder of any office or employment of profit in consideration for, or otherwise in connection with, the termination of the holding of that office or employment (otherwise than by death) or any change in its nature or terms, or any undertaking given by that person as to his future conduct, whether the payment is made to that person or to his relative or dependant (in which case it shall be treated as made to that person, unless he is dead, when it shall be treated as made to the recipient thereof);

6/2012
S. 2.

“group head office activities” means the following activities carried out by an approved group head office company—

- (a) the supervision, management and monitoring of the operations of the approved group head office company;
- (b) the provision of accounting, data processing, engineering and other technical support;
- (c) centralized treasury management and other similar funding activities;
- (d) business planning and coordination;
- (e) the making of loans and the provision of corporate finance advisory services;
- (f) the holding of shares and the receipt of

dividends and management fees;

(g) the holding and grant of rights over trademarks, patents and other intellectual property;

(h) the provision of staff; and

(i) such other activities as may be specified by the Minister by order published in the *Gazette*.

“immediate relative” means a relative other than a brother, sister, uncle, aunt, nephew or niece; 30/1970 S. 2(1)(d).

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

“investment income” means income which would be the chargeable income of a body corporate if there were left out of account receipts and deductions so far as they entered into the computation of its trading and estate income; 34/1970 S. 6.

“Jamaica Stock Exchange” means a body of persons which the Minister has certified to be the Jamaica Stock Exchange; 34/1970 S. 2(1)(e).

“new consideration”, in relation to a distribution by a body corporate, means consideration not provided out of the assets or at the cost of the body corporate; 34/1970 S. 6.

“participant”, in relation to an approved superannuation fund or approved retirement scheme, means a person who is an active member, deferred pensioner or pensioner; 1/2008 S. 2(d).

“permanent establishment” shall be construed in accordance with subsections (4), (5), (6) and (7); 30/2015 S. 2(a).

“person” means any individual and also any body of persons;

41/2002
S. 2.

“personal services” includes services of a professional, clerical, technical, administrative or managerial nature;

34/1970
S. 6.

“preference capital” means preference shares or preferred shares;

34/1970
S. 6.

“preference dividend” means—

(a) a dividend payable on preference capital at a fixed gross rate *per centum*; or

(b) where a dividend is payable on preference capital partly at a fixed gross rate *per centum* and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate *per centum*;

“prescribed” means prescribed by the Commissioner;

30/1970
S. 2(1)(f).

“principal member” means a person who, in relation to a body corporate, is beneficially entitled to exercise more than five *per centum* of the voting power or is beneficially entitled to shares the paid-up value of which amounts to at least five *per centum* of the paid-up share capital, or is, together with other persons connected with him, beneficially entitled to exercise more than ten *per centum* of the voting power or beneficially entitled to shares the paid-up value of which amounts to at least ten *per centum* of the paid-up share capital;

39/2013
S. 39(3)(a)(i).

“qualified collective investment scheme” means a scheme which is registered as a collective investment scheme under the Securities Act, in which throughout the year of assessment (or where the scheme is registered during the year of assessment, throughout the remainder of the year of assessment) there are not less than fifty unit holders or such other minimum number of unit holders as may by order be prescribed by the Minister responsible for finance.

“qualified unit trust scheme” means a scheme which, throughout the year of assessment, is operating pursuant to—

18/1971
S. 2.

39/2013
S. 39(3)(a)(iii).

(A) section 41 of the Securities (Amendment) Act, 2013, or is registered as a collective investment scheme under the Securities Act; and

(B) (any arrangements whether in Jamaica or elsewhere) made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries under a trust, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property whatsoever, (with the exception of any arrangements having as their object or principal object the provision of pensions),

and in which throughout the year of assessment (or where the scheme is registered during the year of assessment, throughout the remainder of the year of assessment) there are not less than fifty unit holders or such other minimum number of unit holders as may by order be prescribed by the Minister responsible for finance.

“recognized stock exchange” means—

34/1970
S. 6.

(a) the Jamaica Stock Exchange;

37/1971
S. 3.

(b) any other stock exchange recognized by the Minister by order for the purposes of this Act, such recognition to be from such date as is specified in the order;

32/2013
5th Sch.

“registered charitable organization” has the meaning given to it under the Charities Act;

35/2013
Sch.

“regulated company” means a company that is regulated by any of the following—

- (a) the Financial Services Commission;
- (b) the Office of Utilities Regulation;
- (c) the Bank of Jamaica;
- (d) the Minister with responsibility for finance;

30/1970
S. 2(1)(g).
36/1976
Sch.

“relative” as respects any person, means his or her husband or wife, or brother, sister, uncle, aunt, nephew, niece or lineal ancestor or descendant (the stepchild or adopted child of any person being taken into account as a relative or to trace a relationship in the same way as that person’s child);

1/2008
S. 2(d).

“remuneration” in relation to an employed person means all salaries, wages, fees, commissions and allowances paid to the person;

34/1970
S. 6.

“security” means any evidence of indebtedness, whether or not evidencing a charge on assets;

34/1970
S. 6.

“shares” includes stock, and any other interest of a member as such in a body corporate;

1/2008
S. 2(d).

“spouse” includes—

- (a) a single woman who has lived and cohabited with a single man as if she were in law his wife for a period of not less than five years immediately preceding the date of his death; and
- (b) a single man who has lived and cohabited with a single woman as if he were in law

her husband for a period of not less than five years immediately preceding the date of her death;

“statutory income” means, subject to section 6, the aggregate amount of income of any person from all sources remaining after allowing the appropriate deductions and exemptions under this Act; 4/1986 S. 2(b).

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

“trading and estate income”, means so much of the income of a body corporate (computed in accordance with the rules governing the calculation of chargeable income) as is referable to the carrying on of a trade, business or profession or the ownership or occupation of land, and in calculating trading and estate income payments deductible under section 13 shall be apportioned between that and any investment income of the body corporate as may be appropriate; 34/1970 S. 6.

“unit holder”, in relation to a qualified collective investment scheme, means a holder of investors’ shares, in the case of a collective investment scheme company, or in any other case any other ownership interests in a qualified collective investment scheme created in pursuance of the scheme, whether described as units or otherwise; 18/1971 S. 2. 39/2013 S. 39(3)(a)(ii).

“unregulated company” means a company that is not a regulated company; 35/2013 Sch.

“utility service” means a service, the provision of which is regulated under the *Office of Utilities Regulation Act*; 35/2013 Sch.

34/1970
S. 6.

“voting power” means the totality of the rights to cast votes on any resolution proposed at a general meeting of the body corporate;

“year of assessment” means the period of twelve months commencing on the first day of January in each year.

30/1970
S. 2(2).

(2) For the purposes of this Act the following persons shall be treated as being connected with a given person (“A”) and he with them, and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or had ceased to exist—

- (a) A’s relatives;
- (b) the husband or wife of any relative of A;
- (c) A’s partners;
- (d) where A is a trustee of a settlement (other than a settlement where the sole trustee is a trust corporation for the purposes of the Judicature (Trust Corporations) Act, or all the trustees are such corporations, and none of the beneficiaries is connected with a settlor of the settlement or with a person connected with a settlor, or would be so connected if he were the sole beneficial owner of the property comprised in the settlement)—
 - (i) any settlor of the settlement,
 - (ii) any person connected with a settlor of the settlement,
 - (iii) any body corporate a principal member of which is a trustee of the settlement;
- (e) where A is a settlor or beneficiary of a settlement, any body corporate a principal member of which is a trustee of the settlement;

- (f) any person acting together with A to secure or exercise control of a body corporate;
- (g) any person acting on the directions of A to secure or exercise control of a body corporate;
- (h) bodies corporate of which A has control;
- (i) bodies corporate of which A and persons connected with him together have control;
- (j) where A is a body corporate (and without prejudice to the application of any of the preceding paragraphs where A is a body corporate)—
 - (i) bodies corporate under the control of the same person who has control of A,
 - (ii) bodies corporate under the control of persons (other than individuals) connected with the person who has control of A,
 - (iii) bodies corporate under the control of the following persons, namely, a person who has control of A and persons (other than individuals) connected with that person,
 - (iv) bodies corporate under the control of a group of two or more persons which has the same membership as a group having control of A or could be so regarded by treating a member of either group as replaced by a person with whom he is connected,
 - (v) the trustees or other persons having the management of an approved superannuation fund in relation to which A is the employer (for the purposes of section 44 only);

(k) where A is a principal member of a body corporate—

- (i) the body corporate,
- (ii) (for the purposes of section 44 only) the trustees or other persons having the management of an approved superannuation fund in relation to which the body corporate is the employer.

16/1980
S. 2(e).

(3) Where the Commissioner notifies a body corporate in writing that, in relation to that body corporate, he proposes to treat specified persons as being connected persons, the notification shall have effect for the purposes of this Act until varied or revoked by a subsequent notification in writing sent to the body corporate by the Commissioner.

32/2013
Sch.
30/2015
S. 2(b).

(4) For the purposes of this section, “permanent establishment” means, subject to subsections (5), (6) and (7), a fixed place of business through which the business of a business organization is wholly or partly carried on, and includes—

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources,

but does not include—

- (g) a building site or construction or installation project that does not last for more than three months;

- (h) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the business organization;
- (i) the maintenance of a stock of goods or merchandise belonging to the business organization solely for the purpose of storage, display or delivery;
- (j) the maintenance of a stock of goods or merchandise belonging to the business organization solely for the purpose of processing by another business organization;
- (k) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the business organization;
- (l) the maintenance of a fixed place of business solely for the purpose of carrying on, for the business organization, any other activity of a preparatory or auxiliary character;
- (m) the maintenance of a fixed place of business solely for any combination of activities mentioned in paragraphs (h) to (l), if the overall activity of the fixed place of business resulting from that combination is of a preparatory or auxiliary character.

(5) Where a person, other than an agent of an independent status referred to in subsection (6), is acting on behalf of a business organization and has, and habitually exercises, in Jamaica an authority to conclude contracts in the name of the business organization, that business organization shall be deemed to have a permanent establishment in Jamaica in respect of any activities which that person undertakes for the business organization, unless the activities of that person are limited to those mentioned in paragraphs (h) to (m) of subsection (4) which, if exercised

32/2013
Sch.
30/2015
S. 2(b).

through a fixed place of business, would not make the fixed place of business a permanent establishment under the provisions of those paragraphs.

32/2013
Sch.
30/2015
S. 2(b).

(6) A business organization shall not be deemed to have a permanent establishment in Jamaica merely because it carries on business in Jamaica through a broker, general commission agent or any other agent of an independent status, if any such broker or agent is acting in the ordinary course of the business of that broker or agent.

32/2013
Sch.
30/2015
S. 2(b).

(7) The fact that a business organization that is resident in Jamaica controls or is controlled by a business organization that is resident outside Jamaica, or carries on business outside Jamaica (whether through a permanent establishment or otherwise), shall not of itself constitute either business organization as a permanent establishment of the other.

(8) Notwithstanding the requirement in section 12(h), for approval by the Commissioner General, an organization that immediately before the coming into operation of the Charitable Organizations (Tax Harmonization) (Miscellaneous Provisions) Act, 2013 had, for the purposes of any enactment relating to the revenue, been entitled to be treated as having been organized and operated for a charitable purpose, shall be treated as an approved charitable organization for the purposes of this or any other such enactment.

Administration

3. [Deleted by Act 12 of 1985, Sch.]

Duty to
regard
documents,
etc., as
secret and
to make
declaration.

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 to that effect before a Justice of the Peace.

(2) Every such person having possession of or control over any documents, 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 communicate 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 authorized by the Minister to communicate it; or 9/1963
S. 9(1)(b).

(b) otherwise than for the purposes of this Act,

shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year. 8/2014
Sch.

Imposition of Income Tax

5.—(1) Income tax shall, subject to the provisions of this Act, be payable by every person at the rate or rates specified hereafter for each year of assessment in respect of all income, profits or gains respectively described hereunder— Chargeable
incomes.
30/1970
S. 3(a).

(a) the annual profits or gains arising or accruing—

(i) to any person residing in the Island from any kind of property whatever, whether situated in the Island or elsewhere; and

(ii) to any person residing in the Island from any trade, business, profession, employment or vocation whether carried on in the Island or elsewhere; 30/2015
S. 3(a)(i).

9/1963
S. 9(1)(c).

30/1970
S. 3(b).

30/2015
S. 3(a)(ii).

30/2015
S. 3(a)(iii).

(iii) to any person, whether a Commonwealth citizen or not, although not resident in the Island, from any property whatever in the Island, or from any trade, business, profession, employment or vocation exercised within the Island, or from the provision to any person residing in the Island, or from the provision to any person residing in the Island of industrial or commercial information or advice, or management or technical services, or similar services or facilities, or plant or equipment on hire (otherwise than under a *bona fide* hire-purchase agreement as defined in subsection (1) of section 2 of the Hire Purchase Act); and

(iv) to any business organization that has a permanent establishment in Jamaica;

(b) profits or gains accruing in or derived from the Island or elsewhere, and whether received in the Island or not in respect of—

34/1970
S.6.

9/1994
S.2(a).

(i) dividends (other than those falling within exception (b) of paragraph (1) of the table contained in section 34), discounts, interests (including interest referred to in section 31A), annuities, pensions or other annual sums;

(ii) rents, royalties, premiums and any other profits arising from property;

42/1958
S.2(b).

34/1970
S.6.
16/1990
S.2.

41/2002
S. 3(a).

(iii) any employment or vocation;

(iv) distributions (not falling within subparagraph (i)) by a body corporate subject to income tax;

(v) the accretion realized on the encashment, disposal or redemption of any units or other form of investment in a money market fund

(within the meaning of section 31A) which had been acquired under a policy of insurance issued on or after the 1st June, 1999.

(vi) the accretion realized on the encashment, disposal or redemption of any units or other form of investment in a collective investment scheme, except accretions accruing prior to the 1st day of June, 1999, in units in a qualified unit trust scheme. 39/2013
S. 39(3)(b).

(c) all emoluments, whether in the form of cash, benefit or kind, arising or accruing to any person or any member of his family or household by reason of his office or employment of profit, including the full cost of providing the benefit or kind (such as a rent, uniform or laundry allowance): 41/1986
S. 3(a)(i).
21/2013
S. 3(a).

Provided that—

(i) the said emoluments shall not include— 41/1986
S. 3(a)(ii).

(A) any payment made to an employee in respect of meal allowance in relation to work done outside of normal working hours; or

(B) any payment of an allowance in respect of the provision of a uniform or the laundering thereof to an employee who falls within any of the categories specified in Appendix B of Part 1 of the Second Schedule, or who the Commissioner is satisfied is required to wear a uniform for the purpose of protection or identification or in the interest of safety, 41/2002
S. 3(b).

Second
Schedule.

security or public health; or for any purpose as may be required by law or pursuant to any international agreement so, however, that, the maximum amount of allowance allowable shall be \$5,739 per annum in respect of the provision of uniform and \$3,395 per annum in respect of laundry, or such other amounts as the Minister may by order prescribe;

(ii) the said emoluments shall not include emoluments of an office or employment of profit held by a person in the course of a trade, profession or business if either—

(A) any emoluments of that office or employment were taken into account in the case of that person in computing the profits or gains of that trade, profession or business for the purposes of income tax for the year of assessment; or

(B) the office or employment is such that the emoluments thereof would ordinarily be taken into account in computing the profits or gains of that trade, profession or business;

(iii) the annual value of accommodation provided among the emoluments of any person shall, for the purposes of this paragraph, be determined by the Commissioner having regard to such regulations (if any) as may be prescribed by the Minister but, subject to section 40A,

41/2002
S. 3(c).

as regards any person—

- (A) where the accommodation provided is rented premises and the rent is paid directly to the landlord, a third party or the employee, the full amount of rent paid is taxable; 21/2013
S. 3(b).
- (B) where the accommodation provided is rented premises and the employer is the landlord for the accommodation, the value of that accommodation shall be deemed to be the market value thereof; 21/2013
S. 3(b).
- (C) where an employee is required to live in accommodation provided by the employer and it can be established that it is necessary for the employee to have that accommodation in order to exercise his employment, the value of the benefit on which he is liable to be taxed shall not exceed the amount equal to 30 per cent of his emoluments (excluding the value of the accommodation); 21/2013
S. 3(b).
- (D) where the employee lives in accommodation owned or operated by an approved charitable organization, the value of the benefit on which he is liable to be taxed shall not exceed the amount equal to 30 per cent of his emoluments (excluding the value of the accommodation); 21/2013
S. 3(b).
- (iv) the said emoluments shall not include— 30/1970
S. 4(b).
 - (A) any lump sum paid out of the Consolidated Fund or any other fund or account designated by the

Minister as being a public fund or account; or

- (B) such other sums as may be excepted by the Minister by order subject to affirmative resolution by the House of Representatives, being sums (or portions of sums) paid in respect of termination of employment whether by way of commutation of pension, terminal gratuity, severance pay or compensation for accident, illness, redundancy, loss of office or wrongful dismissal, or otherwise,

and any order under sub-paragraph (B) may include provision whereby portions of sums mentioned in that sub-paragraph which are not excepted by the order may be treated as income accruing over such period as may be specified in the order;

4/1986
S. 3(a)(iv).

- (v) where by reason of a person's employment a motor vehicle is made available (without any transfer of the property in it) for the private use of that person or members of his family or household, then the value of any benefit accruing therefrom shall be determined by the Commissioner having regard to such regulations (if any) as may be prescribed by the Minister;

4/1986
S. 3(a)(iv).

- (vi) the said emoluments shall not include any sum paid in respect of the maintenance of a telephone made available at the residence of a person and used for

purposes connected with his employment;

(vii) where a credit card is provided for any person (hereinafter in this section referred to as the employee) by reason of his employment then—

4/1986
S. 3(a)(iv).

(A) without prejudice to the provisions of section 13, on each occasion that the employee uses the credit card to obtain money, goods or services, he shall be treated as having received from his employment an emolument of an amount equal to the expense incurred by the person providing the credit card in or in connection with the provision of the money, goods or services obtained but the actual money, goods or services obtained by the employee by the use of the credit card, shall be disregarded; and

(B) the expense incurred by the person providing the credit card shall be treated as reduced by any part of that expense made good to that person by the employee;

(viii) the said emoluments shall not include any sums used by employees to acquire shares or share options pursuant to a plan approved under the Employees Share Ownership Plan Act to the extent that the sums so used are relieved of income tax under that Act;

7/1994
Sixth Sch.

41/2002
S. 3(d).

(ix) where under the terms of a contract or arrangement any person (hereinafter in this section called "the employee") is under an obligation to render personal services to another person (hereinafter in this section called "the employer") whether on his own behalf or on behalf of a company, and—

(A) the employee is subject to, or to the right of, supervision, direction or control by the employer as to the manner in which he renders those services; and

(B) the remuneration for the services would not, apart from this paragraph, be treated as emoluments,

then the relevant services shall be treated as duties of an office or employment of profit held by the employee and the income arising or accruing therefrom shall be treated as emoluments of that office or employment, and accordingly, the employer shall deduct from the remuneration the income tax payable;

- (d) the income characterized as insurance premiums paid to a person who is not resident in Jamaica by— ^{19/2018 S. 2.}

(i) a person who is resident in Jamaica; or

(ii) a business organization with a permanent establishment in Jamaica.

(2) [*Deleted by Act 4 of 1986.*]

(3) For the purposes of this Act a trade, business, employment, profession or vocation shall not be treated as being exercised otherwise than within the Island solely by reason that contracts made in the course thereof are made outside the Island, if they are made as a result of or in connection with activities pursued within the Island. ^{30/1970 S. 5.} ^{22/1977 S. 2 (e).}

(4) Where a person (in this subsection called the operator) carries out a transaction which apart from this subsection would not be treated as the exercise by him of a trade or business, it nevertheless shall be so treated if— ^{30/1970 S. 5.}

(a) similar transactions are carried out by other persons (whether before or after the first-mentioned transaction), otherwise than in the course of activities which (apart from this subsection) constitute a trade or business, but in circumstances which make those similar transactions relevant (as mentioned below) for the purposes of this subsection, and

(b) the first-mentioned transaction would, if those similar transactions had instead been carried out by the operator, be treated (apart from this subsection) as the exercise of a trade or business,

and a similar transaction is relevant for the purposes of this subsection if it is carried out—

(i) by an immediate relative of the operator's, or

(ii) where the operator or an immediate relative of his is a trustee or settlor of a settlement, by any settlor or trustee of that settlement, or

(iii) by a body corporate of which the operator or the operator and immediate relatives of his, has or have control, or

- (iv) where the operator is a body corporate, by a body corporate which has control of the operator,

or if it is carried out by any other person under an agreement or arrangement between him and the operator whereby the whole or a part of any profit arising from the transaction passes to the operator or any person mentioned in sub-paragraphs (i) to (iv):

Provided that a similar transaction carried out by a person mentioned in sub-paragraphs (i) to (iv) is not so relevant if the operator proves that it was not carried out under an agreement or arrangement with him.

(5) For the purposes of subsection (1)—

4/1986
S. 3(c).

- (a) references to the members of a person's family or household are references to that person's spouse, his children and their spouses, his parents, servants, dependants and guests;
- (b) "credit card" includes a card, token, document, object or other thing given to a person by another person who undertakes—
 - (i) that on the production of it (whether or not some other action is also required) he will supply money, goods and services (or any of them) on credit; or
 - (ii) that where, on the production of it to a third party (whether or not some other action is also required) the third party supplies money, goods and services (or any of them) he will pay the third party for them (whether or not taking any discount or commission),

and the use of any object to operate a machine provided by the person giving the object or by a third party shall be treated as production of the object to that person or third party, as the case may be.

(6) [*Deleted by Act 35 of 2013, Sch.*]

41/2002
S. 3(e).

(7) Where a person acquires the right to receive the amount (with or without interest) stated in a bond, certificate of deposit, debenture, note or other similar instrument issued to him or any other person, then any profits or gains accruing to him—

(a) from the disposal of that right; or

(b) except so far as it is a right to receive interest, from the exercise of that right,

which would, but for this provision, not be taken into account as profits of a trade or business or be otherwise chargeable to tax, shall be treated as profits or gains chargeable to tax under subsection (1)(b).

30/2015
S. 3(b).

(8) Subject to subsection (9), for the year of assessment 2015, life assurance companies, whether mutual or proprietary, shall be taxable in respect of all income, profits or gains including any reduction in the actuarial services.

30/2015
S. 3(b).

(9) The release of accumulated actuarial reserves that were made in respect of premium taxes and investment taxes in the accounts of life assurance companies prior to the year of assessment 2015 shall not be taxable.

Treatment of
concessionary
loans.
41/2002
S. 4.

5A.—(1) Subject to subsection (7), this section applies to a loan or loans (whether made before or after the 24th September, 2002) made to a person—

(a) by reason of his employment in a specified financial institution, whether as a director or employee;

- (b) at a rate of interest (hereinafter in this section referred to as the concessionary rate) which is less than the prescribed rate.

(2) In this section the prescribed rate means such rate of interest as the Minister may by order prescribe.

(3) The cash equivalent of the benefit of a loan or loans to which this section applies shall, in respect of any year in which the loan or loans remain outstanding, be treated as emoluments and shall be calculated in the manner specified in subsection (5).

(4) For the purposes of this section, a loan or loans shall be regarded as being made to a person by reason of his employment if made by—

- (a) the person's employer;
- (b) any company over which the employer has control; or
- (c) any company by which the employer is controlled.

(5) The cash equivalent of the benefit of a loan is an amount representing the difference between the amount of interest which would have been payable on the loan at the prescribed rate and the amount of interest actually paid on the loan at the concessionary rate.

(6) In this section—

“specified financial institution” means—

- (a) the Bank of Jamaica;
- (b) a merchant bank;

- (c) a development bank;
- (d) an insurance company;
- (e) a building society licensed under the Building Societies Act;
- (f) a trust company; and
- (g) any other institution licensed under the Banking Act or the Financial Institutions Act, as the case may be.

12/2015
S. 2A.

(7) This section does not apply to any loan or loans made for any or all of the purposes specified in paragraphs (a) to (g) of this subsection, to the extent of any amount outstanding on the principal of such loan or loans which in the aggregate does not exceed 4.5 million dollars, namely—

- (a) purchasing a house for owner occupation;
- (b) purchasing a motor vehicle for private use;
- (c) purchasing land;
- (d) education;
- (e) training;
- (f) emergency needs (compassionate loan); and
- (g) furnishing of a residence for owner occupation.

Statutory Incomes

Statutory
incomes.
29/1969
S. 2.

6.—(1) Subject to the provisions of this section the statutory income of any person for any year of assessment shall be the income of that person for such year.

(2) Notwithstanding the provisions of subsection (1), where the Commissioner is satisfied that any person usually makes up the accounts of his trade, profession or business to some date other than the 31st day of December in the year of assessment the Commissioner may permit the gains or profits of that trade, profession or business to be computed for the purposes of this Act upon the income for the period of twelve months terminating on that date in the year of assessment to which the accounts of that trade, profession or business are usually made up.

(3) Where a person commencing to carry on a trade, profession or business satisfies the Commissioner that he intends to make up the accounts thereof to a date other than the 31st day of December, the Commissioner may grant permission under subsection (2) notwithstanding that the first accounts of the trade, profession or business have not yet been drawn up; and where the first accounts of a trade, profession or business cover a period which exceeds twelve months the income of the period shall be treated for the purposes of this section as apportioned at an even rate between the twelve months terminating on the date to which the accounts are made up and the remainder of the period. 30/1970
S. 22.

(4) If a person departs from his permitted accounting terminal date then— 29/1969
S. 2.

- (a) in respect of the year of assessment in which the departure occurred and the next succeeding year of assessment, the permitted accounting period of that person shall be such period as the Commissioner may determine, and (without prejudice to the generality of the foregoing) the period so determined by the Commissioner in respect of the year of assessment in which the departure occurred may include any interval between the permitted accounting terminal date of the old permitted accounting period and the commencement of the new permitted accounting period; and

- (b) in respect of the years of assessment after the year next succeeding the year in which the departure occurred, the terminal date of the new permitted accounting period shall be regarded as that person's permitted accounting terminal date, unless and until a different accounting period is adopted in accordance with the provisions of this section.

(5) Subject to the provisions of section 7 where any person permanently ceases to carry on or exercise a trade, profession or business, his statutory income therefrom for the year of assessment in which the cessation occurs shall be the amount of the income of the period between the 31st day of December (or, as the case may be, the permitted accounting terminal date) in the immediately preceding year of assessment and the cessation.

(6) (a) The profits and gains arising or accruing to a trustee from a trust estate or to a personal representative from the estate of a deceased person shall be liable to the payment of income tax on the statutory income at the rate of 25 cents in the dollar, and the trustee or the personal representative, as the case may be, may deduct any payments made under this subsection out of the trust estate or out of the assets and effects of the person deceased:

Provided that the Commissioner may authorize any trustee or personal representative to pay or to sanction payment to or on behalf of a beneficiary without deducting the tax, where he is satisfied that such beneficiary is not liable to make a return in accordance with the provisions of this Act.

(b) The income of a beneficiary in the estate or trust for the purposes of this Act shall be the share of the statutory income of the estate or trust to which he is entitled.

(7) In this section—

“permitted accounting period”, in relation to any person, means the accounting period in respect of

which the gains or profits of any trade, profession or business carried on or exercised by that person are permitted or required to be computed pursuant to subsection (2), (3), (4) or (5);

“permitted accounting terminal date”, in relation to any permitted accounting period, means the terminal date of that period.

7.—(1) Where any person permanently ceases to carry on or exercise a trade, profession or business, tax shall be charged in respect of any sums to which this section applies which are received after the cessation, subject to any such deduction as is authorized by subsection (4).

Post-
cessation
receipts.
29/1969
S. 3.
18/1971
S. 5.

(2) This section applies to the following sums arising from the carrying on or exercise of the trade, profession or business during any period before the cessation (not being sums otherwise chargeable to income tax), that is to say—

- (a) where the profits or gains for that period were computed by reference to total earnings, all such sums in so far as their value was not brought into account in computing the profits or gains for any period before the cessation;
- (b) where those profits or gains were not so computed, any sums whatever that were earned before the cessation.

(3) Any sums chargeable to tax by virtue of this section shall be brought into charge as income of the year of assessment in which they are received.

(4) In computing the charge to tax in respect of sums which are chargeable to tax by virtue of this section, there shall be allowed as a deduction the amount of any expense incurred in collecting such sums which the Commissioner is

satisfied is reasonable and proportionate to the sums received.

(5) For the purposes of this section profits or gains from a trade, profession or business in any period shall be treated as computed by reference to total earnings where all credits and liabilities accruing during that period as a consequence of the carrying on or exercise of the trade, profession or business are brought into account in computing those profits or gains for tax purposes and not otherwise; and the value of any sum received in payment of a debt shall be treated as not brought into account in the computation to the extent that a deduction has been allowed in respect of that sum under paragraph (d) of subsection (1) of section 13 (which relates to bad and doubtful debts).

18/1971
S. 5.

Provisions
supple-
mentary to
section 7.

8. In the case of a transfer for value of the right to receive any such sums as are described in subsection (2) of section 7, any tax chargeable by virtue of that section shall be charged in respect of the amount or value of the consideration (or, in the case of a transfer otherwise than at arm's length, in respect of the value of the right transferred as between parties at arm's length), and references in that section to sums received shall be construed accordingly.

Valuation
of trading
stock on
cessation.
29/1969
S. 3.
18/1971
S. 5.

9.—(1) In computing the profits or gains of any person who permanently ceases to carry on or exercise a trade or business, any trading stock belonging to the trade or business at the cessation thereof shall be valued as follows—

(a) in the case of any such trading stock—

- (i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a trade or business; and
- (ii) the cost whereof may be deducted by the purchaser as an expense in computing the

profits or gains of that trade or business,

the value thereof shall be taken to be the amount realized on the sale or the value of the consideration given for the transfer;

- (b) in the case of any other such trading stock, the value thereof shall be taken to be the amount which it would have realized if it had been sold in the open market at the cessation of the trade or business.

(2) For the purposes of this section, "trading stock", in relation to any trade or business means property of any description whether real or personal, being either—

- (a) property such as is sold in the ordinary course of the trade or business, or would be so sold if it were mature or if its manufacture, preparation or construction were complete; or
- (b) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in paragraph (a),

and includes any services, article or material which would, if the trade or business were a profession, be treated as work in progress thereof for the purposes of section 10, and references in this section to the sale or transfer or trading stock shall be construed accordingly.

10. Where, in computing the profits or gains of any person who permanently ceases to carry on or exercise a profession, a valuation is taken of the work of the profession in progress at the cessation, that work shall be valued as follows—

Valuation of
work in
progress at
cessation.
29/1969
S. 3.

- (a) if the work is transferred for money or any other valuable consideration to a person who carries on or intends to carry on a profession and the cost of the work may be deducted by that person as an expense in computing his profits or gains from that pro-

fession, the value of the work shall be taken to be the amount paid or other consideration given for the transfer;

- (b) if the work does not fall to be valued under paragraph (a) of this subsection its value shall be taken to be the amount which would have been paid for a transfer thereof on the date of cessation as between parties at arm's length.

Valuations for the purposes of sections 8, 9 and 10, 29/1969 S. 3.

11. Where—

- (a) pursuant to section 8, the value of a right transferred as between parties at arm's length;
- (b) pursuant to paragraph (b) of subsection (1) of section 9, the value of any trading stock; or
- (c) pursuant to paragraph (b) of subsection (1) of section 10, the value of any work transferred as between parties at arm's length,

is required to be ascertained, that value shall be determined by the Commissioner having regard to such factors as may be reasonable and appropriate in the circumstances of each case.

Exemptions

Incomes exempt from income tax. 23/1965 S. 9.

12.—(1) Subject to subsections (2) and (3), there shall be exempt from tax—

- (a) emoluments payable to the Governor-General and an Acting Governor-General under any provisions of the Governor-General (Expenditure, Personal Staff, Tax Exemptions and Pensions) Act;
- (b) the income of any Parish Council, of the Kingston and St. Andrew Corporation, of any Municipality and of any public body or department of Government other than the following—
 - (i) the Airports Authority;
 - (ii) the Betting, Gaming and Lotteries Commission;
 - (iii) the H.E.A.R.T. Trust;

28/2003 S. 2.

- (iv) the Jamaica Development Bank;
- (v) the Jamaica Mortgage Bank;
- (vi) the Jamaica Racing Commission;
- (vii) the National Housing Trust;
- (viii) the National Insurance Fund;
- (ix) the National Water Commission;
- (x) the Petroleum Corporation of Jamaica;
- (xi) the Urban Development Corporation;
- (c) income derived from such wounds and disability pensions and war gratuities as the Minister may declare to be exempt from income tax; 9/1963
S. 9(1)(b).
- (d) the emoluments payable from United Kingdom funds or the funds of any territory of the Commonwealth (other than this Island) to members of Her Majesty's Forces and to persons in the permanent service of the United Kingdom Government or of any territory of the Commonwealth in respect of their offices under the United Kingdom Government or such territory of the Commonwealth; 7/1956
S. 4(1)(a),(b).
- (e) the income (not exceeding two thousand dollars in any year) of any Friendly Society established under the Friendly Societies Act; 7/1956
S. 4.
- (f) the official salaries and emoluments of Consuls, Vice-Consuls and members of the permanent Consular Services of foreign countries who are citizens of the countries they represent in respect of their offices or in respect of services rendered by them in their official capacities;
- (g) the income derived from sources outside of the Island of any person arriving in the Island for the purpose of rendering any technical assistance, where agreement is made with the Government concerned;
- (h) the income of a registered charitable organization; 32/2013
5th Sch.
- (i) the income of an approved fund;
- (j) subject to sections 44 and 44A, the income of an 3/1987
S. 4(a).

approved superannuation fund or an approved retirement scheme, as the case may be;

(k) any amount paid to any person by Her Majesty's Government in the United Kingdom as compensation in respect of tax paid or payable by such person to the Government of India or Pakistan in respect of any pension paid to such person by the Government of India or Pakistan;

(l) any moneys paid or income received, which is exempted from the payment of income tax by any enactment of the Island;

9/1963
S. 9.

(m) the interest of any loan charged on the Consolidated Fund in so far as the Minister by order in the *Gazette* shall provide;

(n) the income arising from a scholarship, exhibition, bursary or any other similar educational endowment held by a person, receiving full-time instruction at a university, college, school or other educational establishment;

42/1958
S. 3(b).

(o) the income derived from investments or deposits in the Island of a superannuation or pension fund or plan administered in the United Kingdom or in Canada or in any other country which the Minister has for the purposes of this paragraph specified by order, being a fund or plan in respect of which the Commissioner is satisfied, on production of a certificate issued by or on behalf of the Government department responsible for collecting taxes corresponding to tax charged under this Act, that such income is exempt from such taxes as aforesaid;

9/1963
S. 4(1).

(p) such training expenses allowances as may be prescribed by the Commissioner and which are payable out of moneys provided by Parliament to persons who serve on a part-time basis in the

Jamaica National Reserve and payments from such moneys by way of bounty to such persons in consideration of their undertaking prescribed training and attaining a prescribed standard of efficiency:

- (q) any allowance to any person in the service of the Crown which is certified by the Minister to represent compensation for the extra cost of having to live outside the Island in order to perform his duties; 9/1963 S. 4(1).
 - (r) any education allowance to any person in the service of the Crown in Jamaica which is made pursuant to an agreement between the Government of Jamaica and the Government of the United Kingdom under the Overseas Service Aid Scheme; 9/1963 S. 4(1).
 - (rr) any material allowance to persons employed as teachers in any educational institution; 4/1986 S. 4(a).
 - (s) income derived as interest of money from— 33/1964 S. 3(b).
 - (i) investments or deposits in a building society; or
 - (ii) investments in a scheme approved by the appropriate authority under the Housing Act; or
 - (iii) investments in an approved public utility; 35/2013 Sch.
 - (iv) investments in an approved tourism undertaking; or 35/2013 Sch.
 - (v) investments made before January 1, 2014 in an approved hotel enterprise or an approved extension of a hotel within the meaning of the Hotels (Incentives) Act or a recognized resort cottage or a recognized extension under the Resort Cottages (Incentives) Act. 35/2013 Sch.
- made on or after the 1st day of January, 1963, by a person who—
- (1) is not resident—
 - (A) in the Island; or

- (B) in a territory to which section 82 applies; or
- (C) in a territory in relation to which there is an order in force under section 83; or
- (D) in a territory in which unilateral relief from double taxation on that income is granted in respect of tax paid on that income in the Island; or

(2) is resident in a territory in which the Commissioner is satisfied upon production of a certificate issued by or on behalf of such authority in the territory as the Commissioner may specify that such income is exempt from income tax;

18/1971
S. 2.
39/2013
S. 39(c)(i).

(f) income accruing to a body corporate resident in the Island in its capacity of trustee under a qualified unit trust scheme, or a collective investment scheme company or other entity which is a qualified collective investment scheme, or a custodian acting on its behalf;

30/1970
S. 7.
12/1985
Sch.
30/1970
S. 8.

(u) any interest paid by the Commissioner of Inland Revenue to any person under this Act;

(v) profits or gains from transactions carried out on the Jamaica Stock Exchange in shares, stock or securities accruing to an individual who does not hold himself out as a dealer therein, being profits or gains which do not exceed one-half of his statutory income from all other sources for the year of assessment, or (where he so elects) being profits or gains which, taken with profits or gains (or losses) on such transactions by him in the two immediately preceding years of assessment, do not exceed one-half of the aggregate of his statutory income from all other sources for the year of assessment and those two preceding years;

18/1971
S. 4.

(w) income consisting of dividends from an investment mentioned in sub-paragraph (s) (iii) received by a

person resident in a country which the Minister has for the purposes of this paragraph specified by order to be one where such income is exempt from taxes corresponding to tax charged under this Act;

(x) interest—

46/1975
S. 3.

(i) paid, otherwise than by way of distribution, to an approved overseas organization by—

(A) a local bank as defined in section 2 of the Banking Act; or

(B) a company licensed under the Financial Institutions Act and approved by the Minister, by order, for the purposes of this paragraph; and

(ii) which the Commissioner is satisfied accrued to the said organization from any amount made available by it to such local bank, or company, by way of deposit therein or the grant thereto of any loan;

21/1982
S. 4(a).

(y) the emoluments in the year 1983 or any subsequent year of assessment, payable to an individual who is certified by the Minister responsible for social security, on the advice of the Chief Medical Officer to be—

21/1982
S. 4(b).

(i) a person suffering from a disabling permanent physical handicap, that is to say, a physical disability, infirmity, malformation or disfigurement of indefinite duration, resulting from illness, injury or congenital defect; or

(ii) a person suffering from a disabling permanent mental handicap, but capable of being gainfully employed,

so, however, that the exemption shall cease if that individual either, on such medical examination as the Minister responsible for social security may at any time require, is certified by the Chief Medical Officer to be no longer suffering from the physical handicap or mental handicap aforesaid or fails to submit to such medical examination;

(z) as regards—

(i) the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of the income of any individual

21/2013
S. 4(c).

derived from a superannuation allowance or pension under either a statutory pension scheme or a scheme for payment from a superannuation fund approved by the Commissioner pursuant to subsection (2) of section 44 or an approved retirement scheme approved by the Commissioner pursuant to section 44A;

- (ii) the period 1st July, 2009 to 31st December, 2009, \$40,000.00 of the income of any individual derived from any of the sources referred to in sub-paragraph (i);
- (iii) any year of assessment subsequent to 2009, \$80,000.00 of the income of any individual derived from any of the sources referred to in sub-paragraph (i);
- (iv) an individual referred to in sub-paragraph (i) who has attained the age of fifty-five years or is found to be permanently incapacitated as described in paragraph (v), for the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source;
- (v) the individual referred to in sub-paragraph (iv), for the period 1st July, 2009 to 31st December, 2009, \$40,000.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source; or
- (vi) the individual referred to in sub-paragraph (iv), in any year of assessment subsequent to 2009, \$80,000.00 of his income derived from any of the sources referred to in sub-paragraph (i) and from any other source;

21/2013
S. 4(d).

(ab) as regards—

- (i) the period 1st January, 2009 to 30th June, 2009, \$22,500.00 of the income of any individual who has attained the age of sixty-five years or attains that age at any time during the year of assessment 2009;

- (ii) the period 1st January, 2009 to 31st December, 2009, \$40,000.00 of the income of any individual referred to in sub-paragraph (i); or
 - (iii) any year of assessment after 2009, \$80,000 of the income of any individual who has attained the age of sixty-five years or attains that age at any time during the year of assessment 2009.
- (ac) interest to which the Fifth Schedule applies; Fifth
Schedule.
8/1990
S. 2(b).
- (ad) interest credited or paid by a body corporate not resident in Jamaica or an association of persons not so resident to an approved person as defined in the Fifth Schedule, accruing from any amount made available to that body corporate or association of persons by way of deposit or loan from funds deposited with that approved person in a specified account as defined in paragraph 2 (a) of the Fifth Schedule:

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any payments other than those referred to above made wholly or partly out of the income so exempted;

- (ae) income received pursuant to a productivity incentive scheme which is— 5/1992
S. 2(b).
- (i) established in relation to such categories of employment as may be specified by the Minister by order for the purposes of this paragraph; and
 - (ii) approved for the purposes of this paragraph by the Minister by order, subject to such terms and conditions as may be specified in the order;
- (af) as regards an employee earning emoluments (excluding payments made pursuant to a gratuity scheme as described herein) of a sum not exceeding \$500,000.00 in the year of assessment, income as specified in the following sub-paragraphs received by the employee pursuant to a gratuity scheme which is established in relation to such categories of employment as may be 21/2013
S.4(e)

specified by the Minister, by order, for the purposes of this paragraph; and which is approved for the purposes of this paragraph by the Minister by order, subject to such terms and conditions as may be specified in that order, namely income—

- (i) for the period 1st January, 2009 to 31st June, 2009, of an amount not exceeding \$125,000.00;
- (ii) for the period 1st July, 2009 to 31st December, 2009, of an amount not exceeding \$74,768.00;
- (iii) for the three-year period 1st January, 2010 to 31st December, 2012, of an amount not exceeding \$29,104.00 in any year of assessment;
- (iv) for any year of assessment commencing after 31st December, 2012, the amount of amount of \$0.00; and

41/2002
S. 5(d).

(ag) interest paid or credited in respect of deposits or other investments of money, as the case may be, made by one or more individuals with one or more prescribed persons which satisfy the following conditions—

14/2006
Sch.

- (i) each relevant deposit or investment account is held in Jamaican dollars for a period of five years without any withdrawal from the principal sum;
- (ii) the aggregate amount deposited or invested in any year of assessment (other than interest accrued or credited) does not exceed one million dollars;
- (iii) not more than seventy-five per cent of the interest accrued in any year of assessment has been withdrawn;
- (iv) pursuant to the terms agreed, the amount deposited or invested is not transferable, except on the death or bankruptcy of the depositor or investor, assignable nor available as collateral;

(v) at least eighty per cent of the assets in which the account's funds are invested are debt securities, securities issued or guaranteed by the Government or the Bank of Jamaica, or are other instruments having an initial maturity of not less than five years and approved for the purposes of this paragraph by the Minister;

(vi) information on the account has been supplied in accordance with the Sixth Schedule;

Sixth
Schedule.

(vii) the prescribed person or his nominee has, prior to accepting deposits and other investments of money, applied in writing to the Minister—

14/2006
Sch.

(A) stating his name, address and taxpayer registration number;

(B) providing such information relating to the deposits or other investments of money as shall enable the Minister to determine whether the conditions specified in this paragraph are satisfied;

(C) undertaking to inform the Minister of any change which would result in the loss of exemption from tax,

and the Minister has issued a certificate of approval containing the particulars set out in Part III of the Sixth Schedule;

Sixth
Schedule.

(ah) interest or appreciation earned by an individual in relation to a life insurance contract where the following conditions apply—

41/2002
S. 5 (d).

- (i) the policy contract has been approved by the Superintendent of Insurance or the Financial Services Commission, as the case may require, for the purposes of this paragraph;
- (ii) the contract is expressed to be in effect for a period of not less than five years;
- (iii) a distinct charge is made against the policy for insurance coverage; and
- (iv) the annual premium does not exceed one-eighth of the amount of insurance coverage, or in the case of an equity-linked or interest-sensitive life insurance contract, contractual premium does not exceed \$5,000 per month or \$60,000 per annum or such other amount as the Minister may determine;

41/2002
S. 5 (d).

(ai) interest or appreciation earned on an equity-linked policy where—

- (i) in relation to any period up to the 31st December, 1999 a minimum of seventy per cent; and
- (ii) in relation to any period from the 1st January, 2000, a minimum of fifty-one per cent,

of the assets to which the policy is linked consist of or are invested in stocks, shares or real estate;

41/2002
S. 5 (d).

(aj) interest or appreciation earned by an individual on any investment in relation to any interest-sensitive insurance contract where the following conditions apply—

- (i) the contract has been approved by the Superintendent of Insurance or the Financial Services Commission, as the case may require, for the purposes of this paragraph;
 - (ii) the amount other than regular contractual premium, invested in any such contract or contracts in any year of assessment does not exceed in the aggregate one million dollars, and in any case does not exceed five million dollars in any five year period;
 - (iii) the investment has been held for a period of five years without any withdrawal from the principal sum;
 - (iv) not more than seventy-five per cent of the interest accrued in any year of assessment has been withdrawn, so, however, that, in relation to funds other than regular contractual premiums invested after the 1st June, 1999, then the conditions specified in paragraph (ag)(v) and (vi) shall apply;
- (ak) accretions realized on the encashment, disposal or redemption of units in a money market fund (within the meaning of section 31A) operated by a qualified unit trust scheme, which have been acquired on or after the 1st June, 1999 where the following conditions apply—
- (i) the units are to be held by individuals for a period of not less than five years;
 - (ii) the units are not transferable except on the death or bankruptcy of the investor;
 - (iii) not more than seventy-five per cent of the accretions realized in any year have been paid out;

41/2002
S. 5(d).

- (iv) the amount invested in the acquisition of any such units in any year does not exceed one million dollars,

and for the purposes of this paragraph the valuation of a money market fund shall be determined on the basis of its average monthly value during the prior three-month period;

39/2013
S. 39(3)(c)(iii).

- (al) accretions realized on the encashment, disposal or redemption of units in a money market fund (within the meaning of section 31A) operated by a qualified collective investment scheme (which units may take the form of investors' shares or otherwise), which have been acquired on or after the 1st day of January, 2014, where the following conditions apply—

- (i) the units are to be held by individuals for a period of not less than five years;
- (ii) the units are not transferable except on the death or bankruptcy of the investor;
- (iii) not more than seventy-five *per cent* of the accretions realized in any year have been paid out;
- (iv) the amount invested in the acquisition of any such units in any year does not exceed one million dollars,

and for the purposes of this paragraph the valuation of a money market fund shall be determined on the basis of its average monthly value during the prior three-month period;

6/2012
S. 3(b).
39/2013
S. 39(3)(c)(iii).

- (am) subject to such conditions as may be prescribed and such conditions as may be specified in the certificate designating the company as an approved group head office company, the emoluments of a person who is not

a citizen of Jamaica and which arise or accrue in respect of the person's holding of an office or employment of profit with an approved group head office company, and which are in respect of the performance by the person of one or more of the company's activities during the period when the certificate is in force.

(2) Except for dividend income earned by any fund or scheme specified in subsection (1)(j), income exempted from tax by virtue of subsection (1), from the payment of income tax, does not include dividend income. 21/2013
S. 4(f).

(3) Notwithstanding subsection (2), any person whose income is specified in subsection (1)(h), (z) or (ab) or whose income falls within an incentive scheme for relief from income tax under any enactment, is entitled to recover any tax suffered on dividend income derived from a company resident in Jamaica.

Ascertainment of Chargeable Income

13.—(1) For the purpose of ascertaining the chargeable income or statutory income, as the case may require, of any person, there shall be deducted all disbursements and expenses wholly and exclusively incurred by such person in acquiring the income— Deductions
allowed.
22/1977
S. 3(a).

- (i) where the income arises from emoluments specified in paragraph (c) of subsection (1) of section 5 during the year of assessment; and 37/1971
S. 3.
- (ii) where the income arises from any other source, during such time as is provided for in section 6,

and such disbursements and expenses may include—

- (a) any sum paid by such person by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was paid on capital employed in acquiring the income:

Provided that—

- (A) the interest is paid to a person resident in this Island; or

- (B) the interest is paid to a person resident elsewhere than in this Island and that either—

- (i) no tax is required to be deducted from the interest or such tax as is required by this Act to be deducted has been deducted from the interest and has been accounted for to the Commissioner; or

- (ii) there is in the Island some person who can be assessed in respect of the interest, or who is liable to pay the tax chargeable upon the interest;

- (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;

- (c) any sum expended for repair of buildings, plant and machinery employed in acquiring the income, or for renewal, or repair of any implement, utensil or article so employed;

- (d) bad debts incurred in any trade, profession or business, proved to the satisfaction of the Commissioner to have become bad during the year of assessment or, as the case may be, the permitted accounting period as defined in subsection (7) of section 6 and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year or the said period notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year or the said period:

29/1969
S. 6.

Provided that all sums recovered during the said year or the said period on account of amounts previously written off or allowed in respect of bad or doubtful debts shall for the purposes of this Act be treated as receipts of the trade, profession or business for that year or for that period;

- (e) any allowances made in accordance with the provisions of the First Schedule;
- (f) any rates and taxes paid on real estate (but not including income tax) from which the income is derived;
- (g) premiums paid on any insurance policy on property used in acquiring the income upon which the tax is payable;
- (h) the amount of any loss sustained in a trade, profession or business carried on in the Island or in the ownership or occupation of any land situated in the Island—

First
Schedule.

3/1987
S. 5(a).

- (i) which, if it had been profit, would have been assessable under this Act;
- (ii) during the year of assessment and previous years of assessment:

Provided that—

- (A) the total amount of such loss shall be reduced by any amount which has been allowed against the income of any previous year or in the year of assessment; and
- 35/2013 Sch. (B) the amount of any loss sustained in a previous year of assessment and not previously allowed (hereinafter referred to as a “prior year loss”) that may be deducted under this paragraph by a taxpayer in any year of assessment shall not exceed 50% of the aggregate amount of income of the taxpayer from all sources remaining after allowing the appropriate deductions and exemptions under this Act (other than prior year losses); and
- 35/2013 Sch. (C) the limit of 50% in clause (B) shall not apply—
- 35/2013 Sch. (i) for the first five years of assessment next following the year of assessment in which the taxpayer commenced a trade, profession or business, as determined by the Commissioner General; or
- 35/2013 Sch. (ii) where the taxpayer’s gross revenue from all sources for the relevant year of assessment is less than the amount referred to in section 27(1)(a)(i) of the General Consumption Tax Act.
- 2/2020 Sch. (i) ordinary annual contributions to an approved superannuation fund:
- 7/1956 S. 5(1)(b). Provided that not more than 15% or, where the fund was approved under the Income Tax Law (now repealed) and has not been approved under this Act, not more than 5% of the employee’s remuneration shall be allowed to a contributor (whether employer or employee) as a deduction:
- 7/1956 S. 5(1)(c).
Cap. 201.
1938 Revised Edition.

Provided further that from and after the 29th day of May, 1958, the foregoing proviso shall be construed as if the figures and symbol "10%" were substituted for the figures and symbol "15%", but nothing in this proviso shall operate either to invalidate the approval of a fund approved prior to the date aforesaid or to prevent the approval of a fund where application for approval was made to the Commissioner prior to the date aforesaid and was pending at that date—

42/1958
S. 4.

Provided further that from and after the coming into operation the Income Tax (Amendment) Act, 2008—

L.2008
S. 3(a)

- (A) an employee's contribution in any year of assessment shall not exceed 10% of his annual remuneration; and
- (B) an employer's contribution in any year of assessment as respects an employee shall not exceed 10% of that employee's annual remuneration.

so, however, that where the employer contributes less than 10% of an employee's annual remuneration, the employee may contribute the difference between the employer's actual contribution and the maximum contribution payable by the employer; and

- (j) any sums paid to an approved fund by an approved association or by any member of an approved association;
- (k) any sums deducted or paid from the stipends of ministers of religious denominations in respect of contributions to the Widows' and Orphans' Funds of such denomination, in cases where no benefits from such funds endure until the death of the contributors;
- (l) any sums deducted or paid in respect of contributions under the Pensions Act, the Pensions (Civil Service Family Benefits) Act or the Provident Fund Act;

- (m) any sums deducted from the pay of any member of the Jamaica Constabulary Force pursuant to the provisions of any enactment for the time being in force requiring deductions to be made from such pay by way of contribution to any pension fund or scheme;
- (n) a reasonable amount for exhaustion, wear and tear of any building or structure used by the owner thereof for the purpose of acquiring the income from a trade, business, profession or vocation carried on by him;

Provided that if at any time the building or structure is sold, or the building or structure is demolished or destroyed, or without being demolished or destroyed, ceases to be used, an allowance or charge shall be made to the owner, and the provisions contained in paragraph 3 of Part I of the First Schedule shall *mutatis mutandis* apply:

First
Schedule.
Part I.

Provided that if any allowance is made to an owner under this paragraph, no allowance under any other section of this Act in respect of exhaustion, wear and tear, shall be available to him:

35/2013
Sch.

Provided that no deduction may be allowed under this paragraph with regard to capital expenditure on a building or structure that is incurred after the 31st day of December, 2013;

9/1963
S. 5(a),(b).

- (o) annuities or other annual payments secured by deed of covenant for a period of at least five consecutive years in favour of the University of the West Indies or of the College of Arts, Science and Technology;

38/1965
S. 51.

- (p) the amount of any contribution paid pursuant to the National Insurance Act;

Provided that—

- (i) nothing in this paragraph shall be construed as allowing any amount to be deducted from the income of any person in respect of any contribution paid by him on behalf of any other person or paid by him in respect of a domestic worker as defined in that Act;
 - (ii) nothing in this paragraph shall apply to any employer's contribution which, apart from this paragraph, would be allowable as a deduction in computing the amount of any profit or gains;
 - (iii) a person who by virtue of any provision of the National Insurance Act suffers a deduction from his emoluments in respect of any contribution payable under that Act shall be deemed for the purposes of this paragraph to have paid a contribution equal to the amount of the deduction;
- (q) the amount or value of a donation to a registered charitable organization of— 32/2013
5th Sch.
- (i) money (however, the allowable deduction shall not exceed five per cent of the statutory income);

13/2013
Sch.

- (ii) other property (however, the allowable deduction shall be of an amount not exceeding the written down value of the property, or five per cent of the statutory income, whichever is the lesser amount).

4/1986
S. 5(a).

- (r) subject to subsection (7), the amount of any expenses incurred in the provision of business entertainment, being entertainment which the Commissioner is satisfied is of a kind and on a scale which is reasonable having regard to all the circumstances;

20/2019
S. 17.

- (s) the amount of any contribution paid pursuant to the Human Employment and Resource Training/National Service and Training Act:

Provided that where such person employs a person as a trainee pursuant to that Act (hereinafter referred to as “the trainee”), the aggregate of the contributions paid pursuant to such Act as aforesaid and the amount of the emoluments, subject to such limit as may be prescribed under that Act, paid by such person to the trainee shall be deducted;

4/1986
S. 5(b).

- (t) any amount taxable as an emolument of an employee pursuant to sub-paragraph (vii) of the proviso to paragraph (c) of section 5 (1);

- (u) ordinary annual contributions to an approved retirement scheme; 3/1987
S. 5(b).

Provided that not more than twenty per cent of the chargeable income of the contributor nor more than twenty per cent of the emoluments of an employee (inclusive of the employer's contribution, if any) shall be allowed as a deduction; 1/2008
S. 3(b).

- (v) the amount of any payment which qualifies for deduction under this Act by virtue of the provisions of the Employees Share Ownership Plan Act. 7/1994
6th Sch.

(1A) Notwithstanding the provisions of subsection (1), in respect of the year of assessment 2016, with the exception of capital allowances and losses to which subsection (1)(e) and (h) relate, expenses and disbursements shall only be deducted in respect of the six-month period in which they were actually incurred. 8/2019
S. 2.

34/1970
S. 6.
3/1987
S. 5(c).

(2) In the case of interest paid by a body corporate subject to income tax in respect of securities issued by it, subsection (1)(a) shall apply only where the interest does not fall to be treated as a distribution by the body corporate. This subsection applies for the year 1970 and subsequent years, but applies only to securities issued on or after 16th June, 1970.

34/1970
S. 6.

(3) (a) Subsection (1)(a) shall apply to the payment of preference dividends by a body corporate subject to income tax as it applies to the payment of interest:

3/1987
S. 5 (d)(i).

Provided that—

16/1980
S. 4.

(i) in the case of a company whose shares are not quoted or dealt in on a recognized stock exchange subsection (1)(a) shall apply to

the payment of preference dividends only up to the extent that the paid up preference capital of the company does not exceed one-half of the remaining paid-up share capital of the company;

- (ii) subsection (1) (a) shall not apply to so much of a preference dividend as is paid at a rate higher than that which appears to the Commissioner to be a reasonable commercial rate at the time of issue of the capital on which it is paid, or where that capital was issued otherwise than for new consideration commensurate with the value of the shares;
- (iii) subsection (2) shall not apply for the purposes of this subsection.

(b) This subsection applies for the year 1970 and subsequent years, but in paragraph (ii) the words from "or where" to "the shares;" apply only to capital issued on or after 16th June, 1970, other than capital issued before 30th September, 1970, in accordance with a press notice published before 16th June, 1970. 18/1971
S. 5.

(4) In so far as payments falling within subsection (1) consist of expenses of management (other than audit fees) referable to the acquiring of investment income they shall be deductible under that subsection only up to a limit of one-tenth of that investment income, and any surplus of the expenses over that limit shall be disregarded. This subsection applies for the year 1970 and subsequent years. 34/1970
S. 6.

(5) In the case of a body corporate subject to income tax subsection (1) shall apply subject to the following provisions and to the provisions of subsection (6)— 34/1970
S. 6.
3/1987
S. 5(c).

(a) if—

- (i) within any period of three years there appears to the Commissioner to be both

a change in the control of the body corporate and (either earlier or later in that period or at the same time) a major change in the nature or conduct of a trade or business carried on by it, or

- (iii) at any time after the trade or business carried on by it has become small or negligible and before any considerable revival of the trade or business, there appears to the Commissioner to be a change in the control of the body corporate,

the Commissioner may, if he thinks fit, direct that no relief shall be given under paragraph (h) of subsection (1) by setting a loss incurred by the body corporate in an accounting period beginning before the change of control against any income or other profits of an accounting period ending after the change of control;

- (b) in applying paragraph (a) to the accounting period in which the change of control occurs, the part ending with the change of control, and the part after, shall be treated as two separate accounting periods, and the profits or losses of the accounting period shall be apportioned to the two parts at an even rate.

18/1971
S. 5.

(6) Subsection (5) applies for the year 1970 and subsequent years, but paragraph (a) does not apply if the change of control took place before 16th June, 1970; and sub-paragraph (i) of paragraph (a) does not apply if the major change in the nature or conduct of the trade or business was completed before that date.

4/1986
S. 5 (c).

(7) Where by virtue of paragraph (r) of subsection (1), a person claims to deduct any expenses in relation to business entertainment, he shall, if the Commissioner so re-

quires, furnish particulars of the entertainment in question and of the person for whom it was provided.

(8) For the purposes of paragraph (r) of subsection (1) and subsection (7)— 4/1986
S. 5(c).

(a) “business entertainment” means entertainment (including hospitality of any kind) provided by a person, or by a member of his staff, in connection with a trade, business, profession, employment or vocation carried on by that person, but does not include anything provided by him for members of his staff unless its provision for them is incidental to its provision also for others;

(b) any reference to expenses incurred in providing business entertainment includes a reference to expenses incurred in providing anything incidental thereto, and any reference to the members of a person’s staff includes references to persons employed by that person, and, in the case of a company, directors of the company or persons engaged in the management thereof whether or not employees of the company.

(9) Subsection (1) shall not apply in respect of dividend income received by any person, other than specified dividend income. 21/2013
S. 5.

(10) The reference in subsection (9) to specified dividend income is a reference to dividend income (other 21/2013
S. 5.

than income to which section 30(4) applies) of any body corporate subject to income tax which is duly regulated by the Bank of Jamaica or the Financial Services Commission, and whose dominant trade or business is comprised of making investments in loans, securities and other financial assets.

Debts
set off
against
profits
and sub-
sequently
released.
29/1969
S. 4.

14.—(1) Where, in computing the profits or gains of any person from a trade, profession or business, a deduction has been allowed for any debt incurred for the purposes of the trade, profession or business, then, if the whole or any part of that debt is thereafter released, the amount released shall be treated as a receipt from the trade, profession or business arising in the period in which the release is effected.

(2) If in any such case as aforesaid, any person permanently ceases to carry on or exercise a trade, profession or business at or after the end of the period for which the deduction was allowed and before the release was effected, section 7 shall apply as if the amount released were a sum received after the cessation.

(3) If and when a claim for an unsatisfied debt or any part thereof ceases to be actionable by virtue of the law relating to the limitation of actions, the debt or part thereof shall, for the purposes of this section, be treated as if it had been released.

14A. [*Deleted by Act 35 of 2013, Sch.*]

Deduction in
respect of
specified
workers.
13/1982
S. 26(b).

14B. In ascertaining the chargeable income in respect of income tax of any person who proves to the satisfaction of the Commissioner in the prescribed manner that—

- (a) he employed a person selected as a trainee under the Human Employment and Resource Training Act; and
- (b) the remuneration of the trainee is deductible as an expense under section 13(1); and
- (c) the Minister or any person authorized by the Minister has certified that such person has satisfactorily provided the trainee with the required training and employment,

there shall be deducted as a disbursement or expense wholly and exclusively incurred by such person in acquiring the said income during the second and third years, respectively, of the period of employment an amount equivalent to 75% of the trainee's remuneration in each such year, so, however, that, in respect of a female trainee, there shall be deducted as aforesaid an amount equivalent to 80% of the remuneration of such female trainee.

15.—(1) Subject to the provisions of this Act, and for the purpose of ascertaining the chargeable income or statutory income, as the case may require, of any person, no deduction shall be allowed in respect of—

Deductions
not
allowable.
22/1977
S. 4(a).
20/1982
S. 5.

- (a) domestic or private expenses;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital;
- (d) any capital employed in improvements;
- (e) any loss not connected with or arising out of the trade, profession or vocation;
- (f) any sum recoverable under an insurance or contract of indemnity;

(g) rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income;

7/1956
S. 6.

(h) any amounts paid or payable in respect of the United Kingdom income tax or surtax or Commonwealth income tax as defined by this Act;

34/1970
S. 6.

(i) any sum paid or expense incurred by a body corporate in providing any benefit or facility of whatsoever nature, whether convertible into money or not, for the benefit of a principal member of the body corporate or his relative in return for services rendered to the body corporate, unless the body corporate shows to the satisfaction of the Commissioner that the amount of the said sum or expense is commensurate with the value of the service rendered, regard being had to any other perquisites or remuneration for those services;

21/2013
S. 6(a).

21/2013
S. 6(b).

(j) expenses incurred in earning dividend income, other than specified dividend income described in section 13(10).

21/1982
S. 5.

(2) In the year 1984 or subsequent years of assessment any loss incurred by any person in connection with agriculture shall not be allowed as a deduction in determining that person's liability to tax in respect of income arising from any other trade, business, profession, employment or vocation carried on by him.

(3) In subsection (2) agriculture includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding, livestock keeping, fish farming or the growing of trees for producing timber.

35/2013
Sch.

(4) Notwithstanding the provisions of subsection (2), a person who operates an approved farming enterprise may set off any loss incurred in connection with a prescribed agricultural activity against profits or gains arising from any other trade, business, profession, employment or vocation carried on by that person.

(5) In subsection (4)—

35/2013
Sch.

“approved farming enterprise” means an enterprise that has been approved by the Minister for the purposes of carrying out prescribed agricultural activities;

“prescribed agricultural activity” means such activity as the Minister may by order prescribe.

15A. [*Deleted by Act 16 of 1991, S. 64*]

16.—(1) Where the Commissioner 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, the Commissioner may disregard any such transaction or disposition, and the persons concerned shall be assessable accordingly.

Artificial transac-
tions,
transfers
to children
and
transfers
in trust.

(2) Where a person transfers property to his child, either directly or indirectly, or through the intervention of a trust or by any other means whatsoever, such person shall, nevertheless, during the period of the minority of the child, be liable to be taxed on the income derived from such property, or from property substituted therefor, as if such transfer had not been made, and subsequent to such period of minority, the transferor shall continue to be taxed in respect of the income derived from such property, or from property substituted therefor, as if such transfer had not been made, unless the Commissioner is satisfied that such transfer was not made for the purpose of evading the taxes imposed under this Act.

(3) (a) Where by virtue of subsection (2), any income tax becomes chargeable on and is paid by the person by whom a transfer of any property was made, and the Commissioner is satisfied that such transfer was not made for the purposes of evading the tax imposed under this Act, that person shall be entitled—

- (i) to recover from any trustee or other person to whom the income is payable by virtue or in consequence of the transfer the amount of the tax so paid; and
- (ii) for that purpose to require the Commissioner to furnish to him a certificate specifying the amount of income in respect of which he has so paid tax and the amount of tax so paid,

and any certificate so furnished shall be conclusive evidence of the facts appearing thereby.

(b) Where any person obtains in respect of any allowance or relief a repayment of income tax in excess of the amount of the repayment to which he would but for the provisions of this subsection have been entitled, an amount equal to the excess shall be paid by him to the trustee or other person to whom the income is payable by virtue or in consequence of any such transfer of property as aforesaid, or, where there are two or more such persons shall be apportioned among those persons, as the case may require.

(4) Where a person transfers property in trust and provides that the 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.

(5) Any income which is deemed by virtue of this section to be the income of any person shall be deemed to be the highest part of his income.

(6) Nothing contained in this section shall be deemed to prevent a decision of the Commissioner, made in the exercise of any discretion given to him by this section, from being questioned in any appeal against an assessment under the provisions of this Act.

(7) For the purposes of this section the expression “disposition” includes any settlement, trust, covenant, agreement, arrangement or transfer of assets, and “child” includes a stepchild, an adopted child or an illegitimate child.

17.—(1) For the purposes of this section, sections 17A and 17B and the Eighth Schedule—

“arm’s length consideration”, in relation to a connected transaction—

(a) means the consideration that would have been obtained if the connected transaction had been a comparable independent transaction; and

(b) shall be determined in accordance with the Eighth Schedule;

“comparable independent transaction”, means an independent transaction that is determined in accordance with the Eighth Schedule to be an appropriate transaction to compare with a particular connected transaction;

“connected person”, in relation to a participant in a transaction, means a person who is treated as being connected, in accordance with section 2(2), with another participant in the transaction;

“connected transaction” means a transaction between connected persons;

“consideration” in relation to a transaction, means all of the terms and conditions applicable to the transaction, and includes, but is not limited to, the price, profit margin and profit share, terms of payment, security for payment, and any other commercially significant aspects of the transaction;

“independent person”, in relation to a participant in a transaction, means a person who is not treated as being connected, in accordance with section 2(2), with any other participant in the transaction;

Determina-
tion of
arm’s length
consider-
ation
(transfer
pricing).
30/2015
S. 4.
Eight
Schedule.

“independent transaction” means a transaction between independent persons.

(2) In each true and correct return which shall be delivered to the Commissioner General by every person liable to pay income tax in respect of any year of assessment, the person whose income the return relates to shall—

- (a) state the arm’s length consideration (and no other consideration) in respect of any connected transaction in which the person participated in that year of assessment; and
- (b) use the arm’s length consideration (and no other consideration) in computing the tax chargeable on the person’s income for that year of assessment.

(3) If—

- (a) the consideration in respect of a connected transaction is not arm’s length consideration; and
- (b) the taxable income that would have accrued to an connected person who participates in that transaction, if the consideration for that transaction had been arm’s length consideration, has not so accrued,

then, for the purposes of determining the taxable income derived from that transaction by any of those connected persons, the consideration in respect of that transaction shall be treated as that which would have been obtained if the transaction had been arm’s length consideration.

(4) Where a return of income is submitted to the Commissioner General under this Act, the person in respect of whose income it is submitted shall certify whether to his knowledge the accounts or information upon which the return is based include particulars of any transactions carried out between connected persons and if so what those particulars are.

(5) With effect from the year of assessment 2016, if any person fails to certify as required by subsection (4) or provides an incorrect or incomplete certificate or return due to the taxpayer's negligent or fraudulent conduct, he shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding twelve months.

(6) The Commissioner General may require a person who participates in a transaction to confirm to the Commissioner General what, in the person's opinion, is the arm's length consideration for the transaction.

(7) For the purposes of determining whether a person who participates in a transaction is a connected person or whether the transaction is a connected transaction, the Commissioner General may request that person to provide information or documentation regarding—

- (a) the relationship of that person to any other person who participates in the transaction; and
- (b) the consideration for the transaction, including the terms and conditions of the transaction.

(8) If a person fails to provide, to the satisfaction of the Commissioner General, any information or documentation requested by the Commissioner General under subsection (7) in respect of a transaction or in respect of the relationship of the person to any other person who participates in the transaction, then the Commissioner General shall—

- (a) treat the person as a connected person in relation to any other person who participates in the transaction and treat the transaction as a connected transaction; and
- (b) determine the arm's length consideration for the transaction accordingly.

(9) Where a person ("person A") is a participant in a transaction with another person ("person B") who is resident

in a jurisdiction other than Jamaica, as described in subsection (10), then the Commissioner General shall—

- (a) treat person A as being a connected person in relation to person B and treat the transaction as a connected transaction; and
- (b) require person A to determine the arm's length consideration for the transaction accordingly.

(10) Subsection (9) applies in respect of a jurisdiction other than Jamaica that, in the opinion of the Commissioner General, is one in which either—

- (a) no tax is payable on the income, profits or gains of person B; or
- (b) the rate of tax applicable to the income, profits or gains of person B is less than one half of the rate of tax that would be applicable under this Act to the income, profits or gains of person B if person B were resident in Jamaica.

(11) Person A referred to in subsection (9) shall not be required to provide documentation on the determination of the arm's length consideration in the transaction with person B, provided person A satisfies the Commissioner General with the relevant information and evidence that person B is not a connected person.

(12) For the purposes of any assessment, objection or appeal under this Act, the onus shall be on a person who alleges that the consideration for a transaction is arm's length consideration to prove that the consideration is arm's length consideration.

17A.—(1) The Commissioner General may, upon application by any person who is liable to pay tax under this Act, enter into an agreement with that person (hereinafter referred to as a "transfer pricing agreement") regarding the manner of determining the arm's length consideration for connected transactions by that person.

(2) Where a person has entered into a transfer pricing agreement with the Commissioner General, the arm's length

consideration for connected transactions by that person that are within the scope of the agreement shall be determined in accordance with the agreement, unless the consideration for any such transaction is inconsistent with the agreement.

(3) The Commissioner General may make rules regarding transfer pricing agreements, including rules in respect of any or all of the following matters—

- (a) the criteria for a person to be eligible to apply for such an agreement to be entered into;
- (b) the form and manner for applying for such an agreement to be entered into, and the information to be provided by an applicant;
- (c) the terms and conditions that are to be included in such agreements, including provisions for their duration, suspension and termination;
- (d) such other matters as the Commissioner General considers necessary or desirable for the better carrying out of the provisions of this section.

17B.—(1) This section applies in circumstances where—

- (a) an adjustment to the consideration in respect of a connected transaction is made by a tax authority of a country other than Jamaica;
- (b) the adjustment referred to in paragraph (a) results in the tax authority in that other country making an increase to the taxable base in that country, by a connected person who is a participant in the connected transaction, on an amount of income in respect of which the connected person is liable to pay tax in Jamaica; and
- (c) the country referred to in paragraph (a) has a treaty with Jamaica that provides for relief from double taxation.

Adjustment
to prevent
double
taxation.
30/2015
S. 5.

(2) Where the circumstances described in subsection (1) apply, a person referred to in subsection (1)(b) may request the Commissioner General to examine and determine

whether the consideration, after an adjustment referred to in subsection (1)(a), is consistent with arm's length consideration.

(3) Upon receipt of a request under subsection (2), the Commissioner General shall carry out the examination requested, in consultation with the tax authority of the other country referred to in subsection (1)(c) if necessary.

(4) If, after an examination under subsection (3), the Commissioner General determines that—

- (a) the consideration in respect of a connected transaction, after an adjustment referred to in subsection (1)(a) has been made by the tax authority of another country, is consistent with arm's length consideration for that transaction; and
- (b) an adjustment referred to in subsection (1)(b) has been made by the taxing authority of the other country to the taxable income in that country by the connected person,

then the Commissioner General shall make a corresponding adjustment to the amount of taxable income in Jamaica by that connected person, unless the Commissioner General considers that the adjustment of taxable income in the other country has been made as a result of fraud or wilful default.

17C. Every person who engages in a transaction to which section 17A applies shall prepare and keep the prescribed documentation.

17D.—(1) The Minister may make regulations generally in relation to transfer pricing, and in particular but without prejudice to the generality of the foregoing, may make regulations—

- (a) determining the size of enterprises to which the provisions of this Act relating to transfer pricing shall relate; and

Duty to
keep
prescribed
documenta-
tion.
30/2015
S. 5A.

Regulations
on transfer
pricing.
30/2015
S. 5A.

- (b) specifying the size and nature of transactions to which the provisions of this Act relating to transfer pricing shall relate.

(2) Regulations made under subsection (1)—

- (a) may be given retroactive effect to a date not earlier than January 1, 2015; and
- (b) shall be subject to affirmative resolution of the House of Representatives.

18.—(1) Where—

- (a) in any such circumstances as are mentioned in subsection (2); and
- (b) in consequence of a transaction in securities or of the combined effect of two or more such transactions,

Anti-avoidance: transactions in securities. 30/1970 S. 11.

a person is in a position to obtain, or has obtained, a tax advantage, then unless he shows that the transaction or transactions were carried out either for *bona fide* commercial reasons or in the ordinary course of making or managing investments, and that none of them had as their object, or one of their objects, to enable tax advantages to be obtained, this section shall apply to him in respect of that transaction or those transactions.

(2) The circumstances mentioned in subsection (1) are that—

- (a) in connection with the distribution of profits of a company, or in connection with the sale or purchase of securities, being a sale or purchase followed by the purchase or sale of the same or other securities, the person in question, being

entitled (by reason of any exemption from tax or by the setting off of losses against profits or income) to recover tax in respect of dividends received by him, receives an abnormal amount by way of dividend; or

(b) in connection with the distribution of profits of a company or any such sale or purchase as aforesaid the person in question becomes entitled, in respect of securities held or sold by him, or in respect of securities formerly held by him (whether sold by him or not), to a deduction in computing profits or gains by reason of a fall in the value of the securities resulting from the payment of a dividend thereon or from any other dealing with any assets of a company; or

(c) the person in question receives, in consequence of a transaction whereby any other person—

(i) subsequently receives, or has received, an abnormal amount by way of dividend; or

(ii) subsequently becomes entitled, or has become entitled, to a deduction as mentioned in paragraph (b),

a consideration which either is, or represents the value of, assets which are (or apart from anything done by the company in question would have been) available for distribution by way of dividend, or is received in respect of future receipts of the

company or is, or represents the value of, trading stock of the company, and the said person so receives the consideration that he does not pay or bear tax on it as income.

In this subsection—

- (i) references to profits include references to income, reserves or other assets;
- (ii) references to distribution include references to transfer or realization (including application in discharge of liabilities); and
- (iii) references to the receipt of consideration include references to the receipt of any money or money's worth,

but the assets mentioned in paragraph (c) do not include assets which (while of a description which under the law of the country in which the company is incorporated is available for distribution by way of dividend) are shown to represent a return of sums paid by subscribers on the issue of securities.

(3) Where this section applies to a person in respect of any transaction or transactions, the tax advantage obtained or obtainable by him in consequence thereof shall be counteracted by such of the following adjustments, that is to say, an assessment or additional assessment, the nullifying of a right to repayment or the requiring of the return of a repayment already made (the amount to be returned being chargeable and recoverable accordingly), or the computation or recomputation of profits or gains, or liability to tax, on such basis as the Commissioner may specify by notice in writing served on him as being requisite for counteracting the

tax advantage so obtained or obtainable.

(4) The following provisions shall have effect where a person furnishes to the Commissioner particulars of a transaction or transactions effected or to be effected by him and states that he does so under this subsection, that is to say—

- (a) if the Commissioner is of the opinion that the particulars, or any further information furnished in pursuance of this paragraph, are not sufficient for the purposes of this subsection, he shall within sixty days of the receipt thereof notify to the said person what further information he requires for those purposes, and unless that further information is furnished to the Commissioner within thirty days from the notification or such further time as the Commissioner may allow the Commissioner shall not be required to proceed further under this subsection;
- (b) subject to the foregoing paragraph, the Commissioner shall within thirty days of the receipt of the particulars, or where that paragraph has effect of all further information required, notify the said person whether or not he is satisfied that the transaction or transactions as described in the particulars were or will be such that no notice under subsection (3) ought to be given in respect of it or them,

and if the Commissioner notifies him that he is so satisfied this section shall not apply to him in respect of that transaction or those transactions:

Provided that—

- (i) if the particulars, and any further information given under this subsection with respect to any trans-

action or transactions, are not such as to make full and accurate disclosure of all facts and considerations relating thereto which are material to be known to the Commissioner, any notification given by the Commissioner under this subsection shall be void;

- (ii) in no event shall the giving of a notification under this subsection with respect to any transaction or transactions prevent this section applying to a person in respect of transactions which include that transaction or all or some of those transactions and also include another transaction or other transactions.

(5) Where the Commissioner notifies a person that he is not satisfied as mentioned in paragraph (b) of subsection (4) he shall include in the notification a statement of his reasons.

(6) For the purposes of subsection (2) an amount received by way of dividend shall be treated as abnormal if the Commissioner is satisfied—

- (a) in the case of a dividend at a fixed rate, that it substantially exceeds the amount which the recipient would have received if the dividend had accrued from day to day and he had been entitled only to so much of the dividend as accrued while he held the securities, so, however, that an amount shall not be treated as abnormal by virtue only of this paragraph if during the six months beginning with the purchase of the securities the recipient does not sell or otherwise dispose of, or acquire an option to sell, any of those securities or any securities similar to those securities; or
- (b) in any case, that it substantially exceeds a normal return on the price paid for the securities.

(7) Where it appears to the Commissioner that by reason of any transaction or transactions any person—

(a) may by virtue of any of the provisions of this section have incurred any liability to income tax;
or

(b) may be a person to whom this section applies,
the Commissioner may by notice in writing served on him require him, within such time not less than twenty-eight days as may be specified in the notice, to furnish information in his possession with respect to the transaction or any of the transactions, being information as to matters, specified in the notice, which are relevant to the question whether he has incurred such a liability as aforesaid or whether notice under subsection (3) should be given in respect of him.

(8) In the case of a man and his wife living with him this section shall be treated as applying to him in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the wife were his property, rights or liabilities in relation to which she had acted only as nominee for him, and shall be treated as applying to the wife in respect of any transaction or transactions as it would apply if any property, rights or liabilities of the man were her property, rights or liabilities in relation to which he had acted only as nominee for her :

Provided that no adjustment made under subsection (3) by reference to any transaction or transactions to counteract any tax advantage shall by virtue of this subsection be so made that a person bears more tax than if the transaction or transactions had not had as a consequence that any relief or increased relief from, or repayment or increased repayment of, income tax, or any deduction in computing profits or gains, was obtained or obtainable, or that the way in which receipts accrued was such that the recipient did not pay or bear tax on them.

(9) For the purposes of this section a tax advantage obtained or obtainable by a person shall be deemed to be obtained or obtainable by him in consequence of a transaction in securities or of the combined effect of two or more such transactions if it is obtained or obtainable in consequence of the combined effect of the transaction or transactions and of the liquidation of a company.

(10) In this section—

“dividend” includes interest;

“securities” includes shares and stock;

“tax advantage” means a relief or increased relief from, or repayment or increased repayment of, income tax or the avoidance or reduction of an assessment to income tax or the avoidance of a possible assessment thereto, whether the avoidance or reduction is effected by receipts accruing in such a way that the recipient does not pay or bear tax on them, or by a deduction in computing profits or gains;

“transaction in securities” includes transactions, of whatever description, relating to securities, and in particular—

- (i) the purchase, sale or exchange of securities;
- (ii) the issuing or securing the issue of, or applying or subscribing for, new securities;
- (iii) the altering, or securing the alteration of, the rights attached to securities.

(11) This section applies where the transaction or transactions in securities was or were carried out, and any changes necessary to obtain the tax advantage were effected on or after 11th June, 1970.

19.—(1) The provisions of subsections (2) to (10) shall have effect for the purpose of preventing the avoiding by a body corporate resident or an individual resident or ordinarily

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Transfers to
persons
abroad.
30/1970
S. 12 (a)
and (b).

resident in the Island (in this section referred to as a "Jamaica resident") of liability to income tax by means of transfers of assets by virtue or in consequence whereof, either alone or in conjunction with associated operations, income becomes payable to persons resident or domiciled out of the Island.

30/1970
S. 12 (c).

(2) Where a Jamaica resident by virtue or in consequence of any such transfer, either alone or in conjunction with associated operations, has, within the meaning of this section, power to enjoy, whether forthwith or in the future, and whether alone or together with another person who may or may not be resident in the Island, any income of a person resident or domiciled out of the Island which, if it were income of the Jamaica resident received by him in the Island, would be chargeable to income tax by deduction or otherwise, that income shall, whether it would or would not have been chargeable to income tax apart from the provisions of this section, be deemed to be income of the Jamaica resident for all the purposes of this Act.

(3) Where, whether before or after any such transfer, a Jamaica resident receives or is entitled to receive any capital sum the payment whereof is in any way connected with the transfer or any associated operation, any income which, by virtue or in consequence of the transfer, either alone or in conjunction with associated operations, has become the income of a person resident or domiciled out of the Island shall, whether it would or would not have been chargeable to income tax apart from the provisions of this section, be deemed to be the income of the Jamaica resident for all the purposes of this Act.

In this subsection, "capital sum" means—

- (i) any sum paid or payable by way of loan or repayment of a loan; and

- (ii) any other sum paid or payable otherwise than as income, being a sum which is not paid or payable for full consideration in money or money's worth.

(4) Subsections (2) and (3) shall not apply if the Jamaica resident satisfies the Commissioner whether before or after the transfer or associated operations are carried out, either—

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S. 12 (d).

- (a) that the purpose of avoiding liability to taxation is not the purpose or one of the purposes for which the transfer or associated operations or any of them was or will be effected; or
- (b) that the transfer and any associated operations were or will be *bona fide* commercial transactions not designed for the purpose of avoiding liability to taxation.

(5) For the purposes of this section, "an associated operation" means, in relation to any transfer, an operation of any kind effected by any person in relation to any of the assets transferred or any assets representing, whether directly or indirectly, any of the assets transferred, or to the income arising from any such assets, or to any assets representing, whether directly or indirectly, the accumulations of income arising from any such assets.

(6) A Jamaica resident shall, for the purposes of this section, be deemed to have power to enjoy income of a person resident or domiciled out of the Island if—

- (a) the income is in fact so dealt with by any person as to be calculated, at some point of time, and whether in the form of income or not, to enure for the benefit of the Jamaica resident; or
- (b) the receipt or accrual of the income operates to increase the value to the Jamaica resident of any assets held by him or for his benefit; or

- (c) the Jamaica resident receives or is entitled to receive, at any time, any benefit provided or to be provided out of that income or out of moneys which are or will be available for the purpose by reason of the effect or successive effects of the associated operations on that income and on any assets which directly or indirectly represent that income; or
- (d) the Jamaica resident has power, by means of the exercise of any power of appointment or power of revocation or otherwise, to obtain for himself, whether with or without the consent of any other person, the beneficial enjoyment of the income, or may, in the event of the exercise of any power vested in any other person, become entitled to the beneficial enjoyment of the income; or
- (e) the Jamaica resident is able in any manner whatsoever, and whether directly or indirectly, to control the application of the income.

(7) In determining whether a Jamaica resident has power to enjoy income within the meaning of this section, regard shall be had to the substantial result and effect of the transfer and any associated operations, and all benefits which may at any time accrue to the Jamaica resident (whether or not he has rights at law or in equity in or to those benefits) as a result of the transfer and any associated operations shall be taken into account irrespective of the nature or form of the benefits.

(8) For the purposes of this section, any body corporate incorporated outside the Island shall be treated as if it were resident out of the Island whether it is so resident or not.

(9) For the purposes of this section—

- (a) a reference to a Jamaica resident shall be deemed

[The inclusion of this page is authorized by L.N. 172/1986]

to include the wife or husband of the Jamaica resident;

- (b) "assets" includes property or rights of any kind, and "transfer", in relation to rights, includes the creation of those rights;
- (c) "benefit" includes a payment of any kind;
- (d) references to assets representing any assets, income or accumulations of income include references to shares in or obligations of any company to which, or obligations of any other person to whom, those assets, that income or those accumulations are or have been transferred.

(10) In so far as this section incorporates amendments made by the Income Tax (Amendment) Act, 1970, those amendments apply to transfers and associated operations carried out on or after 11th June, 1970.

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S. 12.

20.—(1) It shall be unlawful without the consent in writing of the Minister—

- (a) for a body corporate resident in the Island to cease to be so resident; or
- (b) for the trade or business or any part thereof of a body corporate so resident to be transferred from that body corporate to a person not so resident (disregarding a mere transfer of assets not resulting in a substantial change in the character or extent of that trade or business); or
- (c) for a body corporate so resident to cause or permit a body corporate not so resident over which it has control to create or issue any shares, stock or securities (other than securities which are issued to a person carrying on a *bona fide* banking business in return for consideration not provided out of the assets or at the cost of the body corporate and which are commensurate in value

Change of
residence,
etc., by
bodies
corporate.
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S. 13.

with that consideration), unless the body corporate not so resident is required so to act by the Government of the country in which it is resident or any agency thereof; or

- (d) for a principal member of a body corporate whose shares are not quoted on the Jamaica Stock Exchange and which is controlled by persons resident in the Island to do any act (other than changing his own country of residence) whereby the body corporate ceases to be controlled by persons resident in the Island; or
- (e) except for the purpose of enabling a person to be qualified to act as a director, for a body corporate resident in the Island to transfer to any person, or cause or permit to be transferred to any person, any shares, stock or securities of a body corporate not resident in the Island over which it has control, being shares, stock or securities which it owns or in which it has an interest.

(2) [*Deleted vide Act 11 of 1992.*]

(3) Any person who does or is a party to the doing of any act which to his knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, something which is unlawful under subsection (1) shall be guilty of an offence and in any proceedings in respect of such an offence against a director of the body corporate in question (that is to say, the body corporate that is or was resident in the Island) or against any person who was purporting to act in that capacity—

- (a) it shall be presumed that he was a party to every act of that body corporate unless he shows that it was done without his consent or connivance; and

- (b) it shall, unless the contrary is proved, be presumed that any act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in or would amount to or result in, something which is unlawful under subsection (1) was to his knowledge such an act.

(4) Where any act has been done in contravention of this section the income tax of any person affected by that act shall be calculated, so far as practicable, on the basis which would have applied had that act not taken place.

(5) Any person who is guilty of an offence under this section shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.

12/2004
Sch.
8/2014
Sch.

20A. An approved group head office company shall notify the Commissioner General of Tax Administration Jamaica, in writing—

Notification of commencement and cessation of employment of employee of group head office company who is not resident in the Island.
6/2012
S. 4.

- (a) within thirty days of the commencement of employment of any employee to whom section 12(*al*) applies;
- (b) at least ninety days before the cessation of employment, of any employee to whom section 12 (*al*) applies.

20B. Where the Commissioner General of Tax Administration Jamaica—

Repayment of tax relieved by employee of an approved group head office company.
6/2012
S. 4.

- (a) is satisfied that the emoluments arising or accruing from the employment activities of any employee of an approved group headquarters company have been treated as emoluments to which section 12(*al*) applies; and
- (b) determines that the emoluments ought not to have been so treated,

then, the amount of any relief granted under section 12(*al*) may be assessed against the employee and treated as if it was unpaid tax.

then, the amount of any relief granted under section 12(*al*) may be assessed against the employee and treated as if it was unpaid tax.

Personal Reliefs

- 21.
- 22.
- 23.
- 24.
- 25.
- 25A.
- 25B.
- 25C.
- 25D.

[Repealed by Act 4 of 1986.]

Tax credit in respect of payment of contractors levy.
21/1985 S. 15 (a).

25E. In ascertaining the income tax payable in respect of the year 1985 or any subsequent year of assessment by an individual who satisfies the Commissioner that the levy imposed by the Contractors Levy Act has been deducted from a payment to him and paid in accordance with that Act to a Collector of Taxes in that year, there shall be allowed a tax credit equivalent to the amount of the levy so paid.

Non-residents

26. [Repealed by Act 4 of 1986.]

Persons not domiciled or Commonwealth citizens not ordinarily residents in this Island; basis of computation.
7/1956
S. 33.
9/1963
S. 9(1)(c).
30/1970
S. 14 (1).

27.—(1) Any person who satisfies the Commissioner that he is not domiciled in this Island, or that being a Commonwealth citizen he is not ordinarily resident in this Island, shall in respect of income derived from sources out of this Island be chargeable with income tax only on such income as is received in this Island:

Provided that where such a person was present in the Island for a period or periods aggregating in the whole to not less than three months in the year of assessment this subsection shall not apply to his income so far as it relates to work done in the Island or work done elsewhere in relation to the Island, and in determining how far it so relates any agreement or arrangement for its apportionment may be disregarded by the Commissioner if it appears to him not fairly to reflect the value of that work.

30/1970
S. 14 (2).

(2) Where a person who satisfies the Commissioner as aforesaid directly or indirectly receives, as part of his

emoluments from an employer, a sum representing the excess of the tax with which he is chargeable under this Act in respect of the emoluments (excluding that sum) over the tax with which he would be chargeable in respect thereof under the law of the country of his domicile if the following conditions applied, namely—

37/1971
S. 3.

- (a) if this Act did not apply; and
- (b) if he were treated as ordinarily resident in that country; and
- (c) if such emoluments were treated as arising or accruing in that country,

he shall not be chargeable with income tax on that sum.

(3) Any claim which a person is entitled to make by virtue of this section shall be made to the Commissioner in such form as he may approve and the Commissioner shall on proof of the facts to his satisfaction allow the claim accordingly.

7/1956
S. 33.

(4) Any person who is aggrieved by the decision of the Commissioner on a claim made by him as aforesaid, may, by notice in writing to that effect given to the Commissioner within thirty days from the date on which notice of the decision is given to him, appeal to the Commissioner of Taxpayer Appeals and, as the case may require, to the Revenue Court in like manner as an appeal made against an assessment under this Act.

29/1971
S. 12.
L.N.
8B/2002.

28. Any person ordinarily resident in the Island who leaves the Island for the purpose only of occasional residence abroad shall be assessed and charged to income tax as a person actually residing in the Island.

Temporary
absentees.

29. A person shall not be charged to income tax in respect of income arising outside the Island, who is in the Island for some temporary purpose only, and not with any view or intent of establishing his residence therein, and who has not actually resided in the Island in any year of assessment for a period or periods aggregating in the whole to six months; but if any such person resides in the Island for the aforesaid space of time he shall be so chargeable.

Temporary
residents.

Rates of
income tax.
23/1972

S. 5.

53/1974

S. 4(a).

48/1975

S. 6(a).

38/1976

S. 4.

22/1977

S. 5(a).

31/1977

S. 4.

16/1980

S. 7 (a)&(b).

4/1986

S. 8 (a)(b).

3/1987

S. 6 (a) (b) (c).

16/1990

S. 3 (a) (b).

5/1992

S. 3 (a) (b).

9/1994

S. 4 (a),

(b), (c).

41/2002

S. 6.

21/2013

S. 7(a).

30.—(1) Subject to the provisions of this Act, there shall be levied and paid—

(a) upon the statutory income of every individual, tax at the following rates in respect of income arising—

(i) between the 1st January, 2005 and the 30th June, 2005—

For the first \$60,216.00 ... Nil;

For every dollar of the income exceeding \$60,216.00 ... 25 cents;

(ii) between the 1st July, 2005 and the 31st December, 2005—

For the first \$84,552.00 ... Nil;

For every dollar of the income exceeding \$84,552.00 ... 25 cents;

(iii) for each year of assessment between the 1st January, 2006 and the 31st December, 2007—

For the first \$193,440.00 ... Nil;

For every dollar of the income exceeding \$193,440.00 ... 25 cents;

(iv) between the 1st January, 2008 and the 30th June, 2008—

For the first \$96,720.00 ... Nil;

For every dollar of the income exceeding \$96,720.00 ... 25 cents;

- (v) between the 1st July, 2008 and the 31st December, 2008—

For the first \$100,152.00 ... Nil; and

For every dollar of the income exceeding \$100,152.00 ... 25 cents;

- (vi) between the 1st January, 2009 and the 30th June, 2009—

For the first \$110,136.00 ... Nil; and

For every dollar of the income exceeding \$110,136.00 ... 25 cents;

- (vii) between the 1st July, 2009 and the 31st December, 2009—

For the first \$160,368.00 ... Nil; and

For every dollar of the income exceeding \$160,368.00 ... 25 cents;

- (viii) subject to paragraph (aa), for each year of assessment between the 1st January, 2010 and the 31st December, 2012—

For the first \$441,168.00 ... Nil; and

For every dollar of the income exceeding \$441,168.00 ... 25 cents;

- (ix) for each year of assessment commencing on the 1st January, 2013 and ending on 31st December, 2014— ^{12/2015 S. 3.}

For the first \$507,312.00 ... Nil; and

For every dollar of the income exceeding \$507,312.00 ... 25 cents;

- (x) for the year of assessment commencing on the 1st January, 2015 and ending on the 31st December, 2015— ^{12/2015 S. 3.}

For the first \$557,232.00 ... Nil; and

- For every dollar of the income exceeding
\$557,232.00 ... 25 cents;
- 8/2019
S. 3(a). (xi) between the 1st January, 2016 and the 30th
June, 2016—
- For the first \$296,400.00 ... Nil;
- For every dollar of income exceeding
\$296,400.00 ... 25 cents;
- 8/2019
S. 3(a). (xii) between the 1st July, 2016 and the 31st
December, 2016—
- For the first \$500,136.00 ... Nil;
- For every dollar of income exceeding
\$500,136.00 but not exceeding
\$6,000,000.00 ... 25 cents;
- For every dollar of income exceeding
\$6,000,000.00 ... 30 cents;
- 8/2019
S. 3(a). (xiii) between the 1st January, 2017 and the 31st
March, 2017—
- For the first \$250,068.00 ... Nil;
- For every dollar of income exceeding
\$250,068.00 but not exceeding
\$1,500,000.00 ... 25 cents;
- For every dollar of income exceeding
\$1,500,000.00 ... 30 cents;
- 8/2019
S. 3(a). (xiv) between the 1st April, 2017 and the 31st
December, 2017—
- For the first \$1,125,072.00 ... Nil;
- For every dollar of income exceeding
\$1,125,072.00 but not exceeding
\$4,500,000.00 ... 25 cents;
- For every dollar of income exceeding
\$4,500,000.00 ... 30 cents;
- 8/2019
S. 3(a). (xv) for any year of assessment commencing on
the 1st January, 2018—

For the first \$1,500,096.00 ... Nil;

For every dollar of income exceeding
\$1,500,096.00 but not exceeding
\$6,000,000.00 ... 25 cents;

For every dollar of income exceeding
\$6,000,000.00 ... 30 cents;

- (aa) notwithstanding paragraph (a)(viii), between the 1st January, 2010 and the 31st December, 2010, in addition to the tax referred to in paragraph (a)(viii) that would be payable on income not exceeding \$5,000,000.00— 21/2013
S. 7(a).

For every dollar of the income exceeding
\$5,000,000.00 but not exceeding
\$10,000,000.00 ... 27.5 cents;

For every dollar of the income exceeding
\$10,000,000.00 ... 35 cents;

- (ab) for the purposes of subsection (1)(a), for the avoidance of doubt— 8/2019
S. 3(b).

- (i) the income taxed at the rate of nil for the years of assessment 2016, 2017 and 2018 shall not exceed \$796,536.00, \$1,375,140.00 and \$1,500,096.00 respectively;

- (ii) in relation to sub-paragraph (xii), the income taxed at the rate of 30 cents for every dollar shall not apply to the first \$1,000,000.00 of income earned in each month arising between the 1st July, 2016, and the 31st December, 2016; and

- (iii) in relation to sub-paragraphs (xiii), (xiv) and (xv), the income taxed at the rate of 30 cents

INCOME TAX

for every dollar shall not apply to the first \$500,000.00 of income earned in each month during any period referred to in sub-paragraphs (xiii), (xiv) and (xv) in a year of assessment commencing on the 1st January 2017.

21/2013
S. 7(b).
35/2013
Sch.

- (b) upon the chargeable income of the categories of the bodies corporate subject to income tax specified in sub-paragraphs (i), (ii), (iii), (iv) and (v), other than building societies or life assurance companies, tax at the rates specified in relation to each category as follows—
- (i) with effect from the 1st January, 2013, 33½ cents in every dollar of the income of a regulated company;
 - (ii) with effect from the 1st January, 2013, 25 cents in every dollar of the income of an unregulated company (other than a large unregulated company);
 - (iii) with effect from the 1st January, 2013, 25 cents in every dollar of the income of a large unregulated company;
 - (iv) with effect from the 1st April, 2013, 30 cents in every dollar of the income of a large unregulated company; and
 - (v) with effect from the 1st January, 2014, 25 cents in every dollar of the income of an unregulated company (including a large unregulated company).

- (c) with effect from the 1st January, 2013; upon the chargeable income of all persons other than those specified in paragraph (a) or (b), tax at the rate of 25 cents in the dollar.

(1A) For the purpose of paragraph (b) of subsection (1), and subject to the provisions thereof—

“large unregulated company” means any unregulated company which has gross annual income of not less than \$500,000,000.00 in any year of assessment or, as the case may be, in the period of twelve months referred to in section 6 (2);

“regulated company” includes a company that is regulated by any of the following entities—

- (a) the Financial Services Commission;
- (b) the Office of Utilities Regulation;
- (c) the Bank of Jamaica;
- (d) the Ministry with responsibility for finance;

“unregulated company” means any company that is not a regulated company;

(2) Notwithstanding the provisions of subsection (1), for every year of assessment there shall be levied and paid upon the chargeable income of every building society, in lieu of the tax prescribed under subsection (1), tax at the rate of 30 cents in the dollar.

(3) Notwithstanding the provisions of subsections (1) and (2)—

21/2013
S. 7(d).

- (a) in relation to a company listed on the Jamaica Stock Exchange—
- (i) with effect from the 1st June, 2000 until the 31st March, 2001, in *lieu* of the rate of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be levied and paid at the rate of 20 cents in the dollar;
 - (ii) with effect from the 1st April, 2001 until the 31st March, 2002, in *lieu* of the rate of tax prescribed under subsections (1) and (2), income tax payable on such dividend income shall be levied and paid at the rate of 10 cents in the dollar;
 - (iii) with effect from the 1st April, 2002 until the 31st December, 2008, in *lieu* of the rate of tax prescribed under subsections (1) and (2), the rate of income tax payable on such dividend income shall be nil;
- (b) in relation to every company (whether or not listed on the Jamaica Stock Exchange)—
- (i) with effect from the 1st January, 2009 until the 31st May, 2012, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be nil;
 - (ii) with effect from the 1st June, 2012 until 31st March, 2012, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be levied and paid at the rate of five cents in the dollar;

- (iii) with effect from the 1st April, 2013, in *lieu* of the rates of tax prescribed under subsections (1) and (2), income tax payable on dividend income derived from such a company shall be levied and paid at the rate of 15 cents in the dollar;
- (iv) with effect from the 1st January, 2009, income tax payable on any preference dividend income as is deductible under subsection (3) of section 13, shall be levied and paid at the rate of tax applicable to the recipient preference shareholder as at the date of receipt of the income.

(4) Notwithstanding subsection (3), with effect from the 1st June 2012, where a company resident in Jamaica receives a dividend (other than so much of any preference dividend as is deductible under subsection (3) of section 13) from another company resident in Jamaica, in which the first mentioned company holds no less than 25 per cent of the voting rights, the rate of income tax payable on such dividend shall be nil.

31. Subject to the provisions of this Act, in lieu of tax at the rates specified in section 30, there shall be levied and paid in each year of assessment upon such part of the income of a non-resident individual as is chargeable with income tax under this Act, tax at the rate of 25 cents in the dollar.

Rates of
income tax
payable by
non-
residents.
42/1958
S. 7.
4/1986
S. 9.
3/1987
S. 7(a)(b).
9/1994
S. 5.
41/2002
S. 7(a).

31A.—(1) Subject to the provisions of this Act, where any prescribed person pays or credits interest to any person (in this section referred to as an investor) that prescribed person shall deduct from that payment or credit, a sum equivalent to 25 cents in the dollar:

Provided that the Commissioner may authorize a deduction of tax from the payment or credit at such rate as he is satisfied is applicable to the investor under this Act.

41/2002
S. 7(a).

(2) Where, in respect of a deposit or an investment of money with, or the grant of any loan to a prescribed person, another prescribed person pays or credits interest to the investor concerned, that other prescribed person shall deduct tax from that payment or credit at the rate specified in subsection (1).

41/2002
S. 7(b).

(3) On making a payment or credit of interest, whether tax is deducted or not, the prescribed person shall furnish the investor with a certificate stating the nature and amount of the payment or credit, whether tax has been deducted and if so, the amount deducted and such other particulars as may be prescribed.

41/2002
S. 7(c).

(4) Where a prescribed person deducts tax on the payment or credit by him of any amount of interest he shall be deemed to be collecting tax on behalf of the Commissioner of Inland Revenue and subject to subsection (4A) shall, within fourteen days after the end of the calendar month in which the payment or credit was made, account for and pay to that Commissioner or to such person as he may direct, the amount of tax so deducted.

41/2002
S. 7(d).

(4A) A prescribed person may, whether acting as principal or agent, set off tax deducted pursuant to subsection (1) against any tax deducted from interest earned from investments made by the prescribed person.

(5) The provisions of section 41 which relate to penalties shall apply *mutatis mutandis* in respect of any failure to comply with subsection (4) of this section and accordingly any reference to payment in that section shall be construed as including a reference to credit.

9/1994
S. 6(c).

(6) In this section—

“commercial paper” means securities comprising or evidencing a debt obligation, including promissory notes, whether or not secured or guaranteed, but does not include payment obligations arising out of the sale of goods or services; 41/2002
S. 7 (e) (i).

“financial derivative” includes a contract whose value is based on the performance of an underlying financial asset, index or other investment; 41/2002
S. 7 (e) (i).

“interest” includes any profit or gain accruing to an investor— 41/2002
S. 7 (e) (i).

(a) by way of any premium, income from participating instruments or other sum paid or credited to that investor in respect of a deposit or loan or use of the investor’s funds for a period of time whether or not arising from a discount allowed to the investor;

(b) on the sale or redemption in whole or in part of any bonds, certificates of deposit, debentures, notes or re-purchase agreements or reverse re-purchase agreements;

(c) who, having a right to receive the amount or part thereof stated in a bond, certificate of deposit, debenture, note or other instrument issued to him or to any other person—

(i) disposes of that right or part thereof; or

(ii) except where it is a right to receive interest, exercises that right,

prior to the maturity of the instrument;

(d) in respect of an investment in financial derivatives;

(e) in respect of an investment in a money market fund, managed fund or commercial paper;

“interest-bearing instrument” includes—

41/2002
S. 7 (e) (i).

- (a) a security or other instrument of any description under which interest accrues;
- (b) a security or other instrument (other than shares in respect of which distribution may be payable) issued at a discount or redeemable at a premium;
- (c) an instrument, certificate or other document evidencing proprietary rights in all or any part of sums on which interest is payable;

41/2002
S. 7 (e) (i).

“managed fund” means a pool of financial assets managed by way of different portfolios;

41/2002
S. 7 (e) (i).

“money market fund” means a pool of financial assets administered or managed collectively in respect of which—

- (a) at least 31 per cent of the value as regards interest arising before the 1st January, 2000;
- (b) at least 51 per cent of the value as regards interest arising after the 31st December, 1999,

is comprised of interest-bearing instrument;

L.N.
146B/1999.

“prescribed person” means, subject to subsection (7) any of the persons, whether acting as principal or agent, specified hereunder—

- (a) the Accountant-General;
- (b) any bank operating under the Banking Act or the Bank of Jamaica Act;
- (c) any institution operating under the Financial Institutions Act;
- (d) any building society;
- (e) any society registered under the Co-operative Societies Act;
- (f) a person licensed as a dealer under the Securities Act;
- (g) a society registered under the Industrial and Provident Societies Act, other than a society which

L.N.
146B/1999.
L.N.
146B/1999.

satisfies the conditions specified in section 46(5) of this Act;

- (h) the Ministry of Finance; L.N.
146B/1999.
- (i) any life insurance company; L.N.
146B/1999.
- (j) a company registered under the Companies Act, being a company in which the Government or an agency of Government holds not less than fifty-one *per centum* of the ordinary shares and which issues interest bearing securities other than the Financial Sector Adjustment Company Limited; L.N.
146B/1999.

41/2002
S. 7(e)(ii).
- (k) any issuer of commercial paper; L.N.
146B/1999.
- (l) any collective investment scheme management company; or 39/2013
S. 39(3)(d).
- (m) any person not falling within paragraphs (b) to (l) and who, in relation to any person referred to in those paragraphs, is a connected person. L.N.
146B/1999.

(7) The Minister may, by order, subject to negative resolution of the House of Representatives—

- (a) amend the definition of prescribed person to include or exclude any person; and
- (b) modify the application of this section in relation to any prescribed person.

Income Tax on Bodies Corporate

32. The amount of tax payable by a body corporate in any year of assessment shall be reduced by such amount as the Commissioner is satisfied is paid to a Collector of Taxes in that year in accordance with the Contractors Levy Act, being an amount representing the levy imposed under that Act and deducted from any payment to that body corporate as a contractor or sub-contractor.

Adjustment
for contrac-
tor's levy.
3/1987
S. 8.

Employment
tax credit.
35/2013
Sch.

32A.—(1) In this section—

“assessment period” means the “year of assessment”, as defined in section 2(1) of the Income Tax Act, or the “permitted accounting period”, as defined in section 6(7) of that Act, whichever is applicable;

“specified payments” in relation to an eligible person means—

- (a) amounts required, under section 6 of the Education Tax Act, to be paid in respect of, or on behalf of, employees of the eligible person;
- (b) contributions payable under section 12 of the Human Employment and Resource Training Act in respect of emoluments paid to employees of the eligible person;
- (c) amounts required, under section 12 of the National Housing Trust Act, to be paid in respect of, or on behalf of, employees of the eligible person; and
- (d) amounts required, under section 6 of the National Insurance Act, to be paid in respect of, or on behalf of, employees of the eligible person.

35/2013
Sch.

(2) A person other than a regulated company (in this section referred to as an “eligible person”) shall be entitled to claim credit (in this section referred to as “employment tax credit”), in accordance with the provisions of this section, against income tax payable by that person under this Act in any year of assessment.

35/2013
Sch.

(3) The amount of employment tax credit for any year of assessment shall be an amount equivalent to the total of specified payments by an eligible person that are made in respect of any month ending within the assessment period for that person.

(4) The amount of employment tax credit that may be claimed by an eligible person in respect of any year of assessment shall be limited to an amount that is 30% of any tax payable by the eligible person in respect of the income, profits or gains of the eligible person for the relevant assessment period arising from—

35/2013
Sch.

- (a) the carrying of a trade, profession or vocation by the eligible person; and
- (b) the rental by the eligible person of a hotel or resort cottage that is licensed as tourist accommodation under the Tourist Board Act.

(5) For the purposes of subsection (4), where the assessment period for an eligible person is a permitted accounting period, the income, profits or gains of that person, for the purposes of any claim for employment tax credit for the permitted accounting period ending in 2014 shall be calculated as a fraction of the eligible person's income, profits or gains for that permitted accounting period—

35/2013
Sch.

- (a) the numerator of which is the number of months from January 1, 2014 to the end of the permitted accounting period; and
- (b) the denominator of which is the number of months of the permitted accounting period.

(6) An eligible person who is connected to a regulated company, within the meaning of section 2(2), shall not be entitled to claim employment tax credit in a year of assessment if the eligible person in that year—

35/2013
Sch.

- (a) provides to persons resident in Jamaica, services that would ordinarily be provided by that regulated company; or

- (b) provides services to that regulated company in support of the provision by the regulated company of its services, unless the Commissioner General is satisfied that the consideration for providing such services does not exceed the cost incurred by the eligible person in providing such services (including a reasonable sum for overheads).

35/2013
Sch.

(7) Any amount of employment tax credit that exceeds the limit set out in subsection (4) in a year of assessment shall not be credited against tax payable in any other year of assessment and shall not be subject to a refund under this Act.

35/2013
Sch.

(8) An eligible person shall only be entitled to employment tax credit in respect of specified payments for the months for which—

- (a) those payments were made by the date in the month when those payments were due to be made; and
- (b) the monthly returns relating to those payments were duly filed in accordance with this Act.

35/2013
Sch.

(9) An eligible person who is an individual carrying on a trade, profession or vocation, whether on the individual's own behalf or jointly with other persons in a partnership, shall not be entitled to claim employment tax credit in any year of assessment in respect of which the individual has not duly accounted for and paid all amounts for which the individual is liable in that year of assessment under the Education Tax Act, the National Housing Trust Act or the National Insurance Act in the person's capacity as a self-employed person (as defined in those Acts).

35/2013
Sch.

(10) Where a body corporate subject to income tax that has claimed employment tax credit makes a distribution, within the meaning of section 34, that body

corporate shall, in respect of employment tax credit previously claimed, be liable to repay an amount (hereinafter referred to as the "relevant amount") as income tax under this Act. 35/2013
Sch.

(11) For the purposes of subsection (10), the relevant amount, is— 35/2013
Sch.

(a) 10% of the amount of the distribution; less

(b) any tax payable by the recipient of the distribution in respect of the distribution:

Provided that if the tax payable in respect of the distribution exceeds 10% of the amount of the distribution, the relevant amount shall be nil;

And further provided that the aggregate of all amounts of tax payable under subsection (10) shall not exceed the total amount of all employment tax credit that has been claimed by the body corporate.

(12) The relevant amount is payable within 14 days after the end of the month in which a distribution referred to in subsection (10) is made. 35/2013
Sch.

(13) A person (referred to in regulation 3 of the Income Tax (Employments) Regulations as the "principal employer") who is deemed under regulation 3 of those regulations to be the employer of an employee for the purposes of those Regulations, shall be deemed to be the employer of that employee for the purposes of this section. 35/2013
Sch.

(14) The employees of a service company shall, solely for the purposes of this section, be deemed to be employees of the individual or individuals who own the service company, and the individual or individuals who own the service company shall be deemed to be— 35/2013
Sch.

- (a) the employer or employers, as the case may be, of those employees; and
- (b) the eligible person or persons entitled to claim employment tax credit in respect of the specified payments made by the service company in respect of, or on behalf of, those employees.

35/2013
Sch.

(15) For the purposes of subsection (14), “service company” means a company that—

- (a) is owned by an individual, or individuals, carrying on a trade, profession or vocation (whether on the individual’s own behalf or jointly with other individuals in a partnership); and
- (b) provides services to such individual or partnership where the Commissioner General is satisfied that the consideration for providing such services does not exceed the cost incurred by the service company in providing such services (including a reasonable sum for overheads).

35/2013
Sch.

(16) Notwithstanding any other provision of this section, the following persons shall not be entitled to claim employment tax credit—

- (a) a person who has been declared by order of the Minister under section 2 of the Bauxite and Alumina Industries (Encouragement) Act to be a recognized bauxite producer;
- (b) an approved group head office company within the meaning of section 2(1) of the Income Tax Act; and

- (c) an approved enterprise within the meaning of section 2(1) of the Special Economic Zones Act. 7/2016
S. 51(2)(b).

32B.—(1) Subject to subsection (2), a body corporate subject to income tax with gross annual revenues or sales of less than or equal to five hundred million dollars, shall be entitled to claim credit (in this section referred to as “corporate tax credit”) of three hundred and seventy-five thousand dollars, against income tax payable by that body corporate under this Act, in any year of assessment. Corporate
tax credit.
14/2020
S. 2.

(2) The entitlement of a body corporate to the corporate tax credit in any year of assessment shall be calculated based on the gross revenues or sales generated for the year of assessment, and without regard to the permitted accounting period for that body corporate.

(3) For the purposes of subsection (1), the following categories of persons shall not be eligible for the corporate tax credit—

- (a) Building Societies and Societies registered under the Industrial and Provident Societies Act;
- (b) a body corporate that has been declared to be an approved developer or an approved organisation by an order of the Minister under section 4 or 7 of the Urban Renewal (Tax Relief) Act;
- (c) a body corporate that is a developer or occupant and is entitled to benefit from the tax reliefs and incentives in the First Schedule of the Special Economic Zones Act;
- (d) a body corporate that has been declared to be a recognised bauxite producer or a recognised alumina producer, or both, as the case may be, by an order of the Minister under section 2 of the Bauxite and Alumina Industries (Encouragement) Act; and
- (e) any person who is entitled to benefit from the incentives in the Seventh Schedule of the Income Tax Act.

(4) Any amount of corporate tax credit that is not used in the year of assessment shall not be credited against tax payable in any other year of assessment and shall not be the subject of a refund under this Act.

(5) Where, following an assessment by the Commissioner General, it is determined that a body corporate has—

- (a) deferred trading income to another year of assessment; or
- (b) transferred sales revenue to a connected person, for the purpose of reducing the gross revenue of that body corporate to less than five hundred million dollars in the year of assessment,

then such deferred or transferred income shall be deemed to be the revenue of the body corporate in the year of deferral or transfer.

(6) Where a body corporate is entitled to claim the employment tax credit and the corporate tax credit in any year of assessment, the corporate tax credit shall first be applied against the income tax liability before the employment tax credit is applied.

33. [*Repealed by Act 3 of 1987.*]

33A. [*Repealed by Act 16 of 1990.*]

Company
distributions:
relevant acts.
34/1970
S. 4.
21/1982
S. 6.
3/1987
S. 11(a).

34.—(1) Any act by a body corporate subject to income tax which falls within any paragraph of the following Table but not within any exception to that paragraph shall be treated for the purposes of this Act as a distribution by the body corporate, but, except as provided in subsection (3) of section 36C, no other act shall be so treated.

Table of Company Distributions

Note: In this Table “capital assets”, in relation to a body corporate, means assets not derived from income from which its chargeable income for any year is computed or would have been computed if it were subject to tax. 23/1972 S. 6.

Distributions to shareholders

1. Any dividend.

Exceptions: (a) so much of any preference dividend as is deductible under subsection (3) of section 13;

(b) so much of any dividend as is proved by the body corporate to have been paid out of capital assets; 28/2017 S. 2(a).

(c) so much of the dividend as is proved by the body corporate to have been used to redeem, purchase or otherwise acquire shares issued by the body corporate, if— 28/2017 S. 2(b).

(i) the shares are listed on a recognized stock exchange; and

(ii) the shares are redeemed, purchased or otherwise acquired pursuant to the rules of the recognized stock exchange on which the shares are listed and, where applicable, in accordance with any terms and conditions upon which the shares were issued by the body corporate.

2. Any payment, other than a dividend, made (whether in cash, goods or otherwise) in respect of shares in the body corporate out of assets of the body corporate or so that the cost of it falls on the body corporate, excluding such payments made in the winding-up of a body corporate.

Exceptions: (a) so much of any payment as represents a repayment of capital on the shares (including repayment of any premium at which the shares were issued);

(b) so much of any payment as is proved by the body corporate to have been made out of capital assets.

16/1980
S. 10.

3. As respects any payment made (whether in cash, goods or otherwise) in respect of shares in a company, being a payment made in the winding-up of the company where the sole or main object of the winding-up was to obtain a tax advantage (as defined by subsection (9) of section 18) for any members of the company, so much of the payment as it is necessary to treat as a distribution in order to prevent the tax advantage from being obtained.

4. Any redeemable share capital issued or paid up in respect of shares in the body corporate.

Exceptions: (a) such part of any redeemable share capital as is issued or paid up in return for new consideration and is commensurate in value with that consideration;

(b) such part of any redeemable share capital as is proved by the body corporate to have been issued or paid up by way of capitalizing capital assets.

5. Any securities issued in respect of shares in the body corporate.

Exceptions: (a) such part of any security as is issued in return for new consideration and is commensurate in value with that consideration;

(b) such part of any security as is proved by the body corporate to have been issued so as to give members of the body corporate rights over capital assets.

Distributions to Holders of Securities

6. Any payment of interest or other payment made (whether in cash, goods or otherwise) out of assets of the body corporate, or so that the cost of it falls on the body corporate, in respect of the following securities—

- (a) securities convertible into shares in the body corporate, other than securities which are quoted on a recognized stock exchange or are similar in their terms to securities so quoted; 38/1976
1st Sch.
- (b) securities where the return varies with the results of the body corporate's business;
- (c) securities issued otherwise than for new consideration commensurate with their value.

Exception: any payment made by way of redemption of securities.

7. In the case of a security where the return exceeds a reasonable commercial return, the amount of the excess.

Distributions to Principal Members, etc.

8. The provision of any quarters or residence for use by a principal member or his relative, unless the cost thereof is deductible under section 13.

9. The grant of a loan falling within section 35.

Repatriated Profits

3/1987
S. 11(b).

10. The transfer of any profits of a body corporate to any person outside the Island.

(2) This section applies for the year 1970 and subsequent years, except that paragraph 4 of subsection (1) shall not apply to capital issued before 30th September, 1970, in accordance with a press notice published before 16th June, 1970. 18/1971
S. 5.

Company
distribu-
tions: loans
to principal
members,
etc.
34/1970
S. 4.
3/1987
S. 12.

35.—(1) A body corporate subject to income tax shall be treated as making a distribution where it grants a loan, otherwise than in the course of a *bona fide* business of lending money—

- (a) to a principal member of the body corporate or of any other body corporate connected with it; or
- (b) to a relative of any such principal member; or
- (c) to any other person on terms such that any such principal member or relative indirectly receives the equivalent of the loan or part of it:

Provided that this subsection shall not apply—

- (i) if the principal member is a body corporate resident in the Island; or
- (ii) if the principal member is a body corporate resident out of the Island and the Minister has approved the loan as being beneficial to the economy of Jamaica; or
- (iii) if the loan is granted by a company to a person employed by it where loans on the like terms are made available by the company to all its staff in similar employment.

16/1980
S. 11.

(2) A loan shall not be treated as a distribution if, and to the extent that, it is repaid within the same accounting period of the lender as that in which it was granted.

(3) Where the whole or a part of a loan treated as a distribution is repaid in a subsequent accounting period of the lender beginning not later than five years after the date of the loan, such repayments of tax (if any) shall be made as are necessary to restore the persons concerned to the position they would have been in if the loan, or that part of it, had not been treated as a distribution.

(4) If, following repayment of money lent, a further loan is granted within six months of the repayment to or in respect of the same person the repayment (and the corresponding amount of the further loan) shall be disregarded for the purposes of this section:

Provided that if the further loan is less than the repayments, only the portion of the repayment equal to the further loan shall be disregarded.

(5) For the purposes of section the allowing of credit shall be treated as the grant of a loan.

36.—(1) A distribution by a body corporate which is not in money shall be taken for the purposes of this Act to be of an amount equal to its market value at the time of the distribution, no regard being had to any effect of the distribution on the market value of existing shares or securities of the body corporate.

Company
distribu-
tions:
determi-
nation of
amount.
34/1970
S. 4.

(2) References in this Act to the net amount of a distribution refer to its amount in money or as determined under subsection (1), and references to its gross amount refer to the net amount increased to a sum such that a deduction therefrom of 33⅓% in the case of a person other than an individual or an unregulated company, or 25% in the case of an individual or an unregulated company, leaves the net amount:

3/1987
S. 13.
9/1994
S. 7.
35/ 2013
Sch.

Provided that where a distribution in money is made without deduction of tax the amount distributed shall be treated as the gross amount, and the net amount shall be the gross amount less 33⅓ *per centum* in the case of a person other than an individual, or 25 *per centum* in the case of an individual.

3/1987
S. 13.
9/1994
S. 7.

Approved Venture Capital Company

36A.—(1) The Minister may, on the application of a company that he is satisfied is—

Venture
capital
company;
designa-
tion,
etc.
21/1982
S. 7.

- (a) incorporated under the Companies Act or under any other enactment in force in the Island;
- (b) resident in the Island; and
- (c) engaged, or proposes to engage, in venture capital transactions in Jamaica,

grant, subject to such terms and conditions as he thinks fit, a certificate to the company designating it an approved venture capital company for the purposes of this Act in relation to such venture capital transactions as may be specified in the certificate.

(2) A certificate granted by the Minister pursuant to subsection (1) shall be valid for such period, not exceeding ten years, as may be specified therein, and may on its expiration, be renewed at the discretion of the Minister and subject to such terms and conditions as the Minister may determine, for a further period not exceeding ten years.

(3) On the application of an approved venture capital company the Minister may, subject to such terms and conditions as he thinks fit, amend a certificate issued or renewed under this section in respect of any category of venture capital transactions specified therein and thereafter, subject to such terms and conditions, the provisions of this Act shall have effect as if for the venture capital transactions described in the certificate as granted there were substituted the venture capital transactions amended as aforesaid.

(4) If the Minister is satisfied that an approved venture capital company has failed to comply with any term or condition specified in a certificate issued or amended pursuant to this section, he may, subject to subsection (5), by instrument in writing addressed to the company, cancel the certificate with effect from such date as he may determine.

(5) Before cancelling a certificate the Minister shall give the approved venture capital company an opportunity to explain the circumstances of the failure to comply with the term or condition.

(6) The cancellation of a certificate pursuant to subsection (4) shall not affect any entitlement to relief from income tax which may have accrued in relation to the approved venture capital company prior to the cancellation.

(7) In this section “venture capital transaction” means such investment activity (including loan financing) as would in the Minister’s opinion, by its influence on new or developing enterprises, be beneficial to the economic development of the Island.

36B.—(1) The entitlement of an approved venture capital company to the enjoyment in any year of assessment of the special tax relief granted to it under this Act is subject to the following conditions—

Qualifica-
tions for
relief in
any year
of assess-
ment.
21/1982
S. 7.

- (a) at least 80 *per centum* of the property owned by the approved venture capital company in the year of assessment shall consist of—
 - (i) money; or
 - (ii) shares, bonds, notes, debentures or debenture stock issued by a company resident in the Island; or
 - (iii) such other security as may be prescribed by the Minister by order published in the *Gazette*;
- (b) no shareholder of an approved venture capital company shall, at any time during the year of assessment, hold more than 25 *per centum* of its issued shares; and
- (c) at least 95 *per centum* of the gross income of the approved venture capital company for the year of assessment shall be derived from sources within the Island and comprised wholly of—
 - (i) interest in respect of loans made to companies resident in the Island;
 - (ii) dividends paid by companies resident in the Island;
 - (iii) gains arising or accruing from the sale or other disposition either of real property owned by the approved venture capital company and situated in the Island, or of other property, being property, registrable in the Island, so owned and registered in the Island;
 - (iv) gains arising or accruing from the provision to any person resident in the Island of industrial or commercial information or advice or management or technical services

or similar services or facilities or plant or equipment on hire (otherwise than under a *bona fide* hire-purchase agreement as defined in subsection (1) of section 2 of the Hire-Purchase Act); and

- (v) such other sources of income as the Minister may, by order, prescribe.

(2) Where, in any year of assessment, an approved venture capital company fails to satisfy any of the conditions specified in subsection (1), it shall, without prejudice to its status as an approved venture capital company in any other year, be subject to income tax as if it were not an approved venture capital company.

(3) An approved venture capital company shall place in a separate account all profits and gains which have been relieved of income tax in accordance with section 36C and, if it intends to pay a dividend to its shareholders out of such profits and gains, such dividend shall be paid out of such account.

Tax relief
for
approved
venture
capital
company.
21/1982
S. 7.

36C.—(1) In determining the chargeable income in any year of assessment of an approved venture capital company which satisfies the requirements of section 36B(1), there shall be allowed as a deduction the amount of any distribution made by the company in that year of assessment and in respect of which an account is submitted to the Commissioner as to the nature and amount of the distribution and the name of the person to whom it was made.

(2) Notwithstanding anything to the contrary in this Act, an approved venture capital company which satisfies the requirements of section 36B(1) in any year of assessment shall be relieved from income tax for that year of assessment if in that year of assessment the total amount of its distributions, whether in money or otherwise, is equivalent to 90 *per centum* or more of the chargeable income of the company before the deduction of the distributions.

(3) Without prejudice to the provisions of section 34 or 35, where an approved venture capital company uses its income to engage in a venture capital transaction as defined in

subsection (7) of section 36A, it shall be regarded, for the purposes of subsection (2), as having made a distribution.

(4) Save as otherwise expressly provided, the provisions of this Act applicable to bodies corporate subject to income tax shall apply to approved venture capital companies.

3/1987
S. 14.

Agricultural Income

36D. [*Deleted by Act 35 of 2013.*]

Approved Group Head Office Company

36E.—(1) A company or other body corporate may apply to the Minister, in the prescribed form and manner, for a certificate designating the company or other body corporate as an approved group head office company for the purposes of this Act.

Application
for designa-
tion as an
approved
group head
office com-
pany.
6/2012
S. 5.

(2) An application under subsection (1) shall be accompanied by the prescribed application fee, which shall not be refundable.

(3) Where the Minister thinks necessary he may require an applicant for a certificate under subsection (1) to furnish such additional information or document as he may specify in writing.

36F.—(1) Upon receipt of an application under section 36E(1), the Minister may, subject to subsection (2)—

Grant or
refusal of
certificate.
6/2012
S. 5.

(a) grant a certificate designating the body corporate or company as an approved group head office company authorized to perform the group head office company activities specified in the certificate; or

(b) refuse to grant a certificate.

(2) Subject to subsection (5), the Minister shall not grant a certificate under this section unless, he is satisfied that the applicant—

(a) is incorporated or registered under any enactment in force in Jamaica;

- (b) is engaged in, or proposes to engage in, group head office activities;
- (c) proposes to employ or has already employed thirty *per cent* or more of its employees to perform group head office activities from among citizens of Jamaica who are resident in Jamaica.

(3) A certificate granted under this section shall—

- (a) be subject to such terms and conditions as may be specified in the certificate;
- (b) not be transferable; and
- (c) be valid for such period as is specified therein,

and may take effect from the date started therein which may be a date earlier than the date on which the certificate was issued.

(4) For the avoidance of doubt, it is hereby declared that a person referred to in subsection (2)(c) shall not be entitled to any relief under section 12(*al*).

(5) The Minister may, where he is satisfied that in the circumstances of the case it is appropriate to do so, exempt from or vary any or all of the requirements of subsection (2)(a) or (c) relating to an application under section 36E(1).

Variation, *etc.*
of certificate.

6/2012
S. 5.

36G.—(1) The holder of a certificate granted under section 36F may apply, in writing, to the Minister for the variation, modification or surrender of the certificate, stating clearly the reasons therefor.

(2) The Minister may grant any such application in whole or in part subject to such conditions as he may impose.

Cancellation
of certificate.
6/2012
S. 5.

36H.—(1) The Minister may, by instrument in writing addressed to the holder of a certificate granted under section 36F, cancel the certificate with effect from such date thereafter, as he may determine, if he is satisfied that—

- (a) the holder has failed to comply with the provisions of this Act or any regulations made under this Act or any term or condition specified in the certificate; or
- (b) any information provided in relation to the application for the certificate that was false or misleading in any material particular.

(2) Before cancelling a certificate, the Minister shall—

- (a) notify the holder of the certificate, in writing, of the proposed cancellation stating the reasons therefor; and
- (b) give the holder of the certificate an opportunity to explain the circumstances of—
 - (i) the failure to comply with the provisions of this Act or any regulations made under this Act or any term or condition specified in the certificate; or
 - (ii) information that is alleged to be false or misleading in any material particular.

(3) The cancellation of a certificate pursuant to subsection (1) shall not affect any entitlement to relief from income tax which may have accrued prior to the cancellation, in relation to any employee to whom section 12(*al*) applies.

36I. Every holder of a certificate granted under section 36F shall keep such books, documents or records in such manner and for such period as may be prescribed.

Records.
6/2012
S. 5.

Deduction of Tax

- 37.—(1) 
- (2)
 - (3)
 - (4)
 - (5)
 - (6)
- [Deleted by Act 3 of 1987, S. 15]

Deduction
of tax from
dividend.
16/1980
S. 12(b).
3/1987
S. 15.

16/1980
S. 12(b).

(7) Where the Commissioner is satisfied that a company (hereinafter referred to as the first-named company) is in receipt from another company (hereinafter referred to as the tax exempt company) of any amount of dividends which, pursuant to any enactment, are exempt from income tax, he may, subject to subsection (8), authorize the first-named company to pay that amount as dividend to its shareholders free of income tax or with such relief from income tax as he considers appropriate having regard to the provisions of subsection (8).

16/1980
S. 12(b).

(8) For the purposes of subsection (7), the first-named company *mutatis mutandis*—

- (a) shall deal with any dividends to which that subsection applies in like manner as such dividends are dealt with in the books and accounts of the tax exempt company;
- (b) shall be subject to such conditions, qualifications and, if the circumstances so warrant, penalties for any breach, as would have been applicable if the dividend, instead of being paid by the first-named company, had been paid direct to the recipient by the tax exempt company.

Company
distributions:
deduction
of tax.
34/1970
S. 5.
21/1982
S. 8(a).
3/1987
S. 16(a).
12/1985
Sch.,
9/1994
S. 8.
21/2013
S. 8(a)(i)(ii).
35/2013
Sch.

35/2013
Sch.

38.—(1) Subject to subsections (2) and (3), where a body corporate subject to income tax makes a distribution the gross amount of it shall be treated as income of the person beneficially entitled to receive it, and the body corporate shall subject to the provisions of this section, deduct from the gross amount income tax at 33⅓% in the case of a distribution to a person other than an individual or an unregulated company, or 25% in the case of a distribution to an individual or to an unregulated company, and pay it over to the Commissioner General or such person as he may direct:

Provided that where a dividend is paid to a person resident in Jamaica, tax shall be deducted—

- (a) with effect from the 1st June, 2012 until the 31st March, 2013, at the rate of five per cent;
- (b) with effect from the 1st April, 2013, at the rate of fifteen per cent;

(2) The Commissioner General may authorize payment of the money distribution without deduction of tax where he is satisfied that the recipients are not liable to tax. 21/2013
S. 8(c).

(3) In the case of a distribution made by a company (hereinafter referred to as the “distributing company”) to a company resident in Jamaica (hereinafter referred to as the “receiving company”) that holds no less than twenty-five per cent of the voting rights in the distributing company, the distributing company may make a distribution of the gross amount to the receiving company without deducting from that gross amount the income tax payable. 21/2013
S. 8(b).

(3A) Subsection (3) shall not apply unless all of the employment tax credit claimed under section 32A by the body corporate subject to income tax has been repaid pursuant to section 32A(10). 35/2013
Sch.

(4) A body corporate referred to in subsection (1) shall not deduct income tax from the gross amount of any distribution it makes to an approved venture capital company. 21/1982
S. 8(b).
21/2013
S. 8(b).

(4A) This section shall apply as if the rate at which— 7/2016
S. 51(2)(a).

- (a) the occupant shall deduct tax from distributions by way of dividends paid out of profits derived from the conduct of a trade, profession or vocation in the Zone, is 0%; and
- (b) the developer shall deduct tax from distributions by way of dividends paid out of profits derived from non-exempt income from the conduct of a trade, profession or vocation in the Zone, is 0%.

(5) If a distribution by such a body corporate is not in money it shall be treated as a net distribution made after 21/2013
S. 8(b).

deduction of income tax under subsection (1), and the body corporate making it shall pay over the tax accordingly.

21/2013
S. 8(b).

(6) On making a distribution, whether tax is deducted or not, the body corporate shall furnish the recipient with a certificate stating the gross and net amount of the distribution.

3/1987
S. 16(b).
21/2013
S. 8(d)(i).

(7) Where, on a distribution of income by a body corporate resident in Jamaica to another body corporate subject to income tax which is resident in the Island, tax is deducted at source from that income (hereinafter referred to as “franked income”), the deduction shall be treated, as regards the franked income, as discharging the liability to tax of—

(a) the body corporate which receives the franked income;

21/2013
S. 8(d)(ii).

(b) any other body corporate resident in Jamaica to which the body corporate referred to in paragraph (a) may distribute the franked income;

21/2013
S. 8(d)(iii).

(c) any other body corporate resident in Jamaica to which the body corporate first referred to in paragraph (b) may distribute the franked income and so on from body corporate to body corporate; and

21/2013
S. 8(d)(iv).

(d) any individual resident in Jamaica to whom the franked income may be distributed by any of such bodies corporate, and any distribution by a body corporate referred to in paragraph (a), (b) or (c) shall be deemed to have been paid first out of franked income.

21/2013
S. 8(e).

(8) If a body corporate referred to in subsection (1) does not make a deduction from a distribution made by it, as required under this section, the person beneficially entitled to receive the gross amount of that distribution shall deduct the applicable income tax and pay it over to the Commissioner General or to such other person as the Commissioner General may direct.

21/2013
S. 8(e).

(9) For the purposes of subsection (1), the payment of any preference dividend as is deductible under subsection (3) of section 13 to a person not resident in the Island shall be deemed to be a distribution and tax shall be deducted therefrom accordingly.

38A.—(1) A shareholder of an approved venture capital company shall be relieved from income tax in respect of any dividend paid to him by that company pursuant to section 36B (3)—

Exemption of shareholder in approved venture capital company. 21/1982 S. 9.

- (a) if he is resident in a country in relation to which an order under section 83 is in force; and
- (b) if he is exempt in that country from the payment of income tax in respect of such dividend.

(2) Where a shareholder resident in a country in relation to which an order under section 83 is in force is not exempt in that country from income tax on any dividend paid as aforesaid by an approved venture capital company, he shall be liable to income tax either at such rate as may be prescribed in the order in relation to such dividend or at such rate as may be applicable thereto in that country, whichever is less.

(3) Except as is otherwise provided in this section, the provisions of this Act regarding the deduction of income tax from dividends and the refund of income tax to shareholders shall apply to dividends paid by an approved venture capital company.

(4) If any such shareholder is resident in a country in relation to which an order under section 83 is not in force the relief under this section shall not apply.

38B. [*Repealed by Act 14 of 2006.*]

39.—(1) Where a body corporate, as trustee or a collective investment scheme company or any other entity which is a qualified collective investment scheme, or any person acting on its behalf makes an income payment to a unit holder or a joint unit holder it shall deduct income tax at 33½% if the unit holder is a person other than an individual or an unregulated company, or 25% if the unit holder is an individual or an unregulated company or at 25 *per centum* if the unit holder is an individual and pay it over to the Commissioner of Inland Revenue or such person as he may direct:

Collective investment scheme income payments: deduction of tax. 18/1971 S. 2. 12/1985 Sch. 3/1987 S. 17(a)(b)(c). 9/1994 S. 9.

Provided that the Commissioner of Income Tax may authorize the payment to be made without deduction of tax where he is satisfied that the unit holder or the joint unit holder is not liable to tax.

39/2013 S. 39(3)(e) (i)(ii). 35/2013 Sch.

(2) On making any such payment, whether tax is deducted or not, the body corporate shall furnish the recipient

with a certificate stating the nature and amount of the payment whether tax has been deducted and if so how much.

41/2002
S. 8.

39/2013
S. 39(3)(e)(iii).

(3) Where a collective investment scheme or any person acting on its behalf makes a payment or credit to unit holders, of an amount representing the accretion in value realized on encashment, that payment or credit shall be deemed to be a payment of interest from which the manager shall deduct a sum equivalent to twenty-five cents in the dollar.

41/2002
S. 8.

(4) For the purposes of subsection (3), an accretion in value of units arising—

- (a) prior to the 1st June, 1999, refers to the difference between the proceeds of the encashed units and the price as at that date;
- (b) on or after the 1st June, 1999, refers to the difference between the proceeds of the encashed units and the purchase price of the units.

41/2002
S. 8.

39/2013
S. 39(3)(e)(iv).

(5) Where tax is deducted pursuant to subsection (3), a qualified collective investment scheme or any person acting on its behalf shall furnish each unit holder with a certificate stating the amount of the payment or credit and the amount deducted.

41/2002
S. 8.

39/2013
S. 39(3)(e)
(iv)(v).

(6) Where a qualified collective investment scheme or any person acting on its behalf deducts tax in accordance with subsection (3), the scheme or person (as the case may be) shall be deemed to be collecting tax on behalf of the Commissioner of Inland Revenue and shall, within fourteen days after the end of the calendar month in which the payment or credit is made—

- (a) furnish to that Commissioner a return in the prescribed form; and
- (b) pay the tax so deducted to that Commissioner or to such person as he may direct.

(7) [*Deleted by Act 39 of 2013, S. 3(e)(vi).*]

(8) The provisions of section 41 which relate to penalties shall apply *mutatis mutandis* in respect of any failure to comply with subsection (1) or (3) of this section, and accordingly any reference to payment in that section shall be construed as including a reference to credit.

40.—(1) Subject to the provisions of this section, where a person resident in Jamaica, or a business organization with a permanent establishment in Jamaica, makes a payment to a person who is not resident in Jamaica in respect of—

Deduction
from
payment to
non-
resident.
12/2015
S. 4.
19/2018
S. 3.

- (a) any interest of money, dividends, royalty, annuity, or other annual payment, or in respect of rent accruing from property situated in Jamaica, or in respect of the provision of industrial commercial information or advice or management or technical services or similar services or facilities or hire of plant or equipment (otherwise than under a *bona fide* hire purchase agreement as defined in subsection (1) of section 2 of the Hire Purchase Act), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of 33½ cents in the dollar if the payment is made to a person other than an individual or 25 cents in the dollar if the payment is made to an individual;
- (b) income comprising insurance premiums that are charged to tax under section 5(1)(d), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of 15 cents in the dollar;
- (c) with effect from the 1st January, 2013, upon the chargeable income of all persons, other than those specified for receiving payments of income under paragraph (a) or (b), the person making the payment shall deduct therefrom a sum on account of income tax thereon at the rate of 25 cents in the dollar,

and the person making the payment shall forthwith deliver to the Commissioner an account of the payment and of such tax deducted from the payment and the Commissioner shall assess and charge the payment for which an account is so delivered on that person.

41/2002
S. 9.

(1A) The provisions of subsection (1) shall apply in relation to payments of dividend income derived from companies specified in section 30(3), as if instead of the numerals “33½” and “25” respectively—

- (a) the numerals “20” were substituted therefor during the period specified in section 30(3)(a);
- (b) the numerals “10” were substituted therefor during the period specified in section 30(3)(b);
- (c) the word “nil” was substituted therefor with effect from the 1st April, 2002.

(2) Where any person has made default in delivering the account required by subsection (1), or where the Commissioner is not satisfied with the account so delivered, the Commissioner may make an assessment according to the best of his judgment, and if any person neglects or refuses to deliver the account so required, he shall forfeit the sum of \$200 over and above the tax chargeable.

(3) All the provisions of this Act relating—

- (a) to persons who are to be chargeable with income tax and to tax assessment;
- (b) to appeals against such assessment; and
- (c) to the collection and recovery of income tax,

shall, so far as they are applicable, apply to the charge assessment, collection and recovery of income tax under this section.

(4) For the purpose of this section a payment made by a company as defined in section 2 shall be deemed to be a payment made by a person resident in the Island. 42/1958
S. 10(b).

(5) The provisions of this section shall not apply to payments of interests on investments or deposits in the Island comprising the whole or part of the income of a superannuation or pension fund or plan administered in the United Kingdom or Canada which is exempt by virtue of paragraph (o) of section 12. 42/1958
S. 10(b).

(6) The provisions of this section shall not apply to payments of interest on investments or deposits comprising the whole or part of the income of a person not resident in the Island which is exempt from tax by virtue of paragraph(s) of section 12. 33/1964
S. 6.

(6A) The provisions of this section shall not apply to any payment of interest to an approved overseas organization, in the manner specified in sub-paragraph (i) of paragraph (x) of section 12, where the requirements of sub-paragraph (ii) of that paragraph are fulfilled as respects the interest so payable. 46/1975
S. 4.

(7) [*Deleted by Act 3 of 1987.*]

(8) [*Deleted by Act 3 of 1987.*]

3/1987
S. 18(c).

(9) Where the Commissioner is satisfied in relation to any year of assessment that a non-resident person to whom any such payment as is referred to in subsection (1) is to be made is not, or is not likely to be, liable to tax in Jamaica in that year of assessment, he may authorize any person making any such payment as aforesaid to do so without deducting from the payment any sum on account of income tax.

(10) [*Deleted by Act 3 of 1987.*]

Deduction
from
emolu-
ments in
relation to
certain
rentals.
4/1986
S. 11.
21/2013
S. 9.

40A. Where the emoluments of any person (hereinafter referred to as the employee) includes the provision by his employer of living or other accommodation and the employer is put in a position to provide the accommodation consequent on an agreement in the nature of a tenancy between himself or any connected person and the employee or any connected person then unless the Commissioner General is satisfied that tax has been paid in accordance with section 5(1)(c)(iii) in respect of the value of the accommodation, the employer is not entitled to any deduction in respect of the cost of providing the accommodation.

Payment
over of tax
deducted at
source.
30/1970
S. 16.
12/1985
Sch.

41.—(1) Any person required by this Act to deduct tax on the payment by him of any sum and pay or account for the same to the Commissioner of Inland Revenue or any other person shall make the said payment of tax, or render the said account, or do both, as his duty may require, within fourteen days after the end of the calendar month in which the first mentioned payment was made, whether or not tax was in fact deducted from that payment.

(2) Where a person fails to pay or account for any tax by the date required by subsection (1), then—

- (a) if the tax was in fact deducted by him as required by this Act he shall be treated as if the tax were increased at the rate of fifty *per centum* per annum in respect of each day after that date on which his failure continues; or
- (b) if the tax was not so deducted he shall be treated as if the tax were increased at such rate (not exceeding that mentioned in paragraph (a)) as the Commissioner may direct.

(3) Without prejudice to subsection (2), any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars or treble the amount of the tax which is unpaid, whichever is the greater, and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

1986
S. 2(a).

41/2002
S. 10.
8/2014
Sch.

(4) Where a person who fails to pay or account for any tax by the date required by subsection (1) is a body corporate, the persons who on that date were the directors of the body corporate shall be jointly and severally liable, together with the body corporate, to pay or account for the tax, increased as provided by subsection (2) and shall also be liable to be proceeded against and punished under subsection (3).

9/1986
S. 2 (b)(ii).

(5) It shall be a defence for a person accused of an offence under this section to show that—

9/1986
S. 2(c).

- (a) there were *bona fide* reasons for the failure and that, in the circumstances, the payment could not have been made or the account could not have been rendered; or

- (b) on the date required by subsection (1) the state of accounts between the Commissioner of Inland Revenue and him was such that no amount was payable by him to the Commissioner of Inland Revenue;
- (c) if the person is a director of a body corporate he had satisfied himself that the body corporate had established an adequate system providing for all tax deducted by the body corporate to be paid or accounted for by the required date, and that the failure to operate that system occurred without his consent or connivance and without any negligence on his part.

Allowance
for tax
charged.
41/2002
S. 11(a).

42.—(1) Subject to subsection (2), where the income of a person for any year of assessment includes income which has suffered tax by deduction or otherwise, an allowance in respect of the tax suffered shall be made as follows—

18/1971
S. 4.

- (a) where the income is received from dividends, distributions, income payments mentioned in section 39, royalties, rents, interest or other annual payment from which tax has been deducted on payment, an allowance shall be made of the actual tax suffered, not exceeding 33½ cents in the dollar if the person is not an individual, or 25 cents in the dollar if the person is an individual;

9/1994
S. 11.

- (b) where the income is received from the share in an estate of a deceased person or trust, an allowance shall be made of the tax suffered by the estate or trust relating to the share of that particular person.

3/1987
S. 19.

(2) Where pursuant to section 31A (4), a deduction made by a prescribed person has been set off against tax deducted on income earned by that person, then subsection (1) shall only apply to the portion of tax not so set off.

41/2002
S. 11(b).

(3) The tax deducted in accordance with paragraph (a) or (b) of section 38 (1) shall be a final tax and shall not be set off against or applied to any tax paid or payable in relation to any other income and shall not be the subject of a claim for a refund or tax credit in that or any other year of assessment (whether or not the tax liability of the payee of the distribution in the year of assessment is less than the amount of tax deducted).

21/2013
S. 10.

43. Where, under the provisions of this Act, an individual is entitled to claim relief from income tax by repayment or otherwise, in respect of—

Adjustments
of reliefs
where
reliefs
not all
given at
the same
time.

- (a) any amount which is paid or borne by him out of his income or which is allowable or may be deducted therefrom; or
- (b) any reduction of an assessment relating to his income or any part thereof; or
- (c) any adjustment or set-off with regard to a loss,

and claims that relief for any year of assessment, any relief granted shall not extend so as to make the total income tax paid or payable by him for that year less than it would have been if the amount in respect of which relief is claimed had been deducted in computing his total income for that year and the amount of any other deductions or reliefs to which he is entitled for that year had been determined accordingly.

Superannuation Funds

Approved
super-
annuation
funds.
7/1956
S. 11.

44.—(1) Subject to the provisions of this Act and to any regulations and rules made thereunder, any sum paid by an employer or employed person by way of contribution towards an approved superannuation fund shall, in computing profits or gains for the purpose of an assessment to income tax, be allowed to be deducted as an expense incurred in the year in which the sum is paid:

7/1956
S. 33.

Provided that no allowance shall be made under the preceding provision in respect of any contribution by an employed person which is not an ordinary annual contribution, and where a contribution by an employer is not an ordinary annual contribution, it shall, for the purpose of the preceding provision, be treated, as the Commissioner may direct, either as an expense incurred in the year in which the sum is paid, or as an expense to be spread over a period not exceeding ten years.

7/1956
S. 11.
1/2008
S. 4 (a)(i).

(2) The Commissioner may approve any superannuation fund for the purposes of this Act, which is registered under the Pensions (Superannuation Funds and Retirement Schemes) Act but he shall not, except as hereinafter provided, approve any fund unless it is shown to his satisfaction that—

(a) the fund is a fund *bona fide* established under irrevocable trusts in connection with some trade or undertaking carried on in the Island by a person residing therein; and

1/2008
S. 4 (a)(ii).

(b) the fund has, for its principal purpose, the provision of lump sums, pensions and annuities for its members, and in the case of—

(i) lump sums, an amount not exceeding the commuted value of one-quarter of the accrued pension up to a maximum of twelve

and one-half times one-quarter of the annual pension before commutation; and

(ii) pensions and annuities—

(A) an amount not exceeding seventy-five per cent of the remuneration of an employee at the date of his retirement at a specified age after a period of not less than thirty-seven and one-half years of service or on becoming incapacitated at an earlier age; or

(B) a proportionate percentage in respect of a shorter period of service,

for all or any of the following persons in the events respectively specified, that is to say, persons employed in the trade or undertaking, either at a specified age or on becoming incapacitated at some earlier age, and the spouses, children or dependents or legal personal representatives of employees, on the death of such employees; or

(iii) lump sum payments on the death of a member (to the spouse, children or dependents or personal representative of the deceased member) an amount not exceeding two years' remuneration or the employee's actuarial value of the interest in the fund, whichever is greater;

(c) the employer in the trade or undertaking is a contributor to the fund; and

(d) the trusts under which the fund is established do not provide more favourable benefits, or more

30/1970
S. 17.

favourable distributions of any surplus arising on a winding-up of the fund, for a person who is connected with the employer or is a relative of such a person than for persons in similar circumstances who are neither connected with the employer nor are relatives of such persons:

Provided that the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the approval, approve a fund, or any part of a fund, as a superannuation fund for the purposes of this Act—

7/1956
S. 11.

(i) notwithstanding that the rules of the fund provide for the return in certain contingencies of contributions paid to the fund; or

(ii) [*Deleted by Act 1 of 2008.*]

(iii) notwithstanding that the trade or undertaking in connection with which the fund is established is carried on only partly in the Island and by a person not residing therein; or

1/2008
S. 4 (a) (iii).

(iv) notwithstanding that the fund makes provision for pensions and annuities, the employer may increase the post retirement benefit of a pensioner member; however, the increase shall not exceed the annual changes in the Consumer Price Index.

41/2002
S. 12 (b).

(2A) The amount specified in subsection (2) (b) shall have effect for the year 1994 and any subsequent year of assessment.

7/1956
S. 11.

(3) Income tax shall be chargeable in respect of any sum—

(a) paid or repaid out of an approved superannuation fund to an employer who was a contributor to such fund; or

- (b) paid by way of annuity out of an approved superannuation fund to an employed person or his dependents; or
- (c) paid by way of distribution of any surplus arising on a winding-up of an approved superannuation fund, 30/1970
S. 17.

as if such sum were income of the year in which it was so paid or repaid.

- (4) The Commissioner may by notice in writing— 7/1956
S. 11.

- (a) require the trustees or other persons having the management of an approved superannuation fund, or an employer whose employees contribute to an approved superannuation fund, to deliver to the Commissioner within such time as he may specify in such notice, such information and particulars as the Commissioner may require for the purposes of this section;
- (b) addressed to the trustees or other persons having the management of an approved superannuation fund, withdraw his approval of the fund if it appears to him— 30/1970
S. 17.(c)
 - (i) that any of the conditions specified in paragraphs (a) to (d) of subsection (2) are not satisfied; or
 - (ii) that any conditions imposed by him under the proviso to subsection (2) have been contravened,

or qualify his approval of the fund if it appears to him that, having regard to the value of assets in the fund and its probable future resources, the income of the fund does not need to be exempted from income tax in

order for the fund to be of a size to enable it to be reasonably sure of meeting its present and future obligations.

18/1971
S. 5.
30/1970
S. 17 (d).

(5) Where approval of a fund is withdrawn by a notice under subsection (4), the withdrawal shall operate from the date of the notice or from such earlier date as may be specified in the notice, not being earlier than the first date on which the condition in question was not satisfied or was contravened.

30/1970
S. 17 (e).
29/1971
S. 12.

(6) Where approval of a fund has been qualified by a notice under subsection (4), the qualification shall take effect from the date of the notice, and the Commissioner may, if at any time it appears to him that the circumstances which led to the qualification being imposed no longer apply, by a further notice in writing addressed to the trustees or other persons having the management of the fund, remove the qualification; but while the qualification remains in force it shall have the effect of disapplying the exemption from tax conferred by paragraph (j) of section 12 in relation to the income of the fund.

1/2008
S. 4 (b).

(7) Where the Commissioner refuses, withdraws or qualifies approval of a superannuation fund under this section, an appeal from the decision of the Commissioner of Taxpayer Appeals shall lie, within sixty days, to the Revenue Court and the decision of that Court shall be final.

30/1970
S. 17 (f).

(8) Where at any time during the year of assessment the beneficiaries of an approved superannuation fund are fewer than ten in number (disregarding beneficiaries who are persons connected with the employer or are relatives of such persons), the exemption from tax conferred by paragraph (j)

of section 12 shall apply to the income of the fund for the year only if the trustees or other persons having the management of the fund have claimed the exemption by notice in writing served on the Commissioner within fourteen days after the end of the year.

(9) If, following service on him of a notice under subsection (8), it appears to the Commissioner that all the income of the fund for the year does not need to be exempted from tax in order to maintain the fund at the size necessary, having regard to probable future income, to enable it to be reasonably sure of meeting its present and future obligations, he may, after consultation with Financial Services Commission under the Pensions (Superannuation Funds and Retirement Schemes) Act, restrict the exemption accordingly to a part only of the income; and where he does so may in addition direct that income not exempted shall be charged to tax at a rate corresponding to the rate or rates which would apply if it were treated as apportioned between the persons who, on a winding-up of the fund, would be beneficially entitled to any surplus thereof (being apportioned in the like shares as would be applicable in such a winding-up).

30/1970
S. 17 (f).

1/2008
S. 4 (c) (i).

(10) In this section—

18/1971
S. 5.

(a) paragraph (d) of subsection (2) applies to approvals granted on or after 1st December, 1970;

(b) subsections (8) and (9) apply for the year 1970 and subsequent years except that they do not apply to income of a fund accruing before 1st December, 1970.

44A.—(1) Subject to the provisions of this Act and to any regulations and rules made thereunder, any sum paid by any person by way of contribution to an approved retirement scheme shall, in computing profits or gains for the purpose of an

Approved
retire-
ment
schemes.
3/1987
S. 20.

assessment to income tax, be allowed to be deducted as an expense incurred in the year in which the sum is paid:

Provided that where a contribution is not an ordinary annual contribution, (hereinafter referred to as a special contribution) it shall, for the purpose of this subsection, be treated, as the Commissioner may direct—

- (a) either as an expense incurred in the year in which the sum is paid; or
- (b) as an expense to be spread over a period not exceeding ten years,

and as a condition of any such direction the Commissioner may, if he thinks fit having regard to the funding and other circumstances of the scheme, stipulate that the special contribution in any year shall not, for the purpose of any deduction under this subsection, exceed an amount equivalent to the ordinary annual contribution for that year.

Fourth
Schedule.

(2) The provisions of the Fourth Schedule shall have effect with regard to the approval of retirement schemes and the terms and conditions applicable thereto.

(3) Subject to subsection (4), income tax shall be chargeable in respect of any amount paid pursuant to an approved retirement scheme to a person who was a contributor to that scheme or to his dependents as if such amount were income of the year in which it was so paid.

(4) Lump sums payable as retiring benefits to, or in respect of, any contributor pursuant to an approved retirement scheme shall be exempt from income tax.

(4A) [*Deleted by Act 1 of 2008.*]

(5) The Minister may by order subject to affirmative resolution of the House of Representatives amend the Fourth Schedule.

Fourth
Schedule.

Industrial Societies, etc.

45.—(1) Any profits or gains of a society registered under the Industrial and Provident Societies Act or the Building Societies Act shall include any profits or surplus arising from transactions between the society and its members which would be included if the transactions had been transactions with non-members.

Industrial
and
Provident
Societies
and
Building
Societies.

(2) There shall be allowed in the computations of societies registered under the Industrial and Provident Societies Act, any sums which—

- (a) represent a discount, rebate, dividend or bonus granted by the society to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the society, being transactions which are taken into account in the said computation; and

- (b) are calculated by reference to the said amounts or to the magnitude of the said transactions and not by reference to the amount of any share of interest in the capital of the society.

Share interest
to be paid
without
deduction of
tax.
41/2002
S. 14 (a).

46.—(1) Where a society registered under the Industrial and Provident Societies Act or a building society, as the case may be, pays or credits share interest, it shall deduct from that payment or credit, a sum equivalent to twenty-five cents in the dollar.

41/2002
S. 14 (a).

(1A) The provisions of the proviso to subsection (1) of section 31A and subsections (3) and (4) of that section shall apply *mutatis mutandis* in relation to the deduction of tax under subsection (1) of this section.

(2) Where such share interest as is referred to in subsection (1) is paid to a person not resident in the Island by—

3/1987
S. 21 (a) (i).
9/1994
S. 12.

(a) a society registered under the Industrial and Provident Societies Act, tax shall be deducted at the rate of 33½ cents in the dollar if the person is not an individual, or 25 cents in the dollar if the person is an individual;

3/1987
S. 21 (a) (ii).
9/1994
S. 12.

(b) a building society, tax shall, unless the income of that person is exempt from income tax pursuant to paragraph (s) of section 12, be deducted at the rate of 33½ cents in the dollar if the person is not an individual, or 25 cents in the dollar if the person is an individual,

and an account of the payment and of any tax so deducted shall be delivered to the Commissioner who shall assess and charge the payment for which an account is so delivered on the society or building society, as the case may be.

(3) For the purpose of determining the chargeable income of a society, there shall be deducted (in addition to any other deductions) the amount of any share interest which has been paid by the society during the period in respect of which that income is being computed and an account of the payment of which has been delivered to the Commissioner indicating the person to whom the payment has been made and the amount of tax (if any) deducted from the payment. 33-1964
S. 7.

(4) For the purposes of this section—

(a) “share interest” means any interest, dividend, bonus or other sum payable to a shareholder of a society registered under the Industrial and Provident Societies Act or of a building society by reference to the amount of his holding in the share capital of the society;

(b) references to the payment of share interest shall include references to the crediting of such interest.

(5) The provisions of section 45 (2) and of this section shall not apply to any society registered under the Industrial and Provident Societies Act unless the society— 3/1987
S. 2 (b).

(a) satisfies all the following conditions—

(i) it has at least fifty members;

(ii) its share capital is all of one class;

(iii) the members and shareholders are required by the rules to be, and are in fact substantially identical; or

- (b) is a society of which each member is, or at some time was, employed by the same employer and which, apart from transactions between the society and its members, does not carry on any trade, business or profession.

41 2002
S. 14 (b).

(6) The provisions of section 41 which relate to penalties shall apply *mutatis mutandis* in respect of any failure to comply with subsection (1) of this section, and accordingly any reference to payment in that section shall be construed as including a reference to credit.

Exemption
from tax of
profits
allocated to
reserves of
building
society.
33. 1964
S. 8.
3/1987
S. 22.

47.—(1) Subject to the provisions of this section, there shall be exempt from tax so much of the profits or gains of a building society as is transferred by the society to its general reserves so as to bring such reserves up to an amount—

- (a) in respect of any period prior to 1st January, 1987, not exceeding $7\frac{1}{2}$ *per centum* of the assets of the society; and
- (b) in respect of any period commencing on or after the 1st January, 1987, not exceeding 5 *per centum* of the assets of the society.

(2) A building society shall establish and maintain a separate account in respect of any profits or gains exempted from tax pursuant to subsection (1) and if it intends to pay any amount by way of a dividend to its shareholders or otherwise out of such profits or gains such amount shall be paid out of such account.

(3) Tax shall be payable by a building society in respect of any amount which is paid out of any account maintained pursuant to subsection (2)—

- (a) by way of dividend to shareholders; or

(b) for any other purpose not approved by the Minister.

(4) In this section—

“assets” means the aggregate of the amounts which the Commissioner is satisfied—

(a) have been expended by the society in acquiring—

(i) land owned by the society;

(ii) equipment, furniture, machinery, plant and other moveable property in use which are owned by the society; and

(iii) investments owned by the society; and

(b) represent the amounts of—

(i) outstanding balances of loans (including insurance and other advances but excluding advances on the security of shares) made by the society;

(ii) cash in hand or with the society's bankers less the amount of any bank overdraft;

- (iii) accrued interest on investments acquired by the society which is not taken into account in sub-paragraph (iii) of paragraph (a);

“general reserves” means the aggregate of the amounts which the Commissioner is satisfied represent—

- (a) balances standing at credit in the Revenue and Appropriation Account of the society; and
- (b) sums set aside for the stability of the society after adequate provision to the satisfaction of the Commissioner has been made to meet accrued liabilities.

Insurance, Shipping and Aircraft Companies

Insurance,
shipping
and
aircraft
companies.

48.—(1) Notwithstanding anything to the contrary contained in this Act, subsections (2) to (12) shall have effect.

3/1987
S. 23(a).

(2) In the case of an insurance company (other than a life assurance company) the gains or profits on which tax is payable shall be ascertained in accordance with the following table—

Operating balance	...	...	\$.....
Deduct permitted insurance reserves as at the end of the year	...	...	\$.....
Add permitted insurance reserves as at the beginning of the year	...	...	\$.....
Deduct—			
(i) actual losses (less the amount re- covered in respect thereof under re-insurance)	...	...	\$.....
(ii) agency and head office expenses	...		\$.....

Net Profits/Gains	...	...	\$.....

(2A) For the purposes of subsection (2)—

- (a) "operating balance" means gross premiums, interest and other income received or receivable, (less any premiums returned to the insured and premiums paid on re-insurances);
- (b) "agency and head office expenses" means the agency expenses in the Island and such proportion of the expenses of the head office of the company as the Commissioner is satisfied was incurred in connection with the agency;

- (c) "permitted insurance reserves" at any date, means the insurance reserves established by the company, and accepted by the Commissioner as reasonable for the purposes of computing gains or profits on which tax is payable, in relation to the policies in force up to that date.

15/1985
S. 4.

(3) In the case of a life assurance company, whether mutual or proprietary, the gains or profits on which tax is payable shall, for the year 1984 and any subsequent year of assessment, be the investment income, including income arising from health insurance business or any other business, less the management expenses.

3/1987
S. 23 (b).

15/1985
S. 4.

(3A) For the purposes of subsection (3)—

- (a) investment income in any year shall be ascertained by deducting from the aggregate amount of the income of the company arising from all sources for the year—

(i) amounts received as premiums by the company in that year in respect of policies of life assurance;

(ii) amounts received by the company in that year as consideration in respect of annuities granted by the company;

(iii) amounts received by the company in that year as premiums in relation to contribution to approved superannuation funds or approved retirement schemes; and

3/1987
S. 23 (c).

- (iv) such other amounts as the Minister may, by order, prescribe;
- (b) management expenses in any year shall be the amount of all disbursements and expenses, being disbursements and expenses allowable under section 13, wholly and exclusively incurred by the company in that year in acquiring the investment income:

Provided that such expenses, without prejudice to the generality of this paragraph, shall not include—

- (i) commissions or other similar payments payable to agents or employees of the company;
- (ii) expenses incurred in gaining premiums for policies of life assurance or for considerations received for annuities;
- (iii) expenses in relation to medical examinations of policy holders or proposed policy holders;
- (iv) stamp duties payable on policies of life assurance; and
- (v) such other expenses as the Minister may, by order, prescribe.

3/1987
S. 23 (d).

(3B) Losses for the years of assessment 1984, 1985 and 1986 which a life assurance company was entitled, prior to the 1st day of January, 1987, to deduct under section 13 (1) (h) may be carried forward and, until fully utilized, allowed as a deduction in subsequent years of assessment:

Provided that the amount of any such losses allowed in any year of assessment shall not exceed fifty per cent of the amount of the chargeable income of the company before deduction of the losses aforesaid.

15/1985
S. 4.

(3C) An order under paragraph (a) (iv) or sub-paragraph (v) of the proviso to paragraph (b) of subsection (3A)—

- (a) may, without prejudice to the generality thereof make provision for the treatment, for the purposes of subsections (3) and (3A), of income received outside the Island or received by a life assurance company having its head office outside the Island;
- (b) may be given retroactive effect to a date no earlier than the 1st January, 1984; and
- (c) shall be subject to affirmative resolution of the House of Representatives.

15/1985
S. 4.

(3D) The provisions in section 12 shall apply, where appropriate, to life assurance companies.

15/1985
S. 4.
14/2006
Sch.

(4) In the case of a life assurance company, tax shall be charged at the rate of 15 cents in the dollar.

(5) In addition to the income tax payable under subsections (3) and (4), income tax shall further be charged on a life assurance company in respect of the following amount (hereinafter referred to as "premium income"), namely, the gross premiums (other than premiums paid in respect of health insurance) and all other payments received by the company in respect of any assured (other than re-insurance premiums, premiums received as contributions to approved superannuation funds or approved retirement schemes and any other payments specified by the Minister by order subject to affirmative resolution by the House of Representatives, and less any returned premiums), being payments received in the Island or received out of the Island in respect of an assured who was resident in the Island both at the time of payment and at the time the relevant policy was entered into.

34/1970
S. 6.

3/1987
S. 23(e)(i).

3/1987
S. 23(e)(ii).

(6) Subject to subsection (7A), where the life assurance company, being chargeable with the tax under subsection (5) for the year 1976 or any subsequent year of assessment, satisfies either of the following conditions, namely—

12/2015
S. 5(a).
34/1970
S. 6.
7/1977
S. 2 (a).

(a) that the Minister has stated by a notice published in the *Gazette* and not subsequently cancelled by a further notice so published that the company is taking, or has taken, reasonable steps to become regionalized; or

7/1977
S. 2 (b).

(b) that the company, having previously carried on a business of issuing life assurance policies on the lives of persons resident within the region, has ceased to carry on that business and has passed the goodwill thereof to a company which satisfies the condition set out in paragraph (a), the company

7/1977
S. 2 (a).

41/2002
S. 16.
16/2006
Sch.

shall be charged under subsection (5) at the rate of three *per centum* of its premium income for the year.

34/1970
S. 6.
16/2006
Sch.
12/2015
S. 5(b).

(7) Subject to subsection (7A), where subsection (6) does not apply the life assurance company shall be charged under subsection (5) at the rate of four *per centum* of its premium income for the year.

12/2015
S. 5(c).

(7A) Notwithstanding subsection (6) or (7), the provisions of paragraph (b) of section 40(1) shall apply to payments specified in that paragraph.

7/1977
S. 2(b).

(8) For the purposes of subsection (6), a company shall be taken to be regionalized if—

(a) it was incorporated in any country of the region;
and

(b) it is resident within the region; and

(c) persons each of whom is an individual domiciled, or body corporate resident, within the region are the beneficial holders of the required percentage of the company's paid-up capital, other than preference capital, the required percentage being—

(i) such percentage as may be determined from time to time by order of the Minister; or

(ii) in the event of no percentage having been determined under sub-paragraph (i), fifty-one *per centum*.

(8A) Every reference in subsection (6) or (8) to the region is to— 7/1977
S. 2(d).

(a) Jamaica; and

(b) subject to subsection (8B), the other countries belonging to the Caribbean Community.

(8B) The Minister, if satisfied that in the circumstances it is reasonably justifiable so to do, may make an order declaring the region not to include, for the purposes of subsections (6) and (8), such country (other than Jamaica) belonging to the Caribbean Community as may be specified in the order and, for any such purposes, a country so specified in any order under this subsection shall be deemed not to be part of the region during the continuance in force of the order. 7/1977
S. 2(d).

(8C) Any order under subsection (8) (c) (i) or (8B) shall be subject to affirmative resolution of the House of Representatives. 7/1977
S. 2(d).

(8D) In the foregoing provisions of this section—

7/1977
S. 2(d).

“Caribbean Community” means the Community referred to in the Caribbean Community Act;

“country” includes “territory”.

(9) Notwithstanding anything in this section the Minister may grant such remission of tax to a life assurance company as appears to him expedient for encouraging the formation of companies within subsection (6) by the merging of branches of other companies or by any other means, and for securing their continued operation. 34/1970
S. 6.

(10) (a) In the case of a shipowner or aircraft owner gains or profits in the business of shipping or the business of air transport shall, if he produces or causes to be produced 7/1956
S. 33.

to the Commissioner the certificate mentioned in paragraph (b), be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods, or mails shipped in the Island as his total profits for the relevant accounting period shown by that certificate bear to the gross earnings for that period.

(b) The certificate shall be a certificate by the taxing authority of the place in which the principal place of business of the shipowner or aircraft owner is situated and shall state—

- (i) that the shipowner or aircraft owner has furnished to the satisfaction of that authority account of the whole of his business; and
- (ii) the ratio of the gains or profits for the relevant accounting period as computed according to the income tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the business of shipping or the business of air transport (as the case may be) for that period.

(c) If the gains or profits of a shipowner or aircraft owner have, for the purpose of assessment in the Island under this Act, been computed on any basis other than the ratio of the gains or profits shown by a certificate as aforesaid, and an assessment has been made accordingly, the shipowner or aircraft owner shall, upon production of such certificate at any time within two years from the end of the year of assessment, be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded.

(d) In this subsection the expression "shipowner" means an owner or charterer of ships and "aircraft owner" means the owner or charterer of aircraft, whose principal place of business is situated outside the Island.

(11) (a) Gains or profits arising from the business of shipping or air transport carried on by a person not resident in the Island shall be exempted from the tax provided that the Minister is satisfied that an equivalent exemption from income tax is granted by the country in which such person is resident to persons resident in the Island and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom.

9/1963
S. 9 (1)(b).

(b) In this subsection the expression "business of shipping" means the business carried on by an owner of ships, and "business of air transport" means the business carried on by an owner of aircraft, and for the purposes of this definition the expression "owner" includes any charterer.

(c) For the purposes of this subsection a company shall be deemed to be resident in that country only in which the central management and control of its business is situated.

(12) For the purposes of subsections (2), (3) and (4) the word "company" means any society or association or other body of persons, whether incorporated or not.

7/1956
S. 12.

48A.—(1) Subject to the provisions of this Act, where—

(a) any person (hereinafter referred to as "the investor") makes an investment with any insurance company other than in relation to a specified policy; and

(b) interest arising from such investment is paid or credited by the insurance company to the investor,

Deductions
of tax from
interest
payments
on certain
deposits or
investments
with
insurance
companies.
41/2002
S. 16.

the insurance company shall, subject to the provisions of this Act, deduct from that payment or credit, tax at the rate of 25% if the investor is an individual or an unregulated company, or 33½% if the investor is a person other than an individual or an unregulated company.

35/2013
Sch.

(2) Interest arising at any time between 16th December, 1993 and 31st May, 1999 in relation to a specified policy shall be exempt from income tax in the hands of the relevant investor.

(3) In subsections (1) and (2) “specified policy” means a policy evidencing a contract of insurance entered into by an insurance company between 16th December, 1993 and 31st May, 1999 (hereinafter called “the investment period”)—

(a) under terms whereby interest is paid by the company on deposits or other investments made by the investor in connection with that policy; and

(b) in relation to which—

(i) the interest accruing from the principal sum so deposited or invested would be exempt from income tax, unless such sum is withdrawn by the investor within three years of the date on which the contract was made;

(ii) a deposit or investment has been made by the investor during the investment period; and

(iii) no withdrawal from such sum has been made within such three years.

(4) Where an insurance company makes a deduction of tax pursuant to subsection (1), that company shall be deemed to be collecting tax on behalf of the Commissioner of Inland Revenue and shall, within fourteen days after the end of the calendar month in which the deduction was made, account for and pay to that Commissioner or to such person as he may direct, the amount of tax so deducted.

(5) In subsection (1)—

“interest” has the same meaning as in section 31A;

“investment” includes any application of money whether by way of deposit, loan or otherwise.

Junior Stock Market Companies

35/2013
Sch.

48B. The provisions of the Seventh Schedule shall have effect with regard to the granting of relief to companies listed on the Jamaica Stock Exchange Junior Market.

Relief to
companies
listed on
Junior
Market.
Seventh
Schedule.
35/2013
Sch.

Persons Chargeable

49.—(1) The income of a married woman living with her husband shall, unless an election is made under section 50, be assessed and charged to tax as if she were unmarried.

Separate
assessment
and charge
of wife's
income.

(2) [*Deleted by Act 4 of 1986.*]

(3) [*Deleted by Act 4 of 1986.*]

(4) Where any income of a wife living with her husband arises or accrues to her from or in respect of any trade, business, profession, office employment or vocation carried on or exercised—

(a) by her husband; or

(b) by a body corporate of which her husband is a principal member; or

- (c) jointly by her husband and any partner of his (including herself),

then such income shall be treated for the purposes of subsection (1) as the income of the wife only if, when, and to the extent in respect of which—

- (aa) she or her husband satisfies the Commissioner that it is commensurate with work done by the wife wholly and exclusively with the object of enabling her husband, the body corporate or the partners (as the case may be) to make a profit; and
- (bb) the Commissioner notifies both the husband and the wife in writing that he is so satisfied.

(5) Where any income arises or accrues in any of the circumstances mentioned in subsection (4)—

- (a) the wife; and
- (b) her husband or the body corporate or the partners (as the case may be),

shall deliver or cause to be delivered to the Commissioner not later than the 15th day of March in the year next following that in which the income arose or accrued, a written notice stating that the income arose or accrued in such circumstances, and any person who fails to comply with this subsection shall be guilty of an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.

50.—(1) Subject to subsection (2), the income of a married woman living with her husband shall, if she and her husband so jointly elect, be deemed to be the income of the husband and shall be assessed and charged to tax in the name of the husband.

Election
to joint
assessment.

(2) Notwithstanding that no assessment has been made on the wife, the Commissioner of Inland Revenue may, if so advised by the Commissioner, recover from her that part of the total tax charged on the husband which bears the same proportion to such total tax as the amount of the income of the wife bears to the total joint income of the husband and wife.

12/1985
Sch.

(3) An election under this section shall be made by giving notice in writing to the Commissioner at any time during the year of assessment to which the election relates or not later than the 15th day of March in the year next following that year but the Commissioner may, on reasonable cause being shown to him whereby the election was prevented from taking place by that date, extend the time for making the election to such later date as he may specify in writing.

(4) Any election under this section that could have been made within any period jointly with a spouse who has died may, within that period be made jointly with the deceased's personal representatives.

51. [*Repealed by Act 16 of 1980.*]

52.—(1) Every body of persons shall be chargeable to tax in like manner as any person is chargeable under the provisions of this Act.

Corpora-
tions.

(2) The manager or other principal officer of every body of persons shall be answerable for doing all such

acts, matters and things as shall be required to be done by virtue of this Act for the assessment of such body and the payment of the tax.

President or
principal
officer of
registered
society
answerable.

7/1956
S. 33.

53. The president or other principal officer of every society registered under the Industrial and Provident Societies Act or of every building society shall be answerable for doing all such acts, matters and things as shall be required to be done by virtue of this Act for the assessment of such societies and the payment of the tax.

Representa-
tives of
non-resident
persons
chargeable.
9/1963
S. 9 (1) (c).

54.—(1) A person not resident in this Island, whether a Commonwealth citizen or not, shall be assessable and chargeable in the name of his trustee, guardian or committee, or of any attorney, agent, receiver, branch or manager, whether such attorney, agent, receiver, branch or manager has the receipt of the profits or gains 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 this Island and in the actual receipt of such profits or gains.

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

(3) Where a non-resident person carries on business with a resident person, and it appears to the Commissioner that owing to the close connection between the resident person and the non-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.

(4) Where it appears to the Commissioner that the true amount of the profits or gains of any non-resident person chargeable with tax in the name of a resident person cannot be readily ascertained, the Commissioner may assess and charge the non-resident person on a 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 provisions of this Act relating to the delivery of returns by persons acting on behalf of others shall extend so as to require returns to be given 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 are to be delivered by persons acting for incapacitated or non-resident persons of profits or gains to be charged.

(5) Where a non-resident person is chargeable to income tax in the name of any branch, manager, agent, attorney or receiver in respect of any profits or gains arising from the sale of goods or produce manufactured or produced out of the Island 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 Commissioner to have the assessment to income tax in respect of those profits or gains 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 Commissioner of the amount of the profits on the basis

aforesaid, the assessment shall be made or amended accordingly.

Trustees,
etc., and
personal
representa-
tives
answerable.

55.—(1) Every trustee, guardian, committee, receiver, attorney, agent, or other representative shall be chargeable to income tax in like manner and to the like amount and shall be answerable for the doing of all such acts, matters or things as are required to be done by virtue of this Act for the assessment of any person for whom he acts and for the payment of income tax chargeable on him in respect of the income of any incapacitated or non-resident person.

(2) Where a person chargeable with income tax shall die, the personal representative of such person shall be liable to and charged with the payment of the income tax which such person was chargeable with and shall be answerable for doing all such acts, matters and things as such person, if he were alive, would be required to do under this Act:

Provided that notwithstanding anything to the contrary contained in this Act, no assessment or additional assessment shall be made on, and no claim for relief shall be made by, the personal representative of a deceased person in respect of the profits or gains or income which arose or accrued to him before his death beyond the end of the third year next following the year of assessment in which the deceased person died.

Representa-
tives may
retain
amount pay-
able for
income tax.

56. Every person answerable under this Act in a representative capacity for the payment of income tax may retain out of any money coming to his hands in such capacity so much thereof as shall be sufficient to pay such income tax; and every such person shall be and is hereby indemnified against every person whatsoever for all payments made by him in pursuance and by virtue of this Act.

57. With respect to every person resident in the Island having the receipt, control and disposal of money belonging to a non-resident person who derives income from a source in the Island, or to a non-resident person who is a shareholder, debenture holder, or depositor in a company deriving income from a source in the Island, the following provisions shall apply—

Liability of
represent-
atives for
payment of
income tax.

- (a) he shall, when required by the Commissioner, pay to the Commissioner of Inland Revenue the tax due and payable by the non-resident;

12/1985
Sch.

- (b) he is hereby made personally liable for the tax payable by him on behalf of the non-resident to the extent of any amount that he has retained, or should have retained under section 56, but he shall not be otherwise personally liable for the tax.

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 a 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.

58.—(1) Every person who in whatever capacity, is in receipt of any money or value, or of profits or gains arising from any of the sources mentioned in this Act or belonging to any other person who is chargeable in respect thereof and not being a non-resident or an incapacitated person, shall whenever required to do so by any notice from the Commissioner prepare and deliver within the period mentioned in such notice a list in the prescribed form signed by him containing—

Delivery of
list by
persons in
receipt of
taxable
income
belonging to
others.

- (a) a true and correct statement of all such money, value, profits or gains;

(b) the name and address of every person to whom the same shall belong.

(2) Every person who refuses, fails or neglects to comply with the provisions of this section shall be guilty of an offence against this Act, and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.

41/2002
S. 17.
8/2014
Sch.

Pension Rights of Directors and Employees

Charge to tax
in respect of
provision for
retirement or
other benefits
to directors
and employees
of bodies
corporate.

59.—(1) Subject to the exemptions and provisions contained in section 60 where, pursuant to a scheme for the provision of future retirement or other benefits for persons consisting of or including directors or employees of a body corporate (hereafter in this Act referred to as “a retirement benefits scheme”), the body corporate in any year of assessment pays a sum with a view to the provision of any such benefits for any director or employee thereof, then (whether or not the accrual of the benefits is dependent on any contingency) the sum paid shall be deemed for all the purposes of this Act to be income of that director or employee for that year of assessment and assessable to tax.

(2) Subject to the exemptions and provisions contained in section 60, where—

- (a) an agreement is in force between a body corporate and a director or employee thereof for the provision for him of any future retirement or other benefits afforded by a retirement benefits scheme, or a person is serving as a director or employee of a body corporate in connection wherewith there is a retirement benefits scheme relating to persons of the class within which he falls under which any such benefits will be provided for him; and
- (b) the body corporate does not, or does not fully, secure the provision of the benefits by the payment of such sums as are mentioned in subsection (1); and

- (c) the circumstances in which the benefits are to accrue are not such as will render the benefits assessable to income tax under this Act as emoluments of his office as a director or of his employment,

then (whether or not the accrual of the benefits is dependent on any contingency), in each year of assessment in which the agreement is in force or the director or employee is serving as aforesaid, up to and including the year of assessment in which the benefits accrue or there ceases to be any possibility of the accrual thereof, a sum equal to the annual sum which the body corporate would have had to pay in that year under a contract with a third person which secured the provision by that third person of those benefits or, as the case may be, of those benefits so far as not already secured by the payment of such sums as are mentioned in subsection (1), shall be deemed for all the purposes of this Act to be income of the director or employee for that year and assessable to income tax.

(3) Where the body corporate pays any sum as mentioned in subsection (1) in relation to several directors or employees, the sum so paid shall, for the purpose of that subsection, be apportioned among them by reference to the separate sums which would have had to be paid to secure the separate benefits to be provided for them respectively, and the part of the sum apportioned to each of them shall be deemed for that purpose to have been paid separately in relation to that one of them.

60.—(1) The following payments shall be exempted from the operation of subsection (1) of section 59, that is to say—

- (a) payments made to an approved superannuation fund or an approved retirement scheme;

Exemptions
from charge
to tax under
section 59.
7/1956
S. 14 (1).
3/1987
S. 24.

- (b) payments made pursuant to an excepted provident fund or staff assurance scheme or other similar scheme (as defined in section 63); and
- (c) payments made by way of premium pursuant to a scheme the benefits whereunder are secured by premiums payable by the body corporate, with or without contributions by the directors or employees affected, under life or endowment assurance or life annuity contracts, being a scheme which was in operation before the 1st day of January, 1954, and which is not confined, or substantially confined, to directors and persons who, not being directors, are remunerated at a rate exceeding four thousand dollars a year, or to directors or to such persons.

(2) Neither subsection (1) nor subsection (2) of section 59 shall apply so as to cause any sum to be deemed to be income as therein mentioned where the retirement benefits scheme in question is one under which the main benefit afforded to each of the persons to whom the scheme relates is the provision for him of a pension or annuity for his life, and either—

- (a) that scheme was in operation before the 1st day of January, 1954; or
- (b) that scheme is for the time being approved by the Commissioner under section 61.

(3) Where, in respect of the provision for a director or employee of any future retirement or other benefits, a sum has been deemed to be income of his by virtue either of subsection (1) or of subsection (2) of section 59, and subsequently the director or employee proves to the satisfaction of the Commissioner that no payment in respect of, or in substitution for, the benefits has been made and that some event has occurred by reason whereof no such pay-

ment will be made, and claims relief under this subsection within three years from the time when that event occurred, he shall give relief in respect of tax on that sum by repayment or otherwise as may be appropriate; and if the director or employee satisfies the Commissioner as aforesaid in relation to some particular part of the benefits but not the whole thereof, he may give such relief as may seem to him just and reasonable.

(4) Where, apart from this subsection, any sum would be deemed, by virtue either of subsection (1) or of subsection (2) of section 59, to be income of an employee for any year of assessment, but, by reason of his exercising his employment outside the Island, he is not assessable to income tax under paragraph (c) of section 5 in respect of the emoluments of his employment for that year, that subsection shall not apply so as to cause that sum to be deemed to be income of his for that year.

61.—(1) Subject to the provisions of section 62, the Commissioner shall approve a retirement benefits scheme for the purpose of subsection (2) of section 60 unless it appears to him that the scheme does not fall within the said subsection (2) by reason of the fact that the main benefit afforded thereby is not such as is therein mentioned, or that, although the main benefit is such as aforesaid, the scheme fails to satisfy some one or more of the following conditions, that is to say—

Approval of
retirement
benefits
scheme.

7/1956
S. 33.

- (a) that that benefit will accrue only on retirement at a specified age or on earlier retirement through incapacity or on death;
- (b) that the nature of the benefits afforded by the scheme is the same in relation to all the persons to whom the scheme relates;
- (c) that the proportion between the value of the pensions or annuities provided for by the scheme,

in so far as they are not commutable, and the value of all other benefits afforded thereby, including the value of so much, if any, of the said pensions or annuities as is commutable, is reasonably comparable to the proportion between the values of such benefits respectively as are usually afforded by superannuation schemes;

- (d) that the aggregate value of the benefits, of whatever nature, afforded by the scheme is reasonably comparable to the aggregate value of the benefits usually afforded by superannuation schemes in like circumstances;
- (e) that the pensions or annuities provided for by the scheme are not assignable, either in whole or in part; and
- (f) that no service of a person, in whatever capacity, rendered by him while he is a controlling director of the body corporate is taken into account for any of the purposes of the scheme:

Provided that the Commissioner may, if he thinks fit, having regard to the facts of the particular case, approve a scheme the main benefit afforded whereby is such as is mentioned in subsection (2) of section 60 notwithstanding that it may not, in one or more respects, satisfy the whole of the aforesaid conditions.

(2) Where the Commissioner has given his approval to a scheme, he may at any time, by notice in writing to the body corporate in question, withdraw his approval on such grounds, and as from such date, as may be specified in the notice.

Aggregation
and
severance of
schemes.

62.—(1) References in this Act to a retirement benefits scheme shall be construed in accordance with the following provisions, that is to say—

- (a) references to such a scheme shall, in relation to a deed, agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons of two or more classes, be construed as references to so much thereof as relates to persons of a single class, and accordingly a deed, agreement, series of agreements, or other arrangements so providing shall be treated for the purposes of this Act as constituting two or more retirement benefits schemes relating respectively to the different classes;
- (b) references to such a scheme include references to a deed, agreement, series of agreements, or other arrangements providing for retirement or other benefits for persons consisting of or including a director or employee, or directors or employees, of a body corporate (or, in a case falling within paragraph (a), to so much thereof as relates to a person or persons of any one class), notwithstanding that it or they relates or relate only to a small number of directors or employees, or to a single director or employee.

(2) For the purpose—

- (a) of determining, in the case of a retirement benefits scheme which was in operation before the 1st day of January, 1954, whether the scheme falls within subsection (2) of section 60 as respects the nature of the main benefit afforded thereby; and
- (b) of determining, in the case of a retirement benefits scheme submitted for the approval of the Commissioner, whether the scheme so falls, and whether the conditions specified in subsection (1) of section 61 are satisfied,

the scheme shall be considered in conjunction with any other retirement benefits scheme or schemes subsisting in

connection with the body corporate and relating to persons of the class to which the scheme in question relates, and—

- (i) if the main benefit afforded by all those schemes taken together is such as is mentioned in subsection (2) of section 60, each of them shall be taken to fall within that subsection as respects the nature of the main benefit afforded thereby, and, if it is not, none of them shall be taken so to fall; and
- (ii) if the said conditions are satisfied in the case of all of them taken together, those conditions shall be taken to be satisfied in the case of each of them, and, if not, those conditions shall be taken to be satisfied in the case of none of them.

(3) The Commissioner may, if he thinks fit—

- (a) approve a part of a retirement benefits scheme; or
- (b) approve such a scheme notwithstanding that, having regard to another such scheme subsisting in connection with the body corporate, the scheme in question is to be treated by virtue of subsection (2) as not falling within subsection (2) of the said section 60 or as not satisfying the conditions aforesaid,

and where, under this subsection, the Commissioner approves a part of a scheme, neither subsection (1) nor subsection (2) of section 59 shall apply so as to cause any sum to be deemed to be income of a director or employee by reference to the provision for him of benefits afforded by that part of the scheme or of any part of such benefits.

Supple-
mentary
provisions.

63.—(1) In sections 59 to 62 except where the context otherwise requires—

“controlling director” means a director of a company, the

directors whereof have a controlling interest therein, who is the beneficial owner of, or able, either directly or through the medium of other companies or by any other indirect means, to control, more than five *per centum* of the ordinary share capital of the company, and for the purposes of this definition—

- (a) “company” means a company within the meaning of the Companies Act; and
- (b) “ordinary share capital” means all the issued share capital (by whatever name called) of the company, other than capital the holders whereof have a right to a dividend at a fixed rate or a rate fluctuating in accordance with the rate of income tax, but have no other right to share in the profits of the company;

“director” means—

- (a) in relation to a body corporate the affairs whereof are managed by a board of directors or similar body, a member of that board or similar body;
- (b) in relation to a body corporate the affairs whereof are managed by a single director or similar person, that director or person;
- (c) in relation to a body corporate the affairs whereof are managed by the members themselves, a member of the body corporate;

and includes any person who is to be or has been a director;

“employee”, in relation to a body corporate, includes any person taking part in the management of the affairs of the body corporate who is not a director, and includes a person who is to be or has been an employee;

“excepted provident fund or staff assurance scheme or other similar scheme” means so much as relates to

persons remunerated at a rate of four thousand dollars a year, or at a less rate, of any retirement benefits scheme as to which the following conditions are satisfied, that is to say---

- (a) that the sums paid by the body corporate pursuant to the scheme in question in respect of any person for any period do not exceed 15 *per centum* of his remuneration for that period, and do not exceed two hundred dollars in the case of a period of a year or a correspondingly less or greater amount in the case of a shorter or longer period; and
- (b) that no other retirement benefits scheme which relates to employees of the body corporate who are of the class to which the scheme in question relates and who are remunerated as aforesaid, is subsisting for the time being, or, if there is any such other scheme subsisting, that it (so far as it relates to persons remunerated as aforesaid) and the scheme in question taken together satisfy the requirement specified in paragraph (a) of this definition;

"retirement or other benefit" means any pension, annuity, lump sum, gratuity or other like benefit to be given on retirement, or in anticipation of retirement, or in connection with past service, after retirement, or to be given on or in anticipation of or in connection with any change in the nature of the service of the person in question, except that it does not include any pension, annuity, lump sum, gratuity or other like benefit which is to be afforded solely by reason of the death or disability of a person occurring during his service, and for no other reason:

"service" means service as an employee or director of the

body corporate in question, and "retirement" shall be construed accordingly.

(2) Any reference to the provision for a person of retirement or other benefits includes a reference to the provision of benefits payable to that person's spouse, children, dependants or personal representatives, and any reference to the provision for a person of a pension or annuity for his life includes a reference to the provision (either in addition or as an alternative to the pension or annuity payable for his life) of a pension or annuity payable to that person's spouse or to any child or dependant of that person, for the life of the spouse, child or dependant.

(3) Any reference to the provision of retirement or other benefits, or of a pension or annuity, by a body corporate includes a reference to the provision thereof by means of a contract with a third person.

(4) It shall be the duty of a body corporate—

(a) to deliver to the Commissioner, within the three months beginning with the date on which the scheme comes into being, particulars of any retirement benefits scheme coming into being on or after the 1st January, 1955, other than a scheme referred to in subsection (1) of section 60; and

(b) when required to do so by notice given by the Commissioner, to furnish within the time limited by the notice such further particulars as he may require with regard to any retirement benefits scheme subsisting in connection with the body corporate or to the persons to whom it relates,

and the provisions of this Act shall apply in relation to the particulars required to be delivered by or under this subsection as they apply in relation to any list, declaration or statement required to be delivered by any such notice as is referred to in this Act.

Application
to unincor-
porated
societies, etc,
7/1956
S. 33.

64. Sections 59 to 63 shall apply in relation to unincorporated societies or other bodies as those sections apply in relation to bodies corporate:

Provided that the reference in this section to unincorporated societies or other bodies shall be deemed not to include a reference to individuals in partnership.

29/1969
S. 5.

*Payment of Estimated Tax During Current
Year of Assessment*

Payment
of esti-
mated in-
come tax.

65.—(1) Every taxpayer shall, before the 15th day of March in every year of assessment compute the amount of his estimated income tax for such year, and pay such tax to the Collector of Taxes in four equal instalments on or before the following instalment dates in such year, namely the 15th of March, the 15th of June, the 15th of September and the 15th of December:

Provided that in the year of assessment in which a person commences to carry on or exercise a trade, profession or business or in which income from any other source first accrues, the preceding provisions of this subsection shall apply as if they required that person before the 31st day of December of that year of assessment to compute the amount of his estimated income tax attributable to such trade, profession or business or source, and to pay that tax to the Collector of Taxes before the 31st day of December aforesaid.

(2) For the purposes of complying with the provisions of subsection (1)—

- (a) a taxpayer other than an individual shall compute the amount of his estimated income tax for any year of assessment by applying the rates of tax specified in this Act to his estimated chargeable income and, if applicable, his estimated statutory income, for that year;
and

38/1976
1st Sch.

- (aa) a taxpayer who is an individual shall compute the amount of his estimated income tax for any year of assessment by applying the rates of tax specified in this Act to his estimated statutory income for that year; 38/1976
1st Sch.
- (b) a person's estimated chargeable income or estimated statutory income, as the case may be, for any year of assessment shall, subject to the provisions of subsection (3), be—
- (i) the chargeable income or statutory income, as the case may be, disclosed in his return of income for the immediately preceding year of assessment; or,
 - (ii) if no such return was made or no tax was payable by that person for the immediately preceding year of assessment, such chargeable income or statutory income, as the case may be, as may be estimated by that person and accepted by the Commissioner, or, in default of such estimate or acceptance, as may be notified by the Commissioner to that person:

Provided that where sub-paragraph (i) 30/1970
S. 22 applies and—

- (A) the income for the current year of assessment is expected to include the profits or gains or losses of a trade, profession or business carried on by that person for a period ending in the year, but
- (B) the return of income referred to in sub-paragraph (i) included profits or gains or losses of that trade, profession or business over a

shorter period or (because the trade, profession or business had newly started) did not include any such profits or gains or losses,

there shall be added to the income arrived at under sub-paragraph (i) (or in the case of losses there shall be deducted from that income) such amount as may be estimated by that person and accepted by the Commissioner or, in default of such estimate or acceptance, as may be notified by the Commissioner to that person, as being necessary to make up the discrepancy.

(3) Where, on the application of a taxpayer, the Commissioner is satisfied that the amount of chargeable income or statutory income of that taxpayer is likely to be less in the current year of assessment than in the immediately preceding year of assessment he may accept the lesser amount as the taxpayer's estimated chargeable income or estimated statutory income, as the case may be, for the current year of assessment.

(4) If default is made in the payment of any instalment of estimated income tax for any year of assessment that is due under subsection (1)—

- (a) the Collector of Taxes may proceed to enforce payment under the provisions of the Tax Collection Act in like manner as if an assessment under the provisions of that Act for the enforcement of taxes had been made; and
- (b) interest at the rate for the time being chargeable under section 79 shall be charged thereon from the day next after the instalment date specified in relation to that instalment until the date of payment or the day next after the thirtieth day

next after the date on which the notice of assessment relating to that year of assessment is signed, whichever is the earlier, and such interest may be collected and recovered as if it were income tax and may be remitted in whole or in part by the Commissioner for reasons which appear to him sufficient.

(5) The provisions of subsection (3) of section 79 shall (with the necessary modifications) apply in relation to any unpaid instalment of estimated income tax and any interest payable thereon as they apply in relation to unpaid income tax and any interest payable thereon.

(6) The application of the provisions of this section in relation to a taxpayer as respects any year of assessment shall not affect the application in relation to that taxpayer as respects that year of assessment of the provisions of this Act relating to the making of an assessment upon that taxpayer of the amount at which he ought to be charged but, where a taxpayer has under this section paid instalments of estimated income tax for any year of assessment, references (howsoever expressed) to income tax that is due or payable in those provisions of this Act relating to payment and collection of income tax shall, as respects the application of those provisions in relation to that taxpayer and that year of assessment, be read and construed as references to an amount ascertained by deducting from the chargeable tax payable by that taxpayer for that year the total amount of the instalments of estimated income tax so paid.

(7) Nothing in this section applies to emoluments or affects the provisions of Part I of the Second Schedule, so, however, that, notwithstanding anything to the contrary contained in the proviso to subsection (1), where a person's income in any year of assessment derives partly from emoluments and partly from other sources—

Second
Schedule.
Part I.

- (a) the emoluments shall be taken into account in determining the total estimated income tax payable by that person for that year of assessment;
- (b) account shall be taken of any tax paid or payable by deduction from the emoluments in determining how much estimated income tax is payable by the instalments prescribed in subsection (1); and
- (c) that person may elect to pay his estimated income tax by deduction from such emoluments instead of by the instalments prescribed in subsection (1), or, if such estimated income tax is greater than such emoluments, so much of such estimated income tax as is equivalent to such emoluments.

(8) In this section—

“emoluments” means emoluments to which paragraph (c) of section 5 applies;

“taxpayer” in relation to any year of assessment means any person liable to pay income tax, other than a person whose income for that year derives solely from emoluments.

Duty to
declare
estimated
tax.
30/1970
S. 18.

66.—(1) Every person shall be under a duty to submit a declaration of his estimated income tax for the year of assessment, computed in accordance with section 65, except a person who reasonably expects that—

- (a) no income tax will be payable by him for the year; or
- (b) income tax will be payable by him for the year only in respect of emoluments from which tax is required to be deducted at source under this Act.

(2) A declaration required by this section shall be made in the prescribed form, and accompanied by the prescribed particulars, and shall be delivered to the Commissioner or a Collector of Taxes on or before the 15th day

of March in the year to which it relates or, in a case to which the proviso to subsection (1) of section 65 (commencement of a trade, profession or business) applies, on or before the 31st day of December in that year.

(3) If a person who is under a duty to deliver a declaration of his estimated income tax fails to comply with this section by the date specified in subsection (2) then—

(a) the Commissioner may serve on him a notice stating that for the purposes of this Act his estimated statutory income, chargeable income and income tax, as the case may be, for the year of assessment shall be the amounts respectively specified in the notice; and

38/1976
1st Sch.

(b) whether or not a notice is served on him under paragraph (a) he shall remain under a duty to comply with this section, and on his doing so the Commissioner may cancel a notice served on him under paragraph (a); and

(c) he shall be liable to a penalty of an amount not exceeding one million dollars determined by the Commissioner if he fails to comply with this section within thirty days after service on him of a notice from the Commissioner requiring him to do so, and shall be liable to a further penalty of two thousand dollars for each day on which his default continues, including days before the service of that notice.

8/2014
Sch.

8/2014
Sch.

(4) Penalties incurred by a person under subsection (3)(c) shall be treated as income tax payable by that person for the year of assessment (in addition to any other tax payable by him), and may be collected on a separate notice or notices of assessment relating only to such penalties and specifying a collection date not less than thirty days after the service of the notice of assessment in question.

(5) It shall be a ground for the bringing of an appeal under this Act against an assessment made under subsection (4) that it is excessive having regard to the reasons for the appellant's failure to comply with this section, and the provisions of this Act relating to appeals shall apply accordingly.

(6) If after a declaration has been delivered by a person under this section it appears to him that his income tax for the year will be substantially different from that specified in the declaration he may deliver to the Commissioner or a Collector of Taxes a revised declaration in the prescribed form and accompanied by the prescribed particulars, which shall be treated as replacing those delivered previously.

(7) If it appears to the Commissioner that the estimated tax shown in a declaration delivered by a person under this section is incorrect the Commissioner may at any time serve on him a notice stating that for the purposes of this Act his estimated statutory income, chargeable income and income tax, as the case may be, for the year of assessment shall be the amounts respectively specified in the notice; and the declaration shall thereupon cease to have effect.

38/1976
1st Sch.

(8) The estimated income tax specified in a declaration under this section or, as the case may be, in a notice under subsection (3)(a) or (7) shall be treated as computed for the purposes of section 65, and that section shall have effect accordingly.

(9) The tax estimated in a declaration or notice delivered under this section after the 15th of March in the year of assessment but on or before the 15th of September shall be apportioned (after allowance for any sums already paid) into equal instalments each becoming due under section 65 on one of the remaining instalment dates in the year; and the tax estimated in a declaration or notice delivered under this section after the 15th of September in the year of assessment shall be payable in one amount (after allowance for any sums already paid) on the 15th day of December in that year or, if that date is past, immediately on delivery of the declaration or notice.

Returns

67.—(1) Subject to the provisions of Part I of the Second Schedule, every person liable to pay income tax in respect of any year of assessment shall deliver, or cause to be delivered by his agent, to the Commissioner of Inland Revenue, or to the Collector or Assistant Collector of Taxes for the parish in which he resides, a true and correct return of the whole of his income from every source whatsoever for that year of assessment and shall, if absent from the Island, give the name and address of an agent residing in the Island.

Returns of
income.
29/1969
S. 6.
Second
Schedule,
Part I.
L. N.
165/1999.

(2) Every return of income for any year of assessment shall be delivered on or before the 15th day of March in the year next following such year of assessment, so, however, that the Commissioner of Inland Revenue may, on the application of any person, extend the time for delivery of that person's return to such later date as he may specify in writing.

L. N.
165/1999.

(3) The Commissioner of Inland Revenue may, if he thinks fit, make any extension of time for delivery of a person's return conditional upon the payment by such person of such amount of tax as the Commissioner of Inland Revenue may specify in a notice served on that person, and such a notice shall be treated as if it were a notice of assessment and the collection date were the date on which, apart from the extension of time, the return was due.

L. N.
165/1999.

30/1970
S. 22.
L.N.
165/1999.

(4) The provisions of the Tax Collection Act shall apply to every return delivered to the Commissioner of Inland Revenue in like manner as they would apply to a return required to be delivered or rendered to a Collector or Assistant Collector of Taxes.

L. N.
165/1999.

30/1970
S. 22.

L. N.
165/1999.

(5) Every person delivering a return of income shall include with the return a statement in the prescribed form or such form as may be agreed by the Commissioner of Inland Revenue of the tax chargeable on that income under this Act, indicating how much (if any) of that tax remains unpaid; and tax so indicated as unpaid shall be treated as if it had been the subject of a notice of assessment served on that person and specifying as the collection date the 15th of March next following the end of the year of assessment.

(6) Every return shall be in the prescribed form.

Second
Schedule.
Part I.

L.N.
165/1999.

7/1956
S. 15(a).
53/1974
S. 5.
4/1986
S. 16.
16/1990
S. 5.
41/2002
S. 18.
L.N.
165/1999.
21/2013
S. 11.

(7) (a) Subject to the provisions contained in Part I of the Second Schedule, every employer shall prepare and deliver on or before the 31st of January in every year to the Commissioner of Inland Revenue a return of the names and residences of all persons employed by him and of the salaries paid by him to such persons whose remuneration in the employment for the year ending the 31st day of December preceding exceeds the sum of \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440.00 in respect of the years of assessment 2006 and 2007 and in respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008; in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009 and \$160,368.00 for the period 1st July, 2009 to 31st December, 2009, \$441,168.00 in respect of

the years of assessment 2010, 2011 and 2012, and; \$507,312.00 in respect of the years of assessment 2013 and 2014; \$557,232.00 in respect of the year of assessment 2015; in respect of the year of assessment 2016, \$296,400.00 for the period 1st January, 2016 to 30th June, 2016 and \$500,136.00 for the period 1st July, 2016 to 31st December, 2016; in respect of the year of assessment 2017, \$250,068.00 for the period 1st January, 2017 to 31st March, 2017 and \$1,125,072.00 for the period 1st April to 31st December, 2017; and \$1,500,096.00 for each year of assessment after the 31st December, 2017, and to such other persons as the Commissioner General requires.

8/2019
S. 4.

(b) Where the employer is a body of persons, the secretary or the attorney, manager, agent or chief officer resident in the Island of the body shall be deemed to be the employer for the purpose of this provision.

(c) Such return shall be in the prescribed form.

(8) Any person who wilfully fails to comply with the provisions of this section shall be guilty of an offence.

7/1956
S. 15(b).
16/1980
S. 16.
8/2014
Sch.

(9) Any person who commits an offence under sub-section (8) shall be liable—

8/2014
Sch.

6/2016
S. 15(a).

(a) on summary conviction in a Parish Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

68.—(1) It shall be the duty of every individual residing in the Island whose total income from every source whatsoever for any year of assessment exceeds \$22,464 in respect of the year of assessment 1994, \$35,568 in respect of the year of assessment 1995, \$50,544 in respect of the year of assessment 1996, \$80,496 in respect of the years of assessment 1997 and 1998, \$100,464 in respect of the years of assessment 1999 and 2000, \$120,432.00 in respect of the years of assessment 2001, 2002, 2003 and 2004; in respect of the year of assessment 2005, \$60,216.00 for the period 1st January to 30th June, 2005 and \$84,552.00 for the period 1st July to 31st December, 2005; \$193,440.00 in respect of the years of assessment 2006 and 2007; and in respect of the year of assessment 2008, \$96,720.00 for the period 1st January to 30th June, 2008 and \$100,152.00 for the period 1st July to 31st December, 2008, in respect of the year of assessment 2009, \$110,136.00 for the period 1st January to 30th June, 2009, \$160,368.00 for the period 1st July to 31st December, 2009 and \$441,168.00 in respect of the years of assessment 2010, 2011 and 2012; \$507,312.00 in respect of the years of assessment 2013 and 2014; \$557,232.00 in respect of the year of assessment 2015; in respect of the year of assessment 2016, \$296,400.00 for the period 1st January, 2016 to 30th June, 2016 and \$500,136.00 for the period 1st July, 2016 to 31st December, 2016; in respect of the year of assessment 2017, \$250,068.00 for the period 1st January, 2017 to 31st March, 2017 and \$1,125,072.00 for the period 1st April to 31st December, 2017; and \$1,500,096.00 for each year of assessment after the 31st December, 2017 to give notice of that fact to the Commissioner of Inland Revenue or to a Collector of Taxes before the 15th day of February in the year next following such year:

Notice of
income in
excess of
seven
hundred
and ninety-
six
thousand
five
hundred
and
thirty-six
dollars.
42/1958
S. 12.
29/1969
S. 6.
53/1974
S. 6.
38/1976
1st Sch.
4/1986
S. 17.
16/1990
S. 6.
5/1992
S. 5.
41/2002
S.18.
L.N.
165/1999.
21/2013
S. 12(a),(b).
8/2019
S. 5(a),(b).

Provided that such notice need not be given by any individual as respects any year for which he has delivered a return in accordance with subsection (1) of section 67 or, where an individual is or has been in employment, as respects any year

in relation to which his name should be included in a return by his employer pursuant to subsection (7) of section 67 aforesaid.

12/2004
Sch.

(2) If any individual, without reasonable excuse, fails to give such a notice as aforesaid, he shall forfeit the sum of treble the tax which he ought to be charged under this Act and a penalty of five thousand dollars.

(3) Any penalty forfeited and any increased tax payable under this section may be added to the assessment.

Returns
of trades,
etc., carried
on by two
or more
persons
jointly.

69.—(1) Where a trade, profession or business is carried on by two or more persons jointly the income of any partner from the partnership shall be deemed to be the share to which he is entitled for the year of assessment in the income of the partnership and shall be included in the return of income to be made by such partner under the provisions of this Act.

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

- (i) is first named in the agreement of partnership; or
- (ii) if there is 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 of assessment, 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 is entitled for that year of assessment.

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

(3) Any person who refuses, fails or neglects to deliver any return under the provisions of this section shall be guilty of an offence, and shall be liable—

8:2014
Sch

(a) on summary conviction in a Resident Magistrate's Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or sub-sequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

70.—(1) Every person, whether he is or is not liable to pay income tax, upon whom the Commissioner of Inland Revenue may cause a notice to be served requiring him to make and deliver a return of his income or the income of any person, shall, within fifteen days after the date of the service of such notice, make and deliver to the Commissioner of Inland Revenue a return as aforesaid.

Duty of
persons
served with
notice to
make
returns, and
powers of
Commis-
sioner.
L. N.
165/1999.

(2) The Commissioner of Inland Revenue may, by not less than fourteen days' notice in writing, require any person

to attend before him and give evidence with respect to his income.

(3) The Commissioner of Inland Revenue may require any person to deliver a statement of the profits or gains arising to him from any trade, profession or vocation, and where such person fails to deliver such statement or where the Commissioner of Inland Revenue is not satisfied with the statement delivered by any such person, he may serve on that person a notice in writing requiring him to do any of the following things, that is to say—

7/1956
S. 17.
L.N.
165/1999.

L.N.
165/1999.

(a) to deliver to the Commissioner of Inland Revenue copies of such accounts (including balance sheets) relating to the trade, profession or vocation as may be specified or described in the notice within such period as may be therein specified, including, where the accounts have been audited, a copy of the auditor's certificate;

L.N.
165/1999.

(b) to make available within such time as may be specified in the notice, for inspection by the Commissioner of Inland Revenue, all such books, accounts and documents in his possession or power as may be specified or described in the notice, being books, accounts and documents which contain information as to transactions of the trade, profession or vocation.

8/2014
Sch.

(4) If any person on whom any such notice is served fails without reasonable excuse to comply with the requirements of the notice, he shall be guilty of an offence and shall be liable—

(a) on summary conviction in a Resident Magistrate's Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
 - (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and
- (b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(5) [*Deleted by Act 21/2013 S. 13(a).*]

(6) Nothing in this section or section 70A shall be construed as requiring the Commissioner of Inland Revenue to cause a notice to be served upon any person before an assessment is made upon that person.

13/1991
S. 2.
L.N.
165/1999
21/2013
S. 13(b).

70A.—(1) Subject to subsection (4), every public officer shall furnish information, or produce documents, required by the Commissioner General for the purposes of this Act, which may be in his possession or which he may be able to lawfully procure.

Duty of
public
officer to
supply
information.
21/2013
S. 14.

(2) Information or documents referred to in subsection (1) shall be in such form and shall be supplied at such times or frequency and in such manner, as the Commissioner General may direct or prescribe.

(3) Subject to subsection (4), no obligation as to secrecy or other restriction upon the disclosure of information imposed by any law or otherwise shall prevent a public officer from disclosing information or producing documents to the Commissioner General in accordance with this section.

(4) Nothing in this section requires a public officer to furnish information or produce documents which a person would be entitled to refuse to furnish or produce on the grounds of legal professional privilege.

(5) In this section—

“Government company” means a company registered under the *Companies Act*, being a company wholly owned by the Government or an agency of Government or in which the Government or an agency of Government holds more than fifty per cent of the shares;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the *Kingston and St. Andrew Corporation Act*;
- (b) in relation to any other parish, the Parish Council of that parish as constituted under the *Parish Councils Act*; or
- (c) in relation to a municipality, a Municipal Council established under the *Municipalities Act*;

“public body” means—

- (a) a Ministry, Department, Executive Agency or other agency of Government;
- (b) a local authority;
- (c) a statutory body or authority; or
- (d) a Government company;

“public officer” means a person employed in the service of a public body.

71.—(1) On or before the 31st of January in each year, every society registered under the *Industrial and Provident Societies Act* and every building society shall deliver to the Commissioner of Inland Revenue a return in such form as may be prescribed, showing such particulars as to—

Duty of registered society to make returns and basis of assessment.
L.N.
165/1999.

- (a) the name and place of residence of every person to whom share interest has been paid by the society in the year which ended next before the 1st of January in the year in which the return is made; and
- (b) the amount of such share interest paid in that year to each of those persons,

or as the Commissioner of Inland Revenue may direct, and if such return is not duly made as respects any year the society shall not be entitled to any relief under section 46 in respect of any payments of share interest which it was required to include in the return, and the amount of any relief or allowance which has been given in respect of any such payments may, if not otherwise made good, be assessed and recovered from the society accordingly.

L.N.
165/1999.

(2) The assessment to income tax on all registered societies shall be based on the actual net revenue of the society including any profit or surplus arising from transactions either between the society and persons other than members of the society or between the society and its members.

Additional
requirement
for certain
persons to file
returns.
9/2014
Sch.

71A.—(1) Notwithstanding any other provision of this Act, every person to whom this section applies shall, in respect of each year of assessment, file a return in such form, and containing such particulars, as may be prescribed, regardless of whether that person—

- (a) is liable to pay income tax in respect of that year of assessment; or
- (b) has income from any source for that year of assessment.

(2) This section applies to the following persons—

- (a) a body corporate that is incorporated, registered or constituted under any enactment;
- (b) a trust or other institution (whether incorporated or not) that is registered as a charitable organization under the *Charities Act*; and
- (c) any person (including an individual) who carries on, or has carried on, a trade, profession, vocation or business and who is prescribed for the purposes of this section by order of the Minister, subject to negative resolution of the House of Representatives.

71B.—(1) Notwithstanding any other provision of this Act, every person to who fails to file a return under this Act within the time required shall be liable to pay a penalty of five thousand dollars for each month, or part of a month, during which the failure to file the return continues, up to a maximum of one million dollars, in addition to any other penalty that may be imposed on the person in respect of failure to file a return.

Penalty for late filing of return.
9/2014 Sch.

(2) A penalty that is incurred under subsection (1) shall be considered to be tax payable by the person who has incurred the penalty, in addition to any other tax that is payable by that person.

(3) The Commissioner General may waive or reduce a penalty that is incurred under subsection (1) if the Commissioner General is satisfied that there are circumstances that justify doing so.

Assessments

72.—(1) The Commissioner shall proceed to assess every person liable to the payment of tax as soon as may be after the expiration of the time allowed to such person for the delivery of his return:

Power of Commissioner to make assessments and penalty for fraudulent conversion of property or making fraudulent statements, etc.
30/1970 S. 22.

Provided that where the whole amount of tax remaining unpaid is the subject of a deemed assessment under subsection (5) of section 67 it shall not be necessary to make an actual assessment.

(2) Where a person has delivered a return the Commissioner may—

- (a) accept the return and make an assessment accordingly; or

7/1956
S. 18(a).

- (b) refuse to accept the return and, to the best of his judgment, make an assessment upon that person of the amount at which he ought to be charged.

7/1956
S. 18(b).

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax, he may, according to the best of his judgment, make an assessment upon such person of the amount at which he ought to be charged, but such assessment shall not affect any liability otherwise incurred by such person by reason of his failure or neglect to deliver a return.

42/1958
S. 13.

(4) Where it appears to the Commissioner that any person liable to tax in respect of any year of assessment has not been assessed or has been assessed to a less amount than that which ought to have been charged the Commissioner may, within the year of assessment or within six years after the expiration thereof, assess such person at such amount or additional amount or surcharge, as according to his judgment ought to have been charged:

Provided that where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to income tax, assessments, additional assessments and surcharges on that person to income tax for that year may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be made as aforesaid at any time:

Provided further that any person who disputes such assessment, additional assessment or surcharge, may appeal to the Commissioner of Taxpayer Appeals and, as the case may require, to the Revenue Court in the same manner as an appeal may be made against an assessment.

29/1971
S. 12.
L.N.
8B/2002.

(5)(a) Where a person who ought to be charged with tax, as directed by this Act, is not duly assessed and charged by reason that he has—

- (i) fraudulently changed his place of residence or fraudulently converted, or fraudulently released, assigned or conveyed any of his property; or
- (ii) made and delivered any statement or schedule which is false or fraudulent; or
- (iii) fraudulently converted any of his property which was chargeable by altering any security relating thereto or by fraudulently rendering it temporarily unproductive, in order not to be charged for the same or any part thereof; or
- (iv) been guilty of any falsehood, wilful neglect, fraud, covin, art or contrivance whatsoever;

such person shall, on proof thereof to the Commissioner, be assessed and charged treble the amount of the charge which ought to have been made upon him:

Provided that, if any charge has been made, but that charge is less than the charge which ought to have been made, such person shall be assessed and charged, over and above the former charge, treble the amount of the difference between the charge which was made and the charge which ought to have been made, such amount to be added to the assessment.

(b) A person who knowingly and wilfully aids, abets, assists, incites or induces another person to make or deliver a false or fraudulent account, statement or declaration, of or concerning any profits or gains chargeable, or the yearly rent or value of any lands, tenements or hereditaments, or any matters affecting any such rent or value, commits an offence, and shall be liable—

7/1956
S. 18 (c).

12/2004
Sch.
8/2014
Sch.

(A) on summary conviction in a Resident Magistrate's Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(B) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(6) (a) If the Commissioner—

- (i) has made a charge to tax in respect of a sum in excess of the amount contained in a return of a person to be charged; or
- (ii) discovers that a charge to tax in respect of a sum in excess of such amount ought to be made, and an assessment is made, at any time within the year of assessment or within three years after the expiration thereof,

7/1956
S. 33.

he may, unless the person to be charged proves to his satisfaction that the omission by him did not proceed from any fraud, covin, art or contrivance or any gross or wilful neglect, charge that person, in respect of such excess, in a sum not exceeding treble the amount of the tax on the amount of the excess.

(b) If the person to be charged has neglected or refused to deliver a return, the Commissioner may charge him in a sum not exceeding treble the amount of the tax with which, in his judgment, he ought to be charged, and such sum shall be added to the assessment.

73.—(1) No assessment need be made on a person in respect of emoluments, to which paragraph (c) of subsection (1) of section 5 applies, received by him during any year of assessment if the total net tax deducted from his emoluments is the same as it would have been if all the relevant circumstances had been known to all parties throughout the year, and deductions and repayments had, throughout the year, been made accordingly and had been so made by reference to tax tables prepared by the Commissioner.

Formal
assessment
to be un-
necessary in
certain
cases.

(2) Nothing in this section shall be construed as preventing an assessment being made on a person in respect of his emoluments, and without prejudice to the generality of the preceding provisions of this subsection an assessment

shall be made in respect of the emoluments of a person for any year of assessment if—

- (a) the person assessable requires an assessment to be made by notice in writing given to the Commissioner within three years from the end of the year of assessment; or
- (b) the emoluments paid in the year are not the same in amount as the emoluments which would fall to be treated as the emoluments for the year.

(3) In this section references to the total net tax deducted shall be construed as references to the total tax deducted during the year by virtue of the Regulations contained in Part I of the Second Schedule.

Second
Schedule
Part I.

29/1971
S. 12.
L.N.
8B/2002.

(4) Every person who disputes whether any emoluments are or are not emoluments to which this Act applies, may appeal to the Commissioner of Taxpayer Appeals and, as the case may require, to the Revenue Court in the same manner as an appeal may be made against an assessment.

Assessment
lists.

74.—(1) After completing the assessment, the Commissioner shall prepare lists of persons liable to pay income tax.

(2) Such lists (hereinafter called the assessment lists) shall contain the names and residences of the persons liable to pay income tax, the amount payable by each person and such other particulars as may be prescribed.

Notice of
assessment
and objection
to assessment.

75.—(1) The Commissioner shall cause to be served personally on, or sent by registered post to each person whose name appears on one of the assessment lists, a notice addressed to him at his usual place of abode or business, stating the amount at which he is assessed and the amount of tax payable by him, and informing him of his right under subsection (4).

(2) No assessment charge or other proceedings purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or

voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act, and if the person charged or intended to be charged or affected thereby is designated therein according to common intent and understanding.

(3) An assessment or the duty charged thereon shall not be impeached or affected—

(a) by reason of a mistake therein as to—

- (i) the name or surname of a person liable; or
- (ii) the description of any income; or
- (iii) the amount of the tax charged; or

(b) by reason of any variance between the notice and the assessment:

Provided that in cases of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall state the basis on which the assessment is made.

13/1991
S. 3.
34/1970
S. 6.

(4) If any person disputes the assessment (including any determination or other decision made by the Commissioner before the making of the assessment, and upon which it is based) he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of objection to the assessment and shall be made within thirty days from the date of the service of the notice of assessment:

Provided that the Commissioner upon being satisfied that owing to absence from the Island, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(4A) The onus of proving that the assessment complained of is erroneous shall be on the person making the objection.

L.N.
8B/2002.

(5)(a) On the receipt of the notice of objection referred to in subsection (4), the Commissioner may require the person giving the notice of objection—

8/1983
S. 2(a)

- (i) to deliver (if he has not already done so) within thirty days or such longer period as the Commissioner may permit, a return of income for the years of assessment which in the opinion of the Commissioner are affected by the notice of objection;
- (ii) to furnish within such period as the Commissioner may specify, such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books and other documents in his custody or under his control relating to such income,

and may by notice summon any person who he thinks is able to give evidence respecting the assessment to attend before him and may examine such person on oath or otherwise.

7/1956
S 19(b).

(b) Any person who without lawful excuse refuses or neglects to attend or to give evidence in pursuance of a notice served on him under paragraph (a), or to produce any books or documents which he is required to produce under the said paragraph, or who refuses to answer any lawful question touching the matters under consideration, or who knowingly or wilfully gives any false evidence before the Commissioner, shall be guilty of an offence, and shall be liable—

8/2014
Sch.

(a) on summary conviction in a Resident Magistrate's Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(c) Where the person giving the notice of objection refuses or neglects to deliver any return or furnish any particulars or to produce any books or documents, as the case may be, required by the Commissioner under paragraph (a), within the period prescribed by or pursuant to that paragraph, the notice of objection served by such person shall cease to have effect and the assessment as made shall, subject to section 81, be final and conclusive for all purposes of this Act as regards such person. 8/1983
S. 2(b).

(6) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly. In any other event the Commissioner shall give notice in writing to the person of his decision in respect of the objection.

(6A) A person who is dissatisfied with a decision of the Commissioner under subsection (6) may appeal against that decision to the Commissioner of Taxpayer Appeals within thirty days of the receipt of the decision: L.N.
165/1999.
L.N.
818/2002.

Provided that the Commissioner upon being satisfied that owing to absence from the Island, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances. L.N.
818/2002.

(6B) On an appeal under subsection (6A) the Commissioner may confirm, reduce the amount under or vacate the decision concerned. L.N.
818/2002.

(7) Where no valid objection or appeal has been lodged within the time limited by this Act against an assessment as regards the amount of the chargeable income assessed thereby, or where the amount of the chargeable income has been agreed to under subsection (6), or where the amount of such chargeable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such chargeable income:

Provided that nothing herein contained shall prevent the Commissioner of Inland Revenue from making any refund under the provisions of section 81, or the Commissioner from 12/1985
Sch.

making any assessment or additional assessment for any year of assessment which does not involve reopening any matter which has been determined on appeal for the year.

Appeals

Appeals.
29/1971
S. 12.
37/1971
S. 3.
L.N.
165/1999.
L.N.
8B/2002.

76.—(1) Any person (hereafter in this Act referred to as the “objector”) who has disputed his assessment by notice of objection under section 75, and who is dissatisfied with the decision of the Commissioner of Taxpayer Appeals therein, may appeal to the Revenue Court within thirty days of the date of receiving the Commissioner’s decision made pursuant to subsection (6B) of section 75 or within such longer period as may be permitted by or pursuant to rules of court.

L.N.
8B/2002
8/1983
S. 3.

(2) The onus of proving that the assessment complained of is erroneous shall be on the objector.

(2A) An appeal shall be limited to the grounds stated in the notice of objection but the Revenue Court may in its discretion permit the grounds of appeal to be amended.

(3) Notwithstanding any other provision of this Act, income tax shall be paid in accordance with the decision of the Revenue Court, until, in the event of an appeal being made to the Court of Appeal, the Court of Appeal, having heard the appeal, shall otherwise order.

Collection of Income Tax

Extracts from
assessment
lists to be sent
to Commis-
sioner of
Inland
Revenue for
collection and
collection of
tax pending
appeal.
18/1971
S. 3.
12/1985
Sch.
L.N.
165/1999.
37/1961
S. 2.
29/1971
S. 12.
L.N.
165/1999.
L.N.
8B/2002.

77.—(1) The Commissioner shall from time to time forward to the Commissioner of Inland Revenue for collection of income tax, extracts from the assessment lists containing the names and addresses of every person assessed in respect of income together with the amount of income tax payable by each person.

(2) Collection of income tax shall, in cases where an objection to the assessment has been made or an appeal is pending to the Commissioner of Taxpayer Appeals or the Revenue Court, remain in abeyance until such objection or appeal is determined:

Provided that if any portion of the tax is not in dispute and remains unpaid on the collection date or such other time as may be specified in this Act or in rules or regulations made thereunder, it shall be lawful for the Commissioner of Inland Revenue to enforce payment of such portion in accordance with the provisions of this Act.

29/1969
S. 6.

12/1985
Sch.

78.—(1) Subject to the provisions of this section, income tax appearing in the notice of assessment for any year shall be payable without further demand to the Collector of Taxes on or before the collection date.

When
income tax
payable.
37/1961
S. 3 (a).

(2) Income tax in respect of emoluments specified in paragraph (c) of section 5 shall, subject to and in accordance with the provisions of this Act and of the Regulations set forth in Part I of the Second Schedule to be deducted or repaid by the person making the payment notwithstanding that when the payment is made no assessment has been made in respect of the emoluments:

Collection
of income
tax on
certain
emolu-
ments.
Second
Schedule.
Part I.

Provided that where during any year of assessment any payment of any emoluments is made, income tax for that year shall be deducted or repaid on the making of that payment notwithstanding that the emoluments are in whole or in part emoluments for some other year.

(3) Where, pursuant to the Income Tax (Employments) Regulations set forth in Part I of the Second Schedule any amount of tax is payable by an employer as defined in those Regulations to a Collector of Taxes, the amount so payable shall be paid to the Collector of Taxes without further demand on or before the last day of the period within which pursuant to the Regulations aforesaid that amount is so payable and for the purposes of section 79 the last day aforesaid shall, in respect of that amount, be deemed to be the collection date.

37/1961
S. 3 (b).

29/1969
S. 6.

29/1971
S. 12.
L.N.
8B/2002.

(4) In this section "collection date" means, in relation to any assessment, the thirtieth day next after the date on which the notice of assessment is signed except that where, pending determination of an objection or appeal, the collection of any portion of tax remains in abeyance pursuant to subsection (2) of section 77, the collection date in relation to the amount of such tax determined by the Commissioner or by the Commissioner of Taxpayer Appeals or the Revenue Court, as the case may be, to be due shall be the thirtieth day next after the date on which the objection is settled by the Commissioner or the appeal is determined by the Commissioner of Taxpayer Appeals or the Revenue Court, as the case may be.

Designation of
responsible
officer by
body corporate.
9/1986
S. 4.

78A.—(1) Where an employer as defined in the Regulations referred to in section 78 is a body corporate, such employer shall designate an officer of that body corporate (hereinafter in this section referred to as the "responsible officer") who shall be—

(a) answerable for doing all such acts, matters and things as are required to be done by virtue of this Act or the Regulations for the payment of tax;

(b) responsible for making, in accordance with the provisions of that section, payment to the Collector of Taxes of any tax deducted pursuant to those Regulations as aforesaid.

(2) The employer shall give written notice to the Collector of Taxes of any designation made pursuant to subsection (1) and shall also notify the Collector of any change in that designation.

(3) In the absence of any designation pursuant to subsection (1), the person who is the managing director of the body corporate or, as the case may be, the person who (by whatever name called) performs the duties normally carried out by a managing director, or, if there is no such person, the person in Jamaica appearing to the Collector

of Taxes to be primarily in charge of the body corporate's affairs, shall for the purposes of this section be deemed to be the responsible officer.

(4) A responsible officer shall within fifteen days after the end of each month, notify the Collector of Taxes of any outstanding balances of income tax payable pursuant to the Regulations aforesaid by the body corporate as at the end of that month and any responsible officer who fails to do so shall be guilty of an offence, and shall be liable on summary conviction in a Resident Magistrate's court to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year. 8/2014 Sch.

(5) A responsible officer who fails or neglects to carry out his duties in accordance with this section shall—

(a) in the event of failure or neglect to pay over to the Collector of Taxes any tax deducted or which ought to have been deducted, be jointly and severally liable together with the body corporate for such tax as aforesaid and any penalties in relation thereto;

(b) in any other case, be liable (together with the body corporate) for any penalties under this Act,

unless he satisfies the Collector—

(i) that there were *bona fide* reasons for the failure or neglect and that the payment could not have been made in the circumstances; or

(ii) that he was overruled by the board of directors (hereinafter referred to as the board) or was otherwise prevented by the board or by any director thereof from carrying out his duties under this section.

(6) If the Collector is not satisfied as to the matters referred to in subsection (5)(b)(i) or (ii), as the case may be, he shall advise the responsible officer concerned of his decision in writing.

(7) Where the responsible officer satisfies the Collector pursuant to subsection (5)(b)(ii) that he was overruled or prevented as mentioned in that subsection, each director shall be jointly and severally liable (together with the body corporate) for the tax and any penalties in relation thereto unless he proves that—

- (a) there were *bona fide* reasons for overruling the responsible officer or preventing payment and that the payment could not have been made in the circumstances; or
- (b) he was neither a party to the decision of the board to overrule the responsible officer nor a party to any action by the board or any other director to prevent payment.

(8) A person who is designated a responsible officer shall not be liable in respect of any tax deducted—

- (a) prior to the date of his designation; or
- (b) during any period when, consequent on notification to the Collector, he is not the responsible officer.

(9) In this section “body corporate” means—

- (a) a statutory body or authority; and
- (b) a company.

Enforcing
payment of
taxes.
37/1961
S. 4.

79.—(1) Where any income tax, being due and payable, remains unpaid—

- (a) the Collector of Taxes may proceed to enforce payment under the provisions of the Tax Collection Act in like manner as if an assessment under the provisions of that Act for the enforcement of taxes had been made; and

- (b) interest shall be charged thereon from the day next after the collection date, until the date of payment at the rate prescribed by order made under section 2A of the Tax Collection Act and shall be in addition to any interest payable under subsection (4) of section 65, which remains unpaid.

9/2014
Sch.

29/1969
S. 6.

(2) Interest payable on any income tax pursuant to this section—

37/1961
S. 4.

- (a) may be added to the amount payable as income tax and may be collected and recovered as if it were income tax; and
- (b) may be remitted in whole or in part by the Commissioner for reasons which appear to him sufficient.

(3) A certificate of a Collector of Taxes that any amount of tax or interest due thereon is payable under this Act and that payment has not been made to him, or, to the best of his knowledge and belief, to any other Collector of Taxes or to any other person acting on his behalf or on behalf of another Collector of Taxes, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due to the Government, and any document purporting to be such a certificate as is mentioned in this subsection shall be deemed to be such a certificate unless the contrary is proved.

37/1961
S. 4.

(4) Any order made by the Minister pursuant to paragraph (b) of subsection (1) shall be subject to negative resolution of the House of Representatives.

37/1961
S. 4.

(5) For the purposes of subsection (1)(b), “collection date”—

10/2009
S. 2(b).

- (a) means, in any case where a notice of assessment is treated as having been served under section 67(5), the 15th of March next following the end of the relevant year of assessment; and

(b) in any other case, has the meaning assigned to it in section 78(4).

Income tax
may be
recovered by
suit.
37/1961
S. 5.
29/1971
S.12.

80. Income tax and any interest payable pursuant to section 79, may be sued for and recovered in the Revenue Court, or in a Resident Magistrate's Court by a Collector of Taxes, with full costs of suit, from the person charged therewith as a debt due to the Government, as well as by the means provided for in section 79.

Repayment of Tax

Repayment
of tax,
claims and
appeals.

12/1985
Sch.

81.—(1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded and the Commissioner of Inland Revenue shall, on being notified by the Commissioner that he is satisfied as aforesaid, make the refund accordingly. Every claim for repayment under this section shall be made within six years from the end of the year of assessment to which the claim relates.

29/1969
S. 6.

30/1970
S. 22.

(2) Where the amount in excess was paid by way of estimated income tax in accordance with the provisions of section 65, interest on the amount in excess, at such rate as may be prescribed by the Minister by order, shall be payable to the taxpayer as respects the period beginning on the date on which a claim for repayment is lodged with the Commissioner setting out—

(a) the grounds on which the claim is based; and

(b) the amount of the repayment claimed,

and ending on the date on which it is refunded:

Provided that where the Commissioner has notified the taxpayer of the over-payment and the amount thereof this subsection shall apply with the omission of paragraph (a).

(3) Except as regards sums repayable on an objection or appeal, no repayment shall be made to any person in respect of any year of assessment as regards

which such person has failed or neglected to deliver a return, unless it is proved to the satisfaction of the Commissioner that such failure or neglect to deliver a return did not proceed from any fraud or wilful act or omission on the part of such person.

(4) Any person who objects to the amount of any repayment made by the Commissioner of Inland Revenue may appeal to the Commissioner of Taxpayer Appeals and, as the case may require, to the Revenue Court in the same manner as an appeal may be made against an assessment.

12/1985
Sch.
29/1971
S. 12.
L.N.
8B/2002.

81A.—(1) Where pursuant to section 81, an amount of tax has been repaid to any person which ought not to have been repaid to him, that amount of tax may be assessed and recovered as if it were unpaid tax.

Recovery of
over-
payment of
tax.
4/1986
S. 18.

(2) In any case where—

- (a) pursuant to subsection (2) of section 81, a repayment of tax has been increased by a payment of interest;
- (b) the whole or any part of that repayment has been paid to any person but ought not to have been paid to him; and
- (c) that repayment ought not to have been made either at all or to any extent,

then the amount of repayment assessed under subsection (1) of this section may include an amount equal to the amount by which the repayment ought not to have been increased.

(3) In this section any reference to amount repaid includes a reference to an amount allowed by way of set-off.

Relief against Double Income Tax

82.—(1) Any person who has paid by deduction or otherwise, or is liable to pay, income tax under this Act for

Relief
against
double tax.

any year of assessment on any part of his income and who proves to the satisfaction of the Commissioner that he has paid income tax in the United Kingdom for that year in respect of the same part of his income shall be entitled to relief from income tax under this Act paid or payable by him on that part of his income at a rate equal to the amount by which the rate of tax appropriate to his case under this Act exceeds half the appropriate rate of the United Kingdom tax. If, however, the rate of tax appropriate to his case under this Act exceeds the appropriate rate of the United Kingdom tax he shall be entitled to relief at a rate equal to half the appropriate rate of United Kingdom tax:

9/1963
S. 9 (1)(d).

Provided that where in the case of an individual, but for this proviso, the amount of tax payable under this Act after allowance of any relief as aforesaid, when added to the amount of tax payable in the United Kingdom in respect of the same part of his income after the allowance of such relief as is granted by Part II of the 18th Schedule of the United Kingdom Income Tax Act, 1952 (which amount is hereinafter referred to as "the net United Kingdom tax") would exceed the greater of the amounts of tax which, but for the reliefs aforesaid, would be payable under this Act or in the United Kingdom respectively (which amounts are hereinafter referred to respectively as "the gross Jamaican tax" and the "gross United Kingdom tax"), the Commissioner may, if he is satisfied that special hardship would otherwise be caused, grant such additional relief from the tax payable under this Act as he may think fit up to an amount sufficient to reduce the net tax so payable to an amount which when added to the net United Kingdom tax, will be equivalent to the gross Jamaican tax or the gross United Kingdom tax, whichever is the greater.

7/1956
S. 24 (a), (b).

(2) For the purposes of this section a certificate issued by or on behalf of the Commissioners of Inland

Revenue in the United Kingdom or by the appropriate authorities in the Commonwealth shall be receivable in evidence to show what is the appropriate rate of United Kingdom tax or the net United Kingdom tax or Commonwealth Income tax (as the case may be), in any particular case.

For the purposes of this section the expression "rate of tax" when applied to income tax paid or payable under this Act means the rate determined by dividing the amount of the income tax paid or payable for any year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Act has been charged for that year, except that where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section 54 on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

(3) If any person resident in the Island who has paid, by deduction or otherwise, or is liable to pay tax under this Act for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth Income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in the Island paid or payable by him on that part of his income at a rate thereon to be determined as follows—

7/1956
S. 24 (b).

(a) if the rate of Commonwealth Income tax does not exceed one-half of the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be the rate of Commonwealth Income tax;

7/1956
S. 24 (c).

(b) in any other case, the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Act.

(4) If any person not resident in the Island who has paid, by deduction or otherwise, or is liable to pay, tax under this Act for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Commonwealth Income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Act on that part of his income at a rate thereon to be determined as follows—

7/1956
S. 24 (b).

7/1956
S. 24 (c).

- (a) if the rate of Commonwealth Income tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be one-half of the rate of Commonwealth Income tax;
- (b) if the rate of Commonwealth Income tax appropriate to his case exceeds the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Act exceeds one-half of the rate of Commonwealth Income tax.

7/1956
S. 24 (b), (d).

(5) For the purposes of this section, Commonwealth Income tax means any income tax charged under any enactment in force in any part of the Commonwealth (other than the United Kingdom or this Island):

Provided that the Legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and this Island in a manner similar to that provided in this section.

7/1956
S. 24 (b).

(6) Where a person is for any year of assessment resident both in the Island and in a part or place in which Commonwealth Income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

83.—(1) If the Minister by order declares that arrangements specified in the order have been made with the Government of any territory outside the Island with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory or for the exchange of information for tax purposes, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything contained in any enactment.

Power of Minister to make orders declaring arrangements to be in force with other territories. 9/1963 S. 9(b). 21/2013 S. 15.

(2) On the making of an order under this section with respect to arrangements relating to the United Kingdom, section 82 shall cease to have effect and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) On the making of an order under this section with respect to arrangements relating to any territory forming part of the Commonwealth (other than the United Kingdom or this Island), section 82 shall cease to have effect in relation to that territory and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

7/1956 S. 25.

(4) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 4 shall not prevent the disclosure to any authorized officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(5) The Minister may make rules for the following purposes or any of them, that is to say, for carrying out the provisions of any arrangements having effect under this

23/1972 S. 7.

section and for the application of this Act in such respects, and with such adaptations and modifications, as appear to him necessary or expedient in consequence of any such arrangements; and any such rules—

- (a) may be made with retrospective effect to a date not earlier than that ordered under paragraph (a) of subsection (6) in relation to the relevant arrangements;
 - (b) shall be subject to negative resolution of the House of Representatives.
- (6) Any order under this section may—
- (a) be made with retrospective effect to a date not earlier than the 1st of January, 1948; and
 - (b) be revoked at any time by a subsequent order.

Credits of
tax payable
in other
territories
in respect
of which
arrange-
ments are
in force

84.—(1) The provisions of this section shall have effect where, under arrangements having effect under section 83, tax payable in respect of any income in the territory with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in this Island; and in this section the expression "foreign tax" means any tax payable in that territory which under the arrangements is to be so allowed and the expression "income tax" means tax chargeable under this Act.

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit:

Provided that credit shall not be allowed against income tax for any year of assessment unless the person entitled to the income is resident in the Island for that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Act and

then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 83) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of subsection (3) the total credit to be allowed to a person for any year of assessment for foreign tax under all arrangements having effect under section 83 shall not exceed the total income tax payable by him for that year of assessment less any tax payable by him under the provisions of section 40.

(5) In computing the amount of the income—

- (a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);
- (b) where the income tax chargeable depends on the amount received in the Island, the said amount shall be increased by the appropriate amount of the foreign tax in respect of the income;
- (c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividend the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit,

but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Paragraphs (a) and (b) of subsection (5) (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in subsection (3), and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 83.

(7) Where—

(a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so, what credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any year of assessment if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than two years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the Island or elsewhere, nothing in this Act limiting the time for making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in the Island or elsewhere, as are material in determining whether any and, if so, what credit falls to be given.

85.—(1) Where the tax paid or payable by a company is affected by double taxation relief the amount to be set off under section 37, or to be repaid under to section 81, in respect of the tax deductible from any dividend paid by the company shall be reduced as follows—

Deduction
of tax from
dividends.

- (a) if no tax is chargeable on the recipient in respect of the dividend, the deduction shall be an amount equal to tax on the gross dividend at the rate of double taxation relief applicable thereto;
- (b) if the rate of tax chargeable on the recipient in respect of the dividend is less than the rate of double taxation relief applicable to the dividend, the reduction shall be an amount equal to tax on the gross dividend at the difference between those two rates.

(2) For the purposes of this section—

- (a) if the income of the person chargeable includes one dividend such as is mentioned in subsection (1), that dividend shall be deemed to be the highest part of his income;
- (b) if his income includes more than one such dividend, a dividend shall be deemed to be a higher part of his income than another dividend if the net Jamaican rate applicable to the former dividend is lower than that applicable to the latter dividend;

- (c) where tax is chargeable at different rates in respect of different parts of any such dividend, or where tax is chargeable in respect of some part of any such dividend and is not chargeable in respect of some other part thereof each part shall be deemed to be a separate dividend;
- (d) the expression "double taxation relief" has the same meaning as in section 37, and the expression "the rate of double taxation relief" means the rate which represents the excess of the rate of tax deductible from the dividend over the net Jamaican rate applicable thereto.

General

Remission
of tax.
13/2013
Sch
32/2013
5th Sch.

86. The Minister may, if he is satisfied that it would be just and equitable to do so, remit the whole or any part of the income tax or any other amount payable under this Act by any person, other than a registered charitable organization, and he shall cause notice of the remission to be published in the *Gazette*.

Notice of such remission shall be published in the *Gazette*.

Notices

87.—(1) Every notice to be given by the Commissioner under this Act shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon:

Provided that any notice in writing under this Act to any person requiring him to furnish particulars to the Commissioner, or any notice under this Act requiring the attendance of any person or witness before the Commissioner shall be personally signed by the Commissioner or by any person duly authorized by him.

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

(3) In the case of a person assessed who is absent from the Island any notice required may be served on the agent of such person and such service shall be deemed to be service on such person.

(4) Notice may be served on a person either personally or by being sent by post to his last known business or private address:

Provided that service by post in the case of a notice requiring the attendance of any person or witness before the Commissioner shall be by registered post.

(5) Any notice sent by registered post shall be deemed to have been served, in the case of persons resident in the Island not later than the fifteenth day succeeding the day when posted, and in the case of persons not so resident, not later than the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

88.—(1) If in any particular case the Commissioner or the Commissioner of Inland Revenue has reason to believe that a person who has been assessed to income tax may leave the Island before such tax becomes payable without having paid such tax, he may, by notice in writing to such person, demand payment of such tax within the time to be limited in such notice. Such tax shall thereupon be payable at the expiration of the time so limited, and shall be in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner or, as the case may be, the Commissioner of Inland Revenue, be recoverable forthwith in the manner set forth in sections 79 and 80.

Power of
Commis-
sioner to
demand
payment of
tax before a
person
assessed
leaves
Island,
and to
receive tax.
12/1985
Sch.

(2) If in any particular case the Commissioner has reason to believe that tax upon any income may not be recovered he may at any time—

- (a) forthwith, by notice in writing, require any person to make a return and to furnish particulars of any such income within the time to be specified in such notice; and
- (b) make an assessment upon such person in the amount of the income returned, or, if default is made in making such return or if the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable; and
- (c) by notice in writing to the person assessed require that such security as may be determined by the Commissioner be forthwith given to the Commissioner of Inland Revenue for the payment of the tax assessed.

12/1985
Sch.

(3) The right of appeal shall apply to any assessment under this section if the tax assessed has been paid, or if security has been given in accordance with the provisions of this section.

Traders, etc.,
to keep
accounts in
English.

89.—(1) Every person engaged in any trade, profession or business shall keep in the English language proper books of account sufficient to record all transactions necessary in order to ascertain the gains and profits made or the loss incurred in each such trade, profession or business, and any such person who fails to comply with this provision shall be guilty of an offence, and shall be liable—

8/2014
Sch.

- (a) on summary conviction in a Resident Magistrate's Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(2) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of annual stock takings, and accounts of all goods sold and purchased.

90.—(1) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in subsection (2) by reason only that it has been drawn to his attention that—

Provisions
as to
evidence in
cases of
fraud or
wilful
default.

12/1985
Sch.

(a) in relation to income tax, the Commissioner or the Commissioner of Inland Revenue may accept pecuniary settlements instead of instituting proceedings; and

(b) though no undertaking can be given as to whether or not the Commissioner or the Commissioner of Inland Revenue will accept such a settlement in the case of any particular person, the Commissioner or the Commissioner of Inland Revenue, as the case may be, will be influenced by the fact that a person has made a full confession of any fraud or default to which he has been a party and has given full facilities for investigation.

12/1985
Sch.

12/1985
Sch.

and that he was or may have been induced thereby to make the statements or produce the documents.

(2) The proceedings mentioned in subsection (1) are—

- (a) any criminal proceedings against the person in question for any form of fraud or wilful default in connection with or in relation to income tax; and
- (b) any proceedings against him for the recovery of any sum due from him, whether by way of tax or penalty, in connection with or in relation to income tax.

Power to
obtain and
verify
information.
30/1970
S. 19.

91.—(1) For the purpose of verifying the correctness of any return, statement, declaration or particulars delivered under this Act, or obtaining information required for the issue of a notice under subsection (3) of section 66 (notice on failure to declare estimated income tax) or for the making an assessment under subsection (3) of section 72 (assessment in default of return), the Commissioner shall have the like powers as are given by subsection (5) of section 75 in a case where a person objects to an assessment, and paragraphs (a) and (b) of that subsection shall apply accordingly, with the necessary modifications to paragraph (a).

(2) Any person authorized in that behalf by the Commissioner in writing may for the purpose of verifying the correctness of any return, statement, declaration or particulars delivered under this Act, and on production, if so required, of evidence of his identity and of his authorization under this section, enter upon any premises between the hours of nine in the morning and nine at night and inspect any books, documents, or other material appearing to relate, or be likely to relate, to the return, statement, declaration or particulars and make copies thereof.

(3) Any person in whose name any shares, stock or securities of a company are registered shall, if required by notice in writing by the Commissioner, state whether or not he is their beneficial owner, and shall furnish the name and address of the person or persons on whose behalf any of them are registered in his name.

92.—(1) The Minister may make regulations with respect to the assessment, charge, collection and recovery of income tax in respect of emoluments to which paragraph (c) of subsection (1) of section 5 applies, being income tax for the year of assessment, and those regulations may, in particular, include provision for—

Regulations—
power to
make.
9/1963
S. 9(1)(b).
18/1971
S. 4.

- (a) requiring any person making any payment of, or on account of, any such emoluments, when he makes the payment, to make a deduction or repayment of tax calculated by reference to tax tables prepared by the Commissioner in accordance with the rates chargeable under this Act and for rendering persons who are required to make any such deduction or repayment accountable to, or, as the case may be, entitled to repayment from, the Commissioner:

Provided that the said tax tables shall be constructed with a view to securing that, so far as possible—

- (i) the total tax payable in respect of any emoluments to which this Act applies for any year of assessment is deducted from the emoluments paid during that year; and
- (ii) the tax deductible or repayable on the occasion of any payment of, or on account of, emoluments is such that the total net tax deducted since the beginning of the year of assessment bears to the total tax payable for the year, the same proportion that the part of the year which ends with the date of the payment bears to the whole year.

In this proviso the references to the total tax payable for the year shall be construed as references to the total income tax estimated to be payable for the year in respect of the emoluments, subject

23/1973
S. 3(2)(b).

to a provisional deduction for allowances and reliefs and subject also, if necessary, to an adjustment for amounts overpaid or remaining unpaid on account of income tax in respect of emoluments to which this Act applies for any previous year; and for the purpose of estimating the total tax payable as aforesaid, it may be assumed, in relation to any payment of, or on account of, emoluments to which this Act applies, that the emoluments paid in the part of the year of assessment which ends with the making of the payment will bear to the emoluments for the whole of that year the same proportion that that part of the year bears to the whole year;

- (b) the production to and inspection by persons authorized by the Commissioner of wages sheets and other documents and records for the purpose of satisfying themselves that tax has been and is being deducted, repaid and accounted for in accordance with the regulations;
- (c) furnishing to persons so authorized such information and such returns, certificates and other documents as may be prescribed;
- (d) the collection and recovery, whether by deduction from emoluments paid in any later year or otherwise, of income tax in respect of emoluments to which this Act applies which has not been deducted or otherwise recovered during the year in which such emoluments were paid;
- (e) appeals with respect to matters arising under the regulations which would not otherwise be the subject of an appeal:

Provided that the said regulations shall not affect any right of appeal which a person would have apart from the regulations;

- (f) determining the factors which may be taken into account by the Commissioner—

42/1958
S. 16.
22/1977
S. 6(a),(b).

- (i) in ascertaining whether or not any value should be attributed to any quarters or residence occupied, or any perquisite or benefit provided, by reason of the holding of any office or employment of profit; and
- (ii) in estimating where necessary, the annual value which should be attributed to quarters or residence occupied or, as the case may be, any perquisite or benefit provided as aforesaid.

(2) If any person fails to comply with any provision of the said regulations requiring him to furnish a return or other information or to give any certificate or to produce wages sheets or other documents or records he shall be liable on summary conviction before a Judge of the Parish Court to a penalty not exceeding one million dollars and in the case of a continuing offence to a further penalty of two thousand dollars for every day during which the failure continues after conviction.

6/2016
S.15(b).

12/2004
Sch.
8/2014
Sch.

(3) All regulations made under this section shall be subject to negative resolution of the House of Representatives.

42/1969
S. 15.
22/1977
S. 8(b).

92A.—(1) The Minister may make regulations generally in relation to approved group head office companies and, in particular, but without prejudice to the generality of the foregoing, the regulations may contain provisions in relation to the following matters—

Regulations
relating to
approved
group head
office com-
pany.
6/2012
S. 6.

- (a) the procedures for the designation of companies or other bodies corporate as approved group head office companies;
- (b) the terms and conditions under which certificates under section 36F designating companies or other bodies corporate as approved group head office companies are issued;
- (c) any application fees or other charges payable in respect of any certificate under section 36F or for any

service provided;

- (d) the keeping of records;
- (e) the making of reports by holders of certificates granted under section 36F; and
- (f) any other matter required to be prescribed in relation to an approved group head office company under this Act.

(2) Regulations made under subsection (1) shall be subject to negative resolution of the House of Representatives.

Power to
make rules
and vary,
etc.
First
Schedule.
9/1963
S. 9.

93.—(1) The Minister may make rules providing for—

- (a) the deduction and payment of income tax at the source;
- (b) the payment of income tax by instalments;
- (c) the approval of, and other matters in connection with, approved superannuation funds;
- (d) any other matter or thing, whether similar or not to those above mentioned in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

7/1956
S. 26.

(2) The Minister may, by order published in the *Gazette*, amend, revoke or vary the provisions of the Fourth, Fifth, Sixth, Seventh or Eighth Schedule to this Act.

21/2016
S. 2.
Fourth,
Fifth, Sixth,
Seventh or
Eighth
Schedule.

(3) All rules and orders made under this section shall be subject to affirmative resolution of the House of Representatives.

21/2016
S. 2.

Regulations
and rules in
Second
Schedule.
9/1963
S. 9(1)(b).
Second
Schedule.
Parts I & II.

94. Until varied or revoked by regulations or rules made by the Minister under the provisions of section 92 or 93 the regulations and rules contained in Part I and Part II of the Second Schedule shall be in force.

95. The Minister may by order name, for the purposes of this Act, those territories and their dependencies which are deemed to be included in the Commonwealth.

Power to name territories in the Commonwealth.
7/1956
S. 27.
9/1963
S. 9(1)(b).
Commencement of regulations, etc.
23/1972
S. 9.

96. For the avoidance of doubt it is hereby declared that, except as may otherwise be specifically provided or in so far as they create any offence or impose or increase any penalty, any regulations, rules, orders, notices or other instruments made under any provision of this Act may be made operative from any previous date not earlier than the commencement of the provision under which they are made.

97. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Minister may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Act and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment lists:

Appointment of agent.
9/1963
S. 9(1)(b).

Provided that—

- (a) if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration;
- (b) nothing in this section shall affect the right of objection and appeal conferred by this Act.

98. The provisions of the Third Schedule shall have effect in relation to the treatment for tax purposes, of animals kept for the purposes of farming or other trades.

Treatment of farm animals for income tax purposes.
1/1972
S. 3.
Third Schedule.

Penalties

Offences.
7/1956
S. 28(a),(b).
30/1970
S. 20(a).
6/2012
S. 7(a).
8/2014
Sch.

99.—(1) Any person who for the purpose of obtaining any allowance, reduction, rebate or repayment in respect of income tax either for himself or for any other person, or who in any return, statement, declaration, form or particulars delivered under this Act, knowingly makes any false statement or false representation, commits an offence, and shall be liable—

6/2016
S. 15(a).

(a) on summary conviction in a Parish Court—

(i) in the case of a first offence, to a fine not exceeding two million dollars or to a fine of treble the amount of tax that the person ought to be charged with under this Act (whichever is greater), and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to a fine of treble the amount of tax that the person ought to be charged with under this Act (whichever is greater), or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

(2) Any person who aids, abets, assists, counsels, incites or induces another person to—

6/2012
S. 7(b).

(a) make or deliver any false return, statement, declaration, form or particulars under this Act; or

- (b) keep or prepare any false accounts concerning any profits or gains chargeable under this Act,

commits an offence, and shall be liable—

8/2014
Sch.

- (a) on summary conviction in a Parish Court—

6/2016
S. 15(a).

- (i) in the case of a first offence, to a fine not exceeding two million dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

- (b) on conviction on indictment in a Circuit Court, to a fine or to imprisonment for a term not exceeding ten years or to both such fine and imprisonment.

(3) If any person, by himself or by any person in his employ, obstructs, molests or hinders—

- (a) an officer or any person employed in relation to any duty or income tax in the execution of his duty, or of any of the powers or authorities by law given to the officer or person; or

- (b) any person acting in the aid of an officer or any person so employed,

that person commits an offence, and shall be liable—

8/2014
Sch.

- (a) on summary conviction in a Parish Court—

6/2016
S. 15(a).

- (i) in the case of a first offence, to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(4) [*Deleted by Act 8 of 2014, Sch.*]

14/2006
Sch.

(5) Any prescribed person who fails to—

(a) obtain the prior approval of the Minister before accepting deposits and other investments of money in contravention of section 12(*ag*);

(b) honour his undertaking to inform the Minister of any change which results in the loss of exemption from tax under section 12(*ag*),

8/2014
Sch.

commits an offence, and shall be liable—

6/2016
S. 15(*a*).

(a) on summary conviction in a Parish Court to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding five years.

Penalty
for other
offences.
16/1980
S. 17.
9/1986
S. 6.
12/2004
Sch.
8/2014
Sch.
6/2016
S. 15(*b*).

100. Any person guilty of an offence against this Act for which no specific penalty is provided shall be liable on summary conviction before a Judge of the Parish Court to a fine not exceeding one million dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding twelve months.

101.—(1) A person who refuses to allow a deduction of tax authorized by this Act to be made out of any payment commits an offence, and shall be liable—

Penalty for refusing to allow deduction of tax and avoidance of agreements for payment without deduction.
12/2004 Sch.
8/2014 Sch.
6/2016 S. 15(a).

(a) on summary conviction in a Parish Court—

- (i) in the case of a first offence, to a fine not exceeding two million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year; and
- (ii) in the case of a second or subsequent offence, to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; and

(b) on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding ten years.

(2) Every agreement for payment of interest, rent or other annual payment in full without allowing any such deduction shall be void.

102.—(1) Any proceedings for offences under this Act may be taken in the name of the Commissioner or such person as he may authorize in writing.

Pro-ceedings.

(2) Proceedings for offences under this Act may be commenced at any time within six years next after the cause of complaint arose.

103. The Commissioner may in his direction stay or compound any proceedings for the recovery of any fine or penalty incurred under this Act or accept a pecuniary settlement instead of instituting any such proceedings.

Power of Commis-sioner to stay or compound proceedings.
7/1956 S. 29.

104. The Minister may, from time to time, by order subject to affirmative resolution of the House of Representatives, amend or vary any penalty or fine under this Act.

Minister may amend penalties, etc., by order.
12/2004 Sch.

(Section 13
(1))

FIRST SCHEDULE

ALLOWANCES FOR CERTAIN CAPITAL EXPENDITURE

35/2013
Sch.
Definitions.

PART I. *Interpretation*

1.—(1) In this Schedule—

“basis period”, for any year of assessment, means subject to subparagraph (2), the period on the profits or gains of which income tax for that year falls to be finally computed in respect of the trade in question;

“cost” means the net figure after deducting from the cost price any grants, subsidies or other payments received from third parties on account thereof;

“dock” includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation, and “dock undertaking” shall be construed accordingly;

“electricity undertaking” means an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy;

“mineral deposits” includes any natural deposits capable of being lifted or extracted from the earth;

“owner” means the person who owns the property concerned or occupies it on terms whereby the full burden of the wear and tear falls upon that person;

“retail shop” includes any premises of a similar character where retail trade or business including repair work is carried on;

“undertaking” does not include an undertaking not carried on by way of trade;

“water undertaking” means an undertaking for the supply of water for public consumption;

“written down value” means the cost less any initial, annual or other allowance granted prior to the year of assessment.

(2) In the case of any trade—

(a) where two basis periods overlap, the period common to both shall be deemed (for the purpose of the definition of “basis period”) to fall in the first basis period only;

FIRST SCHEDULE, *cont'd.*

- (b) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of the assessment, then, unless the second-mentioned year of assessment is the year of the permanent discontinuance of the trade, the interval shall be deemed to be part of the second basis period; and
- (c) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade is permanently discontinued and the basis period for the year in which it is permanently discontinued, the interval shall be deemed to form part of the first basis period.

2. Except as otherwise provided in this Schedule, references in Parts II and III to expenditure incurred on the construction, alteration, renovation, purchase, purchase for renovation or improvement of any buildings and structures or machinery and plant do not include any expenditure incurred on the purchase of rights in or over any land.

References to expenditure.
35/2013
Sch.
8/2019
S. 6(a).

3. References in this Schedule to capital expenditure and capital sums—

- (a) in relation to the person incurring the expenditure or paying the sums, do not include any expenditure or sum which is allowed to be deducted in computing, for the purposes of income tax, the profits or gains of a trade carried on by that person; and
- (b) in relation to the person receiving the amounts expended or the sums in question, do not include references to any amounts or sums which fall to be taken into account as receipts in computing the profits or gains of any trade carried on by that person, and do not include, in relation to any such person any expenditure or sum in the case of which deduction of tax falls or may fall to be made.

References to capital expenditure and capital sums.
35/2013
Sch.

4.—(1) For the purposes of this Schedule, expenditure shall not be regarded as having been incurred by any person in so far as it has been or is to be met directly or indirectly by the Crown or the Government of this Island or by any public or local authority whether in the Island or elsewhere, or by any person other than the first mentioned person.

Subsidies,
etc.
35/2013
Sch.

(2) There shall be left out of account any insurance moneys or other compensation moneys payable in respect of any assets which have been demolished, destroyed or put out of use.

5. References in this Schedule to the Commissioner shall be construed as references to the Commissioner General.

References to Commissioner.
35/2013
Sch.

INCOME TAX
FIRST SCHEDULE, *cont'd.*

35/2013
Sch.

PART II. *Buildings*

Initial
allowances.
8/2019
S. 6(b)(i).

1.—(1) Where an owner incurs capital expenditure on the construction, alteration, renovation, or purchase for renovation, of a building or structure which is to be an industrial building or structure occupied for the purposes of a trade carried on by that owner, there shall be made to that owner who incurred such expenditure for the year of assessment in that owner's basis period for which such expenditure was incurred, an allowance (in this Part referred to as "an initial allowance") equal to 20 *per centum*, thereof.

(2) An initial allowance in respect of a purchase for renovation under sub-paragraph (1) shall only be made to the owner, where the building or structure, upon the purchase for renovation, is brought into use as an industrial building or structure, during the first four years of assessment.

(3) An initial allowance made to an owner under sub-paragraph (2) shall be recovered, where—

- (a) at the end of the fourth year of assessment, the building or structure is not in use as an industrial building or structure for the purposes of a trade carried on by the owner;
- (b) the renovation referred to in sub-paragraph (2) is not completed within the first four years; or
- (c) the capital expenditure incurred in relation to the renovation referred to in sub-paragraph (2) is less than 80 *per centum* of the purchase cost of the building or structure.

(4) Notwithstanding anything in this paragraph, the initial allowance shall be recovered in respect of any expenditure if, when the building or structure comes to be used, it is not an industrial building or structure.

1A. [Deleted by Act 35 of 2013, Sch.]

Annual
allowances.
35/2013
Sch.

2.—(1) Where any owner incurs capital expenditure on the purchase, construction, alteration or renovation of a building or structure, there shall be allowed an allowance (in this Part referred to as “an annual allowance”) in respect of wear and tear calculated on such capital expenditure at the rate specified in the following Table—

TABLE

Type of Construction of Building or Structure	Annual Allowance Rate
Primarily constructed of concrete, steel, brick, stone, cement or similar material	4%
Primarily constructed of other inorganic material such as galvanized iron, corrugated metal or similar material	10%
Primarily constructed of wood or other organic material	12.5%

(2) Notwithstanding anything in the preceding provisions of this paragraph, in no case shall the amount of an annual allowance made to a person for any year of assessment in respect of any expenditure exceed what, apart from the writing off falling to be made by reason of the making of that allowance, would be the residue of that expenditure at the end of his basis period for that year of assessment.

3.—(1) Where any capital expenditure has been incurred on the construction, alteration, renovation or purchase for renovation of a building or structure and any of the following events occurs, that is to say—

- (a) the building or structure is sold; or
- (b) the building or structure is demolished or destroyed, or without being demolished or destroyed ceases altogether to be used,

an allowance or charge (in this Part referred to as “a balancing allowance” or “a balancing charge”) shall, in the circumstances mentioned in this paragraph be made to or, as the case may be, on the owner immediately before that event occurs, for the year of assessment in his basis period for which that event occurs.

(2) Where there are no sale, insurance, salvage or compensation moneys, or where the residue of the expenditure immediately before the event exceeds those moneys, a balancing allowance shall be made and the amount thereof shall be the amount of the said residue or, as the case may be, of the excess thereof over the said moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the residue, if any, of the expenditure immediately before the event, a balancing charge shall be made and the amount on which it is made shall be an amount equal to the excess, or where the residue is nil, to the said moneys.

(4) Notwithstanding anything in the preceding provisions of this paragraph in no case shall the amount on which a balancing charge is made on an owner in respect of any expenditure on the construction, alteration, renovation or purchase for renovation of a building or structure exceed the amount of the initial allowance, if any, made to him in respect of that expenditure together with the amount of any annual allowances and any other allowances in respect of that expenditure made to him.

4.—(1) Any expenditure incurred on the construction, alteration, renovation or purchase for renovation of any building or structure shall be written off to the extent and as at the times hereafter specified in this paragraph and references in this Part to the residue of any such expenditure shall be construed accordingly.

(2) Where an initial allowance is made in respect of the expenditure the amount of that allowance shall be treated as written off as at the time when the building or structure is first used after the event which gave rise to the initial allowance.

Balancing
allowances
and
balancing
charges.

42/1958

S. 17(1).

35/2013

Sch.

8/2019

S.6(b)(ii)(A).

33/1964

S. 9.

42/1958

S. 17(1).

35/2013

Sch.

8/2019

S.6(b)(ii)(B).

Writing off
of expendi-
ture and
meaning of
“residue of
expendi-
ture”.

42/1958

S. 17(1).

35/2013

Sch.

8/2019

S. 6(b)(iii).

35/2013
Sch.

(3) Where, an annual allowance is made, for any year of assessment in respect of the expenditure, the amount of that allowance shall be written off as at the said time:

Provided that where at the said time an event occurs which gives rise or may give rise to a balancing allowance or balancing charge, the amount directed to be written off by this sub-paragraph as at the said time shall be taken into account in computing the residue of the expenditure immediately before that event for the purpose of determining whether any and if so what balancing allowance or balancing charge is to be made.

(4) Where on the occasion of a sale, a balancing allowance is made in respect of the expenditure, there shall be written off as at the time of the sale the amount by which the residue of the expenditure before the sale exceeds the net proceeds of the sale.

(5) Where on the occasion of a sale, a balancing charge is made in respect of the expenditure, the residue of the expenditure shall be deemed for the purposes of this Part to be increased as at the time of the sale by the amount on which the charge is made.

Application
of Part.
35/2013
Sch.

4A. This part applies to industrial buildings or structures and non-residential buildings.

Definition
of "non-
residential
building".
35/2013
Sch.

4B. In this Part, "non-residential building" means a building or structure and which is used or occupied primarily for the purposes of a trade, business, profession or vocation and not primarily as a residence.

Definition of
"industrial
building or
structure".
35/2013
Sch.

5.—(1) In this Part "industrial building or structure" means a building or structure in use for the purpose of—

- (a) a trade carried on in a mill, factory, or other similar premises;
or
- (b) a transport, dock, water, telephone, telegraph (including radio-telephone) or electricity undertaking; or
- (c) a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or
- (d) a trade which consists in the storage of goods or materials which are to be used in the manufacture of other goods or to be subjected in the course of a trade to any process; or
- (e) a trade which consists of the storage of goods or materials on their arrival in the Island; or
- (f) husbandry; or

- (g) an oil undertaking in so far as it consists of the storage of oil (including petrol and aviation fuel) immediately on its arrival in the Island, in tanks of an individual capacity exceeding 30,000 imperial gallons and specially designed and constructed for the purpose, directly by means of pumping plant and pipelines; or 35/2013 Sch.
- (h) a hotel or resort cottage within the meaning of section 2 of the Tourist Board Act; 35/2013 Sch.
- (i) a hospital or other healthcare facility primarily for the care of in-patients; 35/2013 Sch.
- (j) a multi-storey car park constructed exclusively for parking motor vehicles; 35/2013 Sch.
- (k) being used as a building located in a Free Zone as defined in section 2 of the Special Economic Zones Act; 35/2013 Sch.
7/2016 S. 51(2)(b).
- (l) being used as a building or structure that is used directly in the production of primary products (as defined in Part III of the First Schedule); or 35/2013 Sch.
- (m) subject to the approval of the Commissioner General, being used as a building or structure constructed pursuant to an arrangement between a public authority and another person for the provision of public goods or services, 35/2013 Sch.

and in particular the said expression includes any building or structure provided by the person carrying on such a trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

(2) For the purposes of sub-paragraph (1) a building or structure shall not be deemed, by reason only of its falling or having fallen into temporary disuse, to have thereby ceased altogether to be used for one of the purposes specified in that sub-paragraph if, immediately prior to falling into such temporary disuse, it was in use for such a purpose and if, during the period of such temporary disuse, it is constantly maintained in readiness to be bought back into use for such a purpose; but if, in such circumstances, the building or structure at any time during disuse ceases to be ready for use for any of the said purposes, or if at any time, for reason, the disuse of the building or structure can no longer be reasonably regarded as temporary, then the building or structure shall be deemed to have ceased, on the commencement of the period of disuse, to be used for any of the said purposes.

(3) The provisions of sub-paragraph (1) shall apply in relation to a part of a trade or undertaking as they apply to a trade or undertaking:

Provided that where part only of a trade or undertaking complies with the conditions set out in the said provisions, a building or structure shall not, by

virtue of this sub-paragraph, be an industrial building or structure unless it is in use for the purposes of that part of that trade or undertaking.

35/2013
Sch.

(4) The expression “industrial building or structure” does not include any building or structure in use as, or as part of, a dwelling-house, retail shop, show-room or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, show-room or office.

(5) Where part of the whole of a building or structure is, and part thereof is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second-mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure.

(6) [*Deleted by Act 35 of 2013, Sch.*]

(7) [*Deleted by Act 35 of 2013, Sch.*]

(8) [*Deleted by Act 35 of 2013, Sch.*]

Exclusion
of relief
under other
parts of
Schedule.

6. Any expenditure in respect of which an allowance is made under this Part shall not be available for relief under any other Parts or under any other provisions of the Act.

7. [*Deleted by Act 35 of 2013, Sch.*]

PART II. [*Deleted by Act 35 of 2013, Sch.*]

PART III. *Machinery and Plant*

Interpretation.
35/2013
Sch.

1. In this Part—

“manufacture of goods” means—

- (a) the production of goods in Jamaica by means of a process of manufacture, but does not include the production of goods which result from a process that consists primarily of any one or more of the following—
 - (i) dividing (including cutting), purifying, drying, mixing, sorting, packaging, branding, testing or applying any other similar process to a product, produce or material that is acquired in bulk so as to prepare that product, produce or material for sale or distribution, or any combination of such processes,
 - (ii) applying methods of preservation or maturation or other similar treatment to any foodstuffs or any combination of such processes,

- (iii) cooking, baking or otherwise preparing food or drink for human consumption which is intended to be consumed at or about the time it is prepared, whether or not in the building or structure in which it is prepared, or whether or not the building to which it is delivered after being prepared; or
 - (iv) improving or altering any articles or materials without making a change in their character; or
 - (v) repairing, refurbishing, reconditioning, restoring or other similar processing of any articles or materials, or any combination or such processes; or
- (b) the production of goods in Jamaica that the Commissioner General determines are produced by a process which results in the transformation of the raw material, or intermediate goods, used in the process (hereinafter referred to as "production inputs") into goods that are new or distinct, having regard to their name, use or character (including where the goods produced possess unique physical, chemical, technological, legal or commercial characteristics) when compared to the production inputs used;
- "production of primary products" means the production (whether by means of cultivation, growth, breeding or rearing or otherwise) of—
- (a) agricultural crops, livestock, poultry or dairy products in the course of conducting farming operations;
 - (b) products directly derived from apiculture operations;
 - (c) timber and other tree products in the course of conducting forestry operations;
 - (d) seeds, flowers, shrubs, herbs and other plants in the course of conducting horticultural operations; or
 - (e) fish and other freshwater and marine organisms in the course of conducting aquaculture operations.

1A. Where a person carrying on a trade incurs capital expenditure on the purchase, alteration or improvement of machinery or plant (of a type specified in the Table set out in paragraph 2A) for the purposes of the trade, then, there shall be made to him, for the year of assessment in the basis period for which such expenditure is incurred an allowance (in this Part referred to as "an initial allowance") calculated on such capital expenditure at the rate specified in the Table set out in paragraph 2A.

Initial allowances.
L.N. 58/1973.
33/1964
S. 9.

35/2013
Sch.

2.—(1) Where the person carrying on the trade in any year of assessment has incurred capital expenditure on the purchase, alteration or improvement of machinery or plant (of a type specified in the Table set out in paragraph

Annual allowances.
35/2013
Sch.

2A) be made to him for that year of assessment in respect of the wear and tear of any of the machinery or plant of which he is the owner and is in use for the purposes of the trade at the end of the basis period for that year of assessment.

35/2013
Sch.

(2) The annual allowance shall be calculated on the capital expenditure referred to in sub-paragraph (1) at the rate specified in the Table set out in paragraph 2A.

35/2013
Sch.

2A. The following is the table referred to in paragraphs 1A and 2—

TABLE

Type of Machinery of Plant	Initial Allow- ance Rate	Annual Allow- ance Rate
Machinery or plant directly used in the production of primary products or in the manufacture of goods, or automated machinery used for packaging such primary products or manufactured goods	25%	12.5%
Automatic data processing equipment, calculators, cash registers and other equipment falling within Headings 84.70 and 84.71 of the Jamaica Customs Tariff, as well as	25%	20%

Type of Machinery of Plant	Initial Allow- ance Rate	Annual Allow- ance Rate
parts and accessories of such equipment Office equipment falling within Headings 84.69 and 84.72 of the Jamaica Customs Tariff; telephones and other equipment falling within Heading 85.17 of the Jamaica Customs Tariff; as well as parts and accessories of such equipment Other machinery and plant	0%	20%
	0%	12.5%

3.—(1) A person to whom an annual allowance in respect of capital expenditure on any machinery or plant is to be made may, in the first year of assessment in which an annual allowance is to be made, apply to the Commissioner General to approve the calculation of the allowance in accordance with sub-paragraph (2) for the first year of assessment and subsequent years of assessment.

Alternative
method of
calculating
annual
allowances.
L.N.
58/1973.
35/2013
Sch.

(2) If the Commissioner General approves an application under sub-paragraph (1), the annual allowance shall be calculated on the relevant capital expenditure at a percentage which is equal to the fraction, of

35/2013
Sch.

which the numerator is one and the denominator is the number of years (as determined by the Commissioner General) of the anticipated normal working life of machinery or plant of the same class as the machinery or plant that is the subject of an application under sub-paragraph (1).

(3) Machinery or plant may be treated for the purposes of this paragraph as being of a different class from other machinery or plant where the one is new when it is acquired, and the other is not new when it is acquired, or, in the case of machinery or plant which is not new when it is acquired, where different periods have elapsed between the date when the machinery or plant was made or first put into use and the date of the acquisition thereof.

35/2013
Sch.

(4) An approval under this paragraph shall not be effective for any year of assessment in relation to any machinery or plant unless the Commissioner is satisfied that the person to whom an approval has been given under this paragraph is keeping, and will keep and make available for inspection, all such records as are necessary to secure that the Commissioner can ensure that the total annual allowances made to him for all years of assessment in respect of that machinery or plant do not exceed the limit imposed by paragraph 4, due regard being had to any initial allowance made to him.

42/1958
S. 17(1).

(5) [*Deleted by Act 35 of 2013, Sch.*]

Limit on
annual
allowances.
42/1958
S. 17(1).

4. No annual allowance shall be made in respect of any machinery or plant for any year of assessment, if the allowance, when added to any initial allowance and to any annual allowance given in respect of the machinery or plant to the person by whom the trade is carried on, will exceed the actual cost to the person of the machinery or plant, including in that actual cost any expenditure in the nature of capital expenditure on the machinery or plant by way of renewal, improvement or reinstatement.

Balancing
allowances
and balancing
charges.

5.—(1) Where any of the following events occurs in the case of any machinery or plant in respect of which an initial allowance or an annual or other allowance has been made to a person carrying on a trade, that is to say, either—

- (a) the machinery or plant is sold, whether still in use or not; or
- (b) the machinery or plant is destroyed; or
- (c) the machinery or plant is put out of use as being worn out or obsolete or otherwise unless or no longer required,

and the event in question occurs before the trade is permanently discontinued, an allowance or charge (in this Part referred to as “a balancing allowance” or “a balancing charge”) shall, in the circumstances mentioned in this paragraph, be made to or, as the case may be, on

30/1970
S. 22.

that person for the year of assessment in his basis period for which that event occurs.

(2) Where there are no sale, insurance, salvage or compensation moneys, or where the amount of the capital expenditure of the person in question on the provision, alteration or improvement of the machinery or plant still unallowed as at the time of the event exceeds those moneys, a balancing allowance shall be made, and the amount thereof shall be the amount of the expenditure still unallowed as aforesaid, or of the excess thereof over the said moneys.

(3) If the sale, insurance, salvage or compensation moneys exceed the amount, if any, of the said expenditure still unallowed as at the time of the event, a balancing charge shall be made, and the amount on which it is made shall be an amount equal to the excess or where the said amount still unallowed is nil, to the said moneys.

(4) In no case shall the amount on which a balancing charge is made on a person exceed the aggregate of the following amounts, that is to say—

42/1958
S. 17(1).

- (a) the amount of the initial allowance, if any, made to him in respect of the expenditure in question; and
- (b) the amount of any annual allowances made to him in respect of the machinery and plant in question; and
- (c) the amount of any balancing allowance previously made to him in respect of the expenditure.

6.—(1) Where the machinery mentioned in this Part comprises or includes a motor vehicle, this Part shall apply subject to the following provisions of this paragraph.

Application
of this
Part to
motor
vehicles.
L.N.
58/1973.

(2) Paragraph 1 shall not apply to expenditure incurred in respect of a motor vehicle.

35/2013
Sch.

(2A) Subject to sub-paragraph (6), the annual allowance in respect of a trade vehicle shall be twenty per cent of the capital expenditure on the purchase, alteration or improvement of the vehicle.

35/2013
Sch.

(3) The annual allowance in respect of a private vehicle shall be 12½ *per centum* of the capital expenditure incurred on the purchase, alteration or improvement of the vehicle, up to a maximum in any year of an amount in Jamaican dollars that is equivalent to US\$4,375 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the vehicle was purchased, altered or improved).

35/2013
Sch.

(4) Paragraph 3 shall not apply in respect of motor vehicles.

35/2013
Sch

(5) Without prejudice to paragraph 4, the aggregate of annual allowances made in respect of a private vehicle shall in no case exceed an amount in Jamaican dollars that is equivalent to US \$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the relevant vehicle was purchased, altered or improved).

(6) Where a motor vehicle is used partly for purposes other than those of the trade, the annual allowance to be made in respect thereof shall be so much only of the allowance that otherwise would be made as the person claiming it may satisfy the Commissioner as being just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent of the use for those other purposes.

35/2013
Sch.

(7) If an annual allowance falls to be made in respect of a trade vehicle for the purposes of trade for part only of the basis period for the year of assessment, the amount of the allowance that would otherwise be made shall be proportionately reduced.

(8) (a) If the amount of any annual allowance has been reduced pursuant to sub-paragraph (6), then, for the purposes only of sub-paragraphs (2) and (3) of paragraph 5, that reduction shall be deemed not to have been made.

35/2013
Sch.

(b) In computing the amount of a balancing allowance or the amount on which a balancing charge is to be made in respect of a private vehicle the total capital expenditure on the provision, alteration or improvement of which exceeded the amount in Jamaican dollars that is equivalent to US\$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the relevant vehicle was purchased, altered or improved), the amount of that capital expenditure shall be deemed for the purposes only of paragraph 5 to be exactly the amount in Jamaican dollars that is equivalent to US\$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the relevant vehicle was purchased, altered or improved), and 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 amount of the total capital expenditure incurred.

35/2013
Sch.

(c) If a trade vehicle has at any time been used partly for purposes other than those of trade, then the amount of any balancing allowance or the amount on which any balancing charge is to be made shall be such as the Commissioner considers just and reasonable having regard to heads (a) and (b) of this sub-paragraph, to the extent of the use for those other purposes and to all other relevant circumstances.

(9) If a person sells or otherwise transfers a trade vehicle as a result whereof it becomes a private vehicle, then no initial allowance shall be made to the purchaser or transferee and the aggregate of the annual allowances made to him shall in no case exceed the amount in Jamaican dollars that is equivalent to US\$35,000 (calculated at the Bank of Jamaica weighted average selling rate as at June 30 of the year in which the vehicle was purchased or acquired) less any annual allowances made to the vender or transferor in respect of that vehicle.

35/2013
Sch.

(10) This paragraph shall apply only in respect of motor vehicles the expenditure on which is incurred on or after 1st January, 1973.

(11) In this paragraph—

35/2013
Sch.

“motor vehicle” means a motor vehicle as defined in section 2 of the Road Traffic Act;

“private vehicle” means a motor vehicle that is not a trade vehicle;

“trade vehicle” means a motor vehicle that is—

- (a) a vehicle of a type not commonly used as a private vehicle and which is unsuitable to be so used;
- (b) a vehicle that is duly licensed for use, wholly or mainly, for the carriage of members of the public at large in the ordinary course of trade and which is not one used, by the person claiming an allowance in respect of the vehicle, wholly or mainly for the carriage of persons connected with that person or of officers or employees of such connected persons;
- (c) a vehicle of a construction primarily suited for the conveyance of goods or burdens of any description;
- (d) a vehicle fitted with dual controls and used by the person claiming the allowance in respect of the vehicle for instruction purposes in the course of that person's business as a driving instructor;
- (e) a vehicle that is used, wholly or mainly, for the purpose of providing car rental services or U-drive services; or
- (f) a vehicle that is licensed by the Transport Authority under the Road Traffic Act as a public passenger vehicle and is operated as part of a “tourism enterprise” within the meaning of section 2 of the Tourist Board Act.

7. The foregoing provisions of this Part shall, with any necessary adaptations, apply in relation to professions, employments, vocations and offices as they apply in relation to trade:

Application
of this Part
to profess-
ions, etc.

42/1958
S. 17(1).
35/2013
Sch.

Provided that no allowance shall be made pursuant to this paragraph in respect of expenditure on the purchase, alteration or improvement of a motor vehicle by a person in employment who is paid by his employer a travelling, up-keep or other allowance granted in connection with the use of such motor vehicle.

8. [*Deleted by Act 35 of 2013, Sch.*]

Preliminary
expenditure.
42/1958
S. 17(1).

9. Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this Part as if it had been incurred by that person on the first day on which he does carry it on.

41/1959
S. 3.

PART IV. *Investment Allowances on certain buildings, structures, etc., and on certain machinery and plant*

Interpreta-
tion.

1. In this Part unless the context otherwise requires—

(a) “asset” means, in relation to capital expenditure to which this Part applies, a building, structure, machinery or plant, as the case may be;

Appendix.

(b) “basic industry” means an industry for the time being specified in the Appendix to this Part;

(c) an act shall be deemed to be done by an associate of a person incurring expenditure—

(i) if it is done by a body of persons which is at the time of the act under the control of the person incurring the expenditure; or

(ii) if the expenditure was incurred by a body of persons which either is at the time of the act or was when the expenditure was incurred under control of the person doing the act; or

(iii) if the expenditure was incurred by one body of persons and the act is done by another, and the one doing the act is at the time under the control of the same person as the other either is at that time or was when the expenditure was incurred; or

- (iv) if it is done by a person to whom the asset was transferred by the person incurring the expenditure or an associate of his and it appears that the transfer was made in contemplation of the act being done.

2. The House of Representatives may from time to time, by resolution, amend the Appendix to this Part.

Power to
amend
Appendix.
Investment
allowances.

3.—(1) Subject to the provisions of this Part, where a person carrying on a business in a basic industry incurs capital expenditure to which this Part applies, an allowance (in this Part referred to as "an investment allowance") equal to twenty *per centum* of such capital expenditure shall, in lieu of an initial allowance under paragraph 1 of Part I or of an initial allowance under paragraph 1 of Part III, as the case may be, be made to him, for the year of assessment in the basis period for which such expenditure is incurred.

(2) Subject to the provisions of this Part, where an investment allowance is made under this Part in respect of buildings or structures the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part I shall apply, with the necessary adaptations, to the investment allowance made under this Part as they apply to initial allowances aforesaid except that—

- (a) the amount of an investment allowance shall not be treated as written off by virtue of sub-paragraph (2) of paragraph 4 of Part I;
- (b) the amount of an investment allowance shall not be written off in ascertaining the written down value of the building or structure or taken into account for the purposes of sub-paragraph (4) of paragraph 3 of Part I.

(3) Subject to the provisions of this Part, where an investment allowance is made under this Part in respect of machinery or plant the provisions of this Schedule or any other provisions of the Act applicable to initial allowances granted pursuant to paragraph 1 of Part III shall apply, with the necessary adaptations, to the investment allowance made under this Part as they apply to initial allowances aforesaid except that the amount of an investment allowance shall not be written off in ascertaining the written down value of the machinery or plant or taken into account for the purposes of paragraph 3, paragraph 4 or paragraph 5 of Part III.

(4) Notwithstanding the provisions of paragraph 6 of Part I, the making of an investment allowance pursuant to this Part in respect of any expenditure shall not preclude the grant of annual allowances or balancing allowances in respect of that expenditure in accordance with the provisions of Part I.

Definition of capital expenditure for the purposes of this Part.

4.—(1) Capital expenditure to which this Part applies is capital expenditure—

- (a) incurred by an owner on the construction or alteration of a building or structure which is to be used for the purposes of a basic industry and occupied for the purposes of a business in that industry carried on by such owner, including where necessary, capital expenditure so incurred on any building or structure provided by the person carrying on such business as aforesaid for the welfare of workers employed in that business and used for that purpose; or
- (b) incurred by a person carrying on a business in a basic industry on the purchase, alteration or improvement of machinery or plant for the purposes of the business.

(2) Subject to the provisions of this Part, the provisions of paragraphs 3 and 4 and sub-paragraphs (2) to (6) of paragraph 5 of Part I shall apply, with the necessary adaptations, to a building or structure referred to in sub-paragraph (1) as they apply to an industrial building or structure as defined in Part I aforesaid.

Conditions applicable to investment allowances.

5.—(1) No investment allowance shall be made in respect of any expenditure on an asset if when the asset comes to be used it is not used for the purposes of a business in a basic industry.

(2) No investment allowance shall be made in respect of expenditure on the purchase of secondhand machinery or plant:

Provided that this sub-paragraph shall not apply where the expenditure is on such machinery or plant being imported into the Island.

Buildings and structures bought unused.

6.—(1) Where expenditure is incurred on the construction of a building or structure and, before that building or structure is used, the interest therein of the person who incurred such expenditure is sold—

- (a) the expenditure actually incurred in the construction thereof shall be left out of account for the purposes of this Part; but
- (b) the person who buys such interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction thereof equal to the said expenditure or to the net price paid by him for the said interest, whichever is the less:

Provided that, where such interest in the building or structure is sold more than once before the building or structure is used, the provisions of clause (b) shall have effect only in relation to the last of those sales, and reference to "expenditure incurred on the construction of a building or structure" shall include reference to expenditure on the alteration of such building or structure incurred prior to the last of those sales.

(2) Where the expenditure incurred on the construction of a building or structure was incurred by a person carrying on a trade which

consists, as to the whole or any part thereof, in the construction of buildings or structures with a view to their sale, and, before the building or structure is used, he sells his interest therein in the course of that trade, or, as the case may be, of that part of that trade, clause (b) of sub-paragraph (1) shall have effect subject to the following modifications—

- (a) if that sale is the only sale of the interest before the building or structure is used, the said clause (b) shall have effect as if the words “the said expenditure or to” and the words “whichever is the less” were omitted; and
- (b) in any other case, the said clause (b) shall have effect as if the reference to the expenditure actually incurred on the construction of the building or structure were a reference to the price paid on the sale by the person carrying on such trade as aforesaid.

7.—(1) If, in the case of any expenditure, any such event as is mentioned in sub-paragraph (2) occurs within the period of three years following the year of assessment in which the expenditure was incurred, no investment allowance shall be made in respect of the expenditure or, if such an allowance has been made before the occurrence of the event, it shall be withdrawn.

With-
holding and
withdrawal
of allow-
ances.

(2) The events referred to in sub-paragraph (1) are—

- (a) any appropriation of the asset representing the expenditure made by the person incurring the expenditure or an associate of his to a purpose other than the purposes of a business in a basic industry;
- (b) any sale or transfer of the asset representing the expenditure made by the person incurring the expenditure or an associate of his otherwise than to a person acquiring the asset for the purposes of a business in a basic industry;
- (c) any sale, transfer or other dealing with the asset representing the expenditure by the person incurring the expenditure or an associate of his being a case where it appears either—
 - (i) that the expenditure was incurred in contemplation of the asset being so dealt with; or
 - (ii) that the sole or main benefit which accrued from that person's incurring the expenditure and the asset being so dealt with was or derived from the investment and other allowances in respect of the asset,

and not being a case where it is shown either that the purpose of obtaining tax allowances was not the sole or main purpose of that person's incurring expenditure or of the asset being so dealt with, or that his incurring the expenditure and the asset being so dealt with were *bona fide* business transactions or were not designed for the purpose of obtaining tax allowances.

(3) Where an investment allowance in respect to any expenditure is withheld or withdrawn under this paragraph, such initial allowance (if any) as might have been made in respect of that expenditure but for paragraph 3 of this Part shall be made.

Information
to be
furnished
to Commis-
sioner.

8.—(1) The person who has incurred any expenditure in respect of which an investment allowance has been made and has not been withdrawn shall give notice to the Commissioner, if to his knowledge any of the following events occurs at any time before the expiration of the period of three years following the year of assessment in which the expenditure was incurred, that is to say—

- (a) the asset in respect of which it was incurred is sold by him or an associate of his to a person who is not carrying on a business in a basic industry; or
- (b) the asset is appropriated by him or an associate of his to a purpose other than the purposes of a business in a basic industry.

(2) Any notice of a sale or transfer given under sub-paragraph (1) shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable to a penalty equal to forty dollars plus three times the amount of the investment allowance made in respect of the expenditure in question.

Adjustment
of
assessments

9. All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of an investment allowance under this Part and may be so made at any time.

Exclusion
of relief
under this
Part
where relief
granted
under other
enactments.
13/1979
S. 17.

10. No allowance shall be made under the provisions of this Part in respect of capital expenditure in relation to which any relief from income tax is given by virtue of any of the following enactments that is to say—

- The Industrial Incentives Act;
- The Export Industry Encouragement Act;
- The Shipping (Incentives) Act.

APPENDIX

(Paragraph 1)

List of Basic Industries

A. [*Deleted by Act 35 of 2013, Sch.*]

[The inclusion of this page is authorized by L. N. 192A/2017]

B. *[Deleted by Act 35 of 2013, Sch.]*

C. ELECTRICITY AND STEAM

1. Operating an electricity undertaking.
2. Production and distribution of steam for power purposes.

D. *[Deleted by Act 35 of 2013, Sch.]*

E. *[Deleted by Act 35 of 2013, Sch.]*

PART IVA. *[Deleted by Act 35 of 2013, Sch.]*

PART IVB. *[Deleted by Act 35 of 2013, Sch.]*

PART V. *[Deleted by Act 35 of 2013, Sch.]*

PART VI. *[Deleted by Act 35 of 2013, Sch.]*

PART VII. *Mines, Oil Wells, etc.*

1. In this Part "expenditure to which this Part applies" means capital expenditure incurred by any person in connection with the working of a mine, oil well or other source of mineral deposits of a wasting nature—

Expenditure to which this Part applies.

- (a) on searching for or on discovering and testing deposits, or winning access thereto; or
- (b) on the construction of any works which are likely to be of little or no value when the source is no longer worked; or
- (c) on the acquisition of the site of the source, or of the site of any such works as aforesaid, or of rights in or over any such site; or
- (d) on the acquisition of, or of rights in or over, the deposits:

Provided that the said expression does not include—

- (i) any expenditure on the acquisition of land which is not worked for mineral deposits, or any expenditure incurred for the purposes of husbandry on such land during the year of assessment; or

- (ii) any expenditure on machinery or plant, or on any asset which has been treated for any year of assessment as machinery or plant; or
- (iii) any expenditure on buildings or structures provided for occupation by or for the welfare of workers; or
- (iv) any expenditure on a building where the whole of the building was constructed for use as an office; or
- (v) any expenditure on so much of a building or structure as was constructed for use as an office, unless the capital expenditure on the construction of the part of the building or structure constructed for use as an office was not more than one-tenth of the capital expenditure incurred on the construction of the whole of the building or structure.

Any reference in this Part to assets representing any expenditure includes, in relation to expenditure on searching for, discovering and testing deposits, any results obtained from any such search, exploration or inquiry upon which the expenditure was incurred.

Initial
allowances.

2. Where a person carrying on a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature incurs for the purposes of the trade any expenditure to which this Part applies, there shall be made to him for the year of assessment in the basis period for which the expenditure is incurred an allowance (in this Part referred to as "an initial allowance") equal to 20 *per centum* of that expenditure.

Annual
allowances.

3.—(1) Where a person carrying on a trade which consists of or includes the working of any mine, oil well or other source of mineral deposits of a wasting nature has, at any time on or after 1st of January, 1950, and before the end of his basis period for any year of assessment incurred for the purposes of that trade expenditure to which this Part applies, an allowance (in this Part referred to as "an annual allowance") shall (except in the case in which an election under paragraph 5 of this Part has effect) be made to him in respect of the whole of the expenditure to which this Part applies which he has incurred for the purposes of the trade.

(2) The amount of the said allowance shall be the amount which results from applying to the residue of the expenditure the fraction of which—

- (a) the numerator represents the output from the source in question in the basis period for the year in question; and
- (b) the denominator represents the sum of that output and the total potential future output of the source, estimated as at the end of that period,

or the fraction one-twentieth, whichever is the greater.

4. Where the source ceases to be worked, the person carrying on the trade may elect that the annual allowances, if any, for the year of assessment in which that event occurs and each of the five previous years of assessment shall be computed as if the reference in paragraph 3 to the total potential future output of the source estimated as at the end of the basis period were a reference to the actual output of the source between the end of the basis period and the happening of the said event, and the said allowances shall be computed accordingly, and, notwithstanding anything in the Act limiting the time for the making of assessments or the allowance of claims for repayment, all such repayments and additional assessments shall be made as are necessary to enable effect to be given to this paragraph.

Election when source ceases to be worked.

5.—(1) The annual allowance for any year of assessment in respect of any machinery or plant used for the purposes of a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature, being machinery or plant used in connection with the working of the source, shall, if the person to whom the allowance is to be made so elects when he makes his claim for the allowance—

Alternative method of calculating annual allowances.

- (a) be calculated by reference to the written down value, or by reference to the amount of his capital expenditure in providing the machinery or plant; but
- (b) be the percentage of that amount specified in sub-paragraph (2).

(2) The said percentage is such percentage as the Commissioner may determine having regard to the date when the source is likely to cease to be worked and the probable value of the machinery or plant at that date to the person carrying on the trade.

6. References in this Part to the residue of any expenditure, in relation to the annual allowance to be made for any year of assessment, are references to the amount thereof which remains after deducting therefrom—

Interpretation of residue of expenditure.

- (a) any annual allowances made in respect of that expenditure or any part thereof for any previous year of assessment; and
- (b) subject to the provisions of paragraph 7 of this Part if, before the end of the basis period for the year of assessment for which the allowance is to be made, any asset representing the expenditure is sold or demolished or destroyed, the sale, insurance, salvage or compensation moneys.

7.—(1) The provisions of this paragraph shall have effect where—

- (a) a person who is, on or after the 1st of January, 1950, carrying on a trade which consists of or includes the working of a mine, oil well or other source of mineral deposits of a wasting nature sells assets representing expenditure to which this Part applies; and

Balancing allowances and charges on sale of assets.

- (b) the buyer of those assets buys them for the purposes of a trade carried on or to be carried on by him, being a trade which consists of or includes the working of the whole or any part of the source in connection with which the assets were provided.

(2) If the net proceeds of the sale are less than the residue of the expenditure on the assets immediately before the sale, an allowance (in this Part referred to as "a balancing allowance") shall be made to the seller, for the year of assessment in the basis period for which the sale took place, equal to the difference.

(3) If the net proceeds of the sale exceed the residue of the expenditure on the assets immediately before the sale, a charge (in this Part referred to as "a balancing charge") shall be made on the seller, for the year of assessment in the basis period for which the sale took place, on the amount of the excess.

(4) If the source in connection with which the expenditure was incurred has been worked before the 1st of January, 1950, sub-paragraphs (2) and (3) shall have effect subject to the modification that the amount of the balancing allowance or the amount on which the balancing charge is made shall be reduced by applying thereto the fraction on which the numerator represents the total output from the source in the period which begins with 1st of January, 1950, and ends with the time of the sale, and the denominator represents the total output from the source up to the time of the sale:

Provided that if the person to whom a balancing allowance is to be made in respect of any expenditure considers that the amount by which the allowance is to be reduced under this sub-paragraph is excessive having regard to the dates on which the expenditure was actually incurred he may appeal to the Revenue Court in like manner as an appeal made against an assessment under the Act and the Court may authorize such smaller reduction as may be appropriate.

29/1971
S. 12.

(5) In no case shall the amount on which a balancing charge is made upon a person in respect of any assets exceed the difference between—

- (a) the expenditure to which this Part applies which he incurred upon the assets; and
- (b) the residue of that expenditure immediately before the sale.

(6) Whether a balancing allowance or balancing charge is made upon the seller or not, the deduction to be made in the case of the seller in respect of the assets under item (b) of paragraph 6 shall, instead of being the sale, insurance, salvage or compensation moneys, be the residue of the expenditure attributable to the assets immediately before the sale.

(7) The buyer shall, for the purposes of the provisions of this Part relating to annual allowances, balancing allowances and balancing charges,

be deemed to have incurred on the assets at the time of the sale expenditure to which this Part applies equal to whichever is the less of the following amounts, that is to say—

- (a) so much of the price as is attributable to the assets; and
- (b) the residue of the expenditure on the assets immediately after the sale.

8. Any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this Part as if it had been incurred by that person on the first day on which he does carry it on.

Preliminary expenditure.

9. Where a person incurs expenditure to which this Part applies on searching for, discovering and testing the mineral deposits of any mine, oil well or other source of a wasting nature and winning access to those deposits, and, without having carried on any trade which consists of or includes the working of the source, he sells any assets representing that expenditure, then, if the person who acquires the assets carries on such a trade as aforesaid in connection with the source, that person shall, for the purposes of this Part, be deemed to have incurred for the purposes of the trade and in connection with the source expenditure to which this Part applies equal to the amount of the expenditure to which this Part applies which is represented by the assets or the price paid by him for the assets, whichever is the smaller.

Sale of asset prior to working the source.

10. Any expenditure in respect of which an allowance is made under this Part shall not be available for relief under any other Parts or under any other provisions relating to income tax.

Exclusion of relief under other Parts.

PART VIII. *Allowances for Expenditure on Scientific Research*

1.—(1) In this Part the following expressions have the meanings hereby respectively assigned to them, that is to say—

“asset” includes part of an asset;

“scientific research” means any activities in the fields of natural or applied science for the extension of knowledge and includes activities aimed at discovering new knowledge about products, processes and services and applying that knowledge to create new and improved products, processes and services;

“scientific research expenditure” means expenditure incurred on scientific research;

“trade” includes any agricultural pursuit, including the use of land for purposes of husbandry;

references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of scientific research, but save as aforesaid, include all expenditure incurred

Interpretation and supplementary provisions. 35/2013 Sch.

for the prosecution of, or the provision of facilities for the prosecution of, scientific research;

references to scientific research related to a trade or a class of trades include—

- (a) any scientific research which may lead to or facilitate an extension of that trade or, as the case may be, of trades of that class or the development of a new trade;
- (b) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that trade or, as the case may be, trades of that class.

(2) The same expenditure shall not be taken into account for any of the purposes of this Part in relation to more than one trade.

2. Notwithstanding anything in the Act, where a person carrying on a trade or proposing to carry on a trade—

- (a) incurs expenditure not of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf; or
- (b) pays any sum to any scientific research association for the time being approved for the purposes of this paragraph by the Minister being an association which has as its object the undertaking of scientific research related to the class of trade to which the trade he is carrying on or proposes to carry on, belongs; or
- (c) pays any sum to be used for such scientific research as is mentioned in paragraph (1) to any such university, college, research institute or other similar institution as is for the time being approved for the purposes of this paragraph by the Minister,

the expenditure incurred or sum paid, as the case may be, may be deducted as an expense in computing the chargeable income of the person for the year of assessment in which the expenditures are incurred, or the sums are paid; as the case may be.

3. Subject to the provisions of paragraph 4 where a person—

- (a) while carrying on a trade, incurs expenditure of a capital nature on scientific research related to that trade and directly undertaken by him or on his behalf; or
- (b) incurs expenditure of a capital nature on scientific research directly undertaken by him or on his behalf and thereafter sets up and commences a trade connected with that research,

in computing the chargeable income of such person there shall be allowed to him a deduction equal to one-fifth of the expenditure for each of the five years of assessment commencing with the year of assessment in the basis period for which the expenditure was incurred.

4.—(1) Where an asset representing scientific research expenditure of a capital nature incurred by the person carrying on a trade ceases to be used by that person for scientific research related to that trade—

Termination of user, etc., of assets provided for scientific research purposes.

- (a) no allowance shall be made under paragraph 3 for any year of assessment after that in which the cessation takes place; and
- (b) if the amounts, if any, allowed under the said paragraph 3 in respect of the expenditure added to the value of the asset immediately before the cessation, are less than the said expenditure there shall be allowed in charging the profits or gains of the trade for the year of assessment in which the cessation takes place an additional deduction equal to the difference.

(2) Where an asset representing scientific research expenditure of a capital nature in respect of which an allowance or allowances has or have been made under this paragraph or paragraph 3 in charging the profits or gains of a trade ceases to be used by the person carrying on the trade for scientific research related to that trade and is then or thereafter sold by him without having been used in the meantime for other purposes, then—

- (a) if an additional allowance, or a greater additional allowance would have been made, under sub-paragraph (1) for the year of assessment in which the cessation occurred if the proceeds of sale of the asset had been taken to be the value of the asset, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be allowed in ascertaining the chargeable income in respect of the trade for the year of assessment in which the sale occurs or, if the sale occurs on or after the date on which the trade is permanently discontinued, for the last year of assessment in which the trade is carried on before the discontinuance;
- (b) in any other case, if the proceeds of sale plus the total amount of the allowances made under this paragraph and paragraph 3 in respect of the expenditure exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treated as a trading receipt of the trade accruing at the time of the sale, or if the sale occurs on or after the date on which the trade is permanently discontinued, accruing immediately before the discontinuance.

(3) Where an asset is destroyed, it shall for the purposes of sub-paragraph (2) be treated as if it had been sold immediately before the destruction thereof and any insurance moneys or other compensation of any description received by the person carrying on the trade in respect of the destruction and any moneys received by him for the remains of the

asset shall be treated as if they were proceeds of that sale.

(4) Any references in this paragraph to the time of any sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

(5) Where a deduction is allowed for any year under this Part in respect of expenditure represented wholly or partly by any assets, no deduction shall be allowed under any provision of the Act other than the allowance in respect of depreciation of those assets for any year of assessment during any part of which they are used by the person carrying on the trade for scientific research related to the trade.

35/2013
Sch.

PART IX. *Intellectual Property Rights*

Annual
allowances
for capital
expenditure
on purchase
of patent
rights.
35/2013
Sch.

1.—(1) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the acquisition or development of intellectual property rights, in ascertaining the chargeable income of such person there shall, subject to and in accordance with the subsequent provisions of this Part be allowed to him for each of the relevant years of assessment, as hereinafter defined, a deduction (in this Part referred to as “an annual allowance”) equal to the appropriate fraction, as hereinafter defined, of the amount of that expenditure:

Provided that no annual allowance shall be made to a person in respect of any expenditure unless—

- (a) the allowance falls to be made to him in charging the profits or gains of his trade; or
- (b) any income receivable by him in respect of the rights would be liable to income tax.

(2) The relevant years of assessment are, in the case of any person, the fourteen years of assessment beginning with the year of assessment in his basis period for which the expenditure was incurred:

Provided that—

35/2013
Sch.

- (a) where the rights that are acquired or developed are for a specified period, the preceding provisions of this sub-paragraph shall have effect with the substitution for the reference to fourteen years of a reference to fourteen years or the number of years comprised within that period, whichever is the less; and

35/2013
Sch.

- (b) where the rights that are acquired or developed begin one complete year or more after the commencement of the intellectual property rights and paragraph (a) of this proviso does not apply, the said provisions shall have effect with the substitution for the reference to fourteen years of a reference to fourteen years less the number of complete years which, when the rights begin, have

elapsed since the commencement of the intellectual property rights, or, if fourteen complete years have elapsed as aforesaid, of a reference to one year; and

35/2013
Sch.

- (c) any expenditure incurred on or after the 1st of January, 1953, for the purposes of a trade by a person about to carry it on shall be treated for the purposes of this sub-paragraph as if it had been incurred by that person on the first day on which he does carry it on, unless, before the said first day, he has sold all the rights on the purchase of which the expenditure was incurred;

- (d) where the capital expenditure by a person on the acquisition or development of intellectual property rights is less than an amount in Jamaican dollars that is equivalent to US\$10,000 (calculated at the Bank of Jamaica weighted average selling rate as at the date when the capital expenditure was incurred), the period of years referred to in this sub-paragraph shall be five years instead of fourteen years.

35/2013
Sch.

(3) The appropriate fraction is the fraction the numerator of which is one and the denominator of which is the number of the relevant years of assessment.

2.—(1) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the acquisition or development of intellectual property rights and, before the end of the relevant years of assessment, any of the following events occurs, that is to say—

Effect of
lapse of
patent
rights,
sales, etc.
35/2013
Sch.

- (a) the rights come to an end without being subsequently revived; or
- (b) he sells all those rights or so much thereof as he still owns; or
- (c) he sells part of those rights and the net proceeds of the sale (so far as they consist of capital sums) are not less than the amount of the capital expenditure remaining unallowed,

no annual allowance shall be made to that person for the year of assessment in his basis period for which the event takes place or any subsequent year of assessment.

(2) Where, on or after the 1st of January, 1953, a person incurs capital expenditure on the acquisition or development of intellectual property rights and, before the end of the relevant years of assessment, either of the following events occurs, that is to say—

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Sch.

- (a) the rights come to an end without being subsequently revived; or
- (b) he sells all those rights, or so much thereof as he still owns, and the net proceeds of the sale (so far as they consist of capital sums) are less than the amount of the capital expenditure remaining unallowed,

there shall, subject to and in accordance with the subsequent provisions of this Part, be made to him for the year of assessment in his basis period for which the event takes place an allowance (in this Part referred to as "a balancing allowance") equal, if the event is the rights coming to an end, to the amount of the capital expenditure remaining unallowed, and, if the event is a sale, to the amount of the capital expenditure remaining unallowed less the net proceeds of the sale.

35/2013
Sch.

(3) Where a person who, on or after the 1st of January, 1953, has incurred capital expenditure on the acquisition or development of intellectual property rights sells all or any part of those rights and the net proceeds of the sale (so far as they consist of capital sums) exceed the amount of the capital expenditure remaining unallowed, if any, there shall, subject to and in accordance with the subsequent provisions of this Part, be made on him for the year of assessment in his basis period for which the sale takes place a charge (in this Part referred to as "a balancing charge") on an amount equal to the excess or, where the amount of the capital expenditure remaining unallowed is nil, to the said net proceeds.

35/2013
Sch.

(4) Where a person who, on or after the 1st of January, 1953, has incurred capital expenditure on the acquisition or development of intellectual property rights sells a part of those rights and sub-paragraph (3) does not apply, the amount of any annual allowance made in respect of that expenditure for the year of assessment in his basis period for which the sale takes place or any subsequent year of assessment shall be the amount arrived at by—

- (a) subtracting the net proceeds of the sale (so far as they consist of capital sums) from the amount of the expenditure remaining unallowed at the time of the sale; and
- (b) dividing the result by the number of the relevant years of assessment which remained at the beginning of the year of assessment in his basis period for which the sale takes place,

and so on for any subsequent sales.

(5) References in the preceding provisions of this paragraph to the amount of any capital expenditure remaining unallowed shall, in relation to any event, be construed as references to the amount of that expenditure less any annual allowances made in respect thereof for years of assessment before the year of assessment in the basis period for which that event occurs, and less also the net proceeds of any previous sale by the person who incurred the expenditure of any part of the rights acquired by the expenditure, so far as those proceeds consist of capital sums.

(6) Notwithstanding anything in the preceding provisions of this paragraph, no balancing allowance shall be made in respect of any expenditure unless an annual allowance has been, or, but for the

happening of the event giving rise to the balancing allowance, could have been, made in respect of that expenditure, and the total amount on which a balancing charge is made in respect of any expenditure shall not exceed the total annual allowances actually made in respect of that expenditure, less, if a balancing charge has previously been made in respect of that expenditure, the amount on which that charge was made.

3.—(1) Where, on or after the 1st of January, 1953, a person resident in the Island sells any intellectual property rights and the net proceeds of the sale consist wholly or partly of a capital sum, he shall, subject to the provisions of this Part, be charged to tax under the Act for the year of assessment in which the sum is received by him and each of the five succeeding years of assessment, on an amount equal to one-sixth of that sum:

Charges on capital sums received for sale of patent rights
35/2013 Sch.

Provided that if that person, by notice in writing served on the Commissioner not later than twelve months after the end of the year of assessment in which the said amount was received, elects that the whole of the said sum shall be charged to tax for the said year of assessment it shall be charged to tax accordingly.

(2) Where, on or after the 1st of January, 1953, a person not resident in the Island sells any intellectual property rights and the net proceeds of the sale consist wholly or partly of a capital sum, and the rights have been granted under the laws of this Island, then subject to the provisions of this Part—

35/2013 Sch

(a) he shall be chargeable to tax in respect of that sum under the Act; and

(b) all the other provisions of the Act shall have effect accordingly:

Provided that if, not later than twelve months after the end of the year of assessment in which the sum is paid, the person to whom it is paid, by notice in writing to the Commissioner, elects that the said sum shall be treated for the purpose of income tax for that year and each of the five succeeding years as if one-sixth thereof, and no more, were included in his income chargeable to tax for all those years respectively, it shall be so treated, and all such repayments and assessments of tax for each of those years shall be made as are necessary to give effect to the election.

(3) Where the intellectual property rights sold by a person or the rights out of which the intellectual property rights sold by a person were granted were acquired by him by purchase and the price paid by him consisted wholly or partly of a capital sum, sub-paragraphs (1) and (2) shall apply as if any capital sum received by him when he sells the rights were reduced by the amount of that sum:

35/2013 Sch.

Provided that where between the said purchase and the said sale he has sold part of the intellectual property rights acquired by him and the net proceeds

35/2013 Sch.

of that sale consist wholly or partly of a capital sum, the amount of the reduction falling to be made under this sub-paragraph in respect of the subsequent sale shall be itself reduced by the amount of that sum.

Patent
rights sold
before 1st of
January,
1953.
35/2013
Sch.

4. Nothing in the preceding provisions of this Part shall apply in relation to any intellectual property rights if those rights, or any rights out of which they were granted, have been the subject of a sale before the 1st of January, 1953, and the proceeds of the sale consisted wholly or partly of a capital sum.

Relief for
expenses.

5.—(1) In computing the profits or gains of any trade, there shall be allowed to be deducted as expenses any fees paid or expenses incurred on or after the 1st of January, 1953, in obtaining, for the purposes of the trade, the acquisition or development of intellectual property rights or an extension of the period during which intellectual property rights may be owned, used or otherwise exploited.

35/2013
Sch.

(2) Where—

35/2013
Sch.

(a) on or after the 1st of January, 1953, a person, otherwise than for the purposes of a trade carried on by him, pays any fees or incurs any expenses in connection with the acquisition, maintenance or development of intellectual property rights or the obtaining of an extension of the period during which intellectual property rights may be owned, used or otherwise exploited; and

(b) those fees or expenses would, if they had been paid or incurred for the purposes of a trade, have been allowable as a deduction in estimating the profits or gains thereof,

there shall be made to him, for the year of assessment in which these expenses were paid or incurred, an allowance equal to the amount thereof.

35/2013
Sch.

(3) Where an intellectual property right is acquired or developed in respect of any invention an allowance equal to so much of the net amount of any expenses incurred, on or after the 1st of January, 1953, by an individual who, whether alone or in conjunction with any other person, actually devised the invention as is properly ascribable to the devising thereof (not being expenses in respect of which, or of assets representing which, an allowance falls to be made under any other provision of the Act) shall be made to that individual for the year of assessment in which the expenses were incurred.

Where a
person is to
be treated as
a trader.

6.—(1) An allowance or charge under any of the provisions of this Part shall be made to or on a person in charging the profits or gains of his trade if—

(a) he is carrying on a trade the profits or gains of which are, or, if there were any, would be, chargeable to income tax under the Act for the year of assessment for which the allowance or charge is made; and

- (b) at any time in his basis period for that year of assessment, the intellectual property rights in question, or other rights out of which they were granted, were or were to be used for the purposes of that trade: 35/2013 Sch.

Provided that nothing in this sub-paragraph shall affect any of the preceding provisions of this Part allowing a deduction as expenses in computing the profits or gains of a trade or requiring a charge to be made under the Act.

- (2) Save as aforesaid, in ascertaining the chargeable income of such person an allowance shall be made by way of discharge or repayment of tax and shall be available against income from intellectual property rights and a charge shall be deemed to be a gain or profit within the meaning of the Act. 35/2013 Sch.

7.—(1) Where a person on whom, by reason of the receipt of a capital sum, a charge falls or would otherwise fall to be made under paragraph 3 of this Part dies or, being a body corporate, commences to be wound up— Effect of deaths, windings up and partnership changes.

- (a) no sums shall be charged under the said paragraph 3 on that person for any year subsequent to that in which the death takes place or the winding up commences; and
- (b) the amount falling to be charged for the year in which the death occurs or the winding up commences shall be increased by the total amounts which, but for the death or winding up, would have fallen to be charged for subsequent years:

Provided that, in the case of a death, the personal representatives may, by notice in writing served on the Commissioner not later than twenty-one days after notice has been served on them of the charge falling to be made by virtue of this paragraph, require that the income tax payable out of the estate of the deceased by reason of the increase provided for by this paragraph shall be reduced so as not to exceed the total amount of income tax which would have been payable by him or out of his estate by reason of the operation of the said paragraph 3 in relation to that sum, if, instead of the amount falling to be charged for the year in which the death occurs being increased by the whole amount of the sums charged for subsequent years, the several amounts falling to be charged for the years beginning with that in which the capital sum was received and ending with that in which the death occurred had each been increased by the said whole amount divided by the number of those years.

(2) Where a charge under the said paragraph 3 falls to be made on two or more persons jointly as being the persons for the time being carrying on a trade, and that trade is discontinued, the provisions of sub-paragraph (1) shall have effect in relation to the discontinuance as they have effect where a body corporate commences to be wound up:

Provided that—

- (a) the additional sum which, under the said sub-paragraph falls to be charged for the year in which the discontinuance occurs shall be apportioned among the members of the partnership immediately before the discontinuance, according to their respective interests in the partnership profits before the discontinuance, and each partner (or, if he is dead, his personal representatives) charged separately for his proportion; and
- (b) each of the partners, or, if he is dead, his personal representatives, shall have the same right to require a deduction of the total income tax payable by him or out of his estate by reason of the increase as would have been exercisable by the personal representatives under the said sub-paragraph in the case of a death, and the proviso to the said sub-paragraph shall have effect accordingly, but as if references to the amount of income tax which would have been payable by the deceased or out of his estate in the event therein mentioned were a reference to the amount of income tax which would in that event have fallen to be paid or borne by the partner in question or out of his estate.

Interpreta-
tion.

8.—(1) In this Part, the following expressions have the meanings hereby respectively assigned to them, that is to say—

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“income from intellectual property rights” means—

- (a) any royalty or other sum paid in respect of the user of an intellectual property right;
- (b) any amount on which tax is payable for any year of assessment by virtue of any of the provisions of this Part;

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Sch.

“intellectual property rights” means rights of ownership, use or other exploitation of any of the following—

- (a) a patent or utility model;
- (b) an industrial design;
- (c) a layout design of an integrated circuit;
- (d) a trademark, service mark, collective mark, certification mark or a brand;
- (e) a geographical indication of source;
- (f) a trade secret, know-how or technology transfer;
- (g) an internet domain name or a publishing title;
- (h) a copyright;

- (i) a licence to conduct activities that are regulated by the Office of Utilities Regulation, the Spectrum Management Authority or the Broadcasting Commission; and
- (j) a right to use a submarine communications cable, a fibre optic network, electronic data storage or related facilities.

“know-how” means any industrial information or technique that is likely to assist in the manufacture or processing of goods or the provision of services; 35/2013 Sch.

“the commencement of the intellectual property right” means, in relation to an intellectual property right, the date from which the intellectual property right becomes effective; 35/2013 Sch.

(2) In this Part, any reference to the sale of part of intellectual property rights includes a reference to the grant of a licence in respect of the intellectual property right in question, and any reference to the purchase of intellectual property right includes a reference to the acquisition of a licence in respect of an intellectual property right: 35/2013 Sch.

Provided that if a licence granted by a person entitled to any intellectual property rights is a licence to exercise those rights to the exclusion of the grantor and all other persons for the whole of the remainder of the term for which the rights subsist, the grantor shall be treated for the purposes of this Part as thereby selling the whole of the rights. 35/2013 Sch.

(3) Where an invention which is the subject of an intellectual property right is made, used, or exercised or vended by or for the service of the Crown or the government of a country outside the Island, the provisions of this Part shall have effect as if the making, user, exercise or vending of the invention had taken place in pursuance of a licence, and any sums paid in respect thereof shall be treated accordingly. 35/2013 Sch.

(4) Any reference in this Part to the number of years comprised in a period shall be construed as a reference to the number of consecutive periods of twelve months, beginning with the day with which the period begins, which are comprised in the period, any odd period of less than twelve months remaining at the end of the period being treated as a complete twelve months:

Provided that nothing in this sub-paragraph shall be construed as affecting any reference in this Part to the number of complete years comprised in any period or which have elapsed since any date.

9. Any expenditure in respect of which an allowance is made under this Part shall not be available for relief under any other Part of the First Schedule or under any other provision of the Act. 35/2013 Sch.

*PART X. Special Provisions as to Operation of the Foregoing
Parts in Relation to Certain Sales*

1. This Part has effect in relation to the sales of any property mentioned or referred to in this Schedule where either—

- (a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them; or
- (b) it appears with respect to the sale, or with respect to transactions of which the sale is one, that the sole or main benefit which might have been expected to accrue to the parties or any of them was the obtaining of an allowance or deduction under this Schedule.

References in this paragraph to a body of persons include references to a partnership.

2. Where the property is sold at a price other than that which it would have fetched if sold in the open market, then, the like consequences shall ensue for the purposes of this Schedule in their application to the income tax of all persons concerned, as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

3.—(1) Subject to the provisions of this paragraph, where the sale is a sale of machinery or plant—

- (a) no initial allowance shall be made to the buyer; and
- (b) subject to the provisions of paragraph 4 of this Part, if the price which the property would have fetched if sold in the open market is greater than the limit of recharge on the seller, paragraph 2 of this Part shall have effect as if for the reference to the price which the property would have fetched if sold in the open market there were substituted a reference to the said limit of recharge:

Provided that this sub-paragraph shall not apply in relation to a sale of machinery or plant which has never been used if the business or part of the business of the seller was the manufacture or supply of machinery or plant of that class and the sale was effected in the ordinary course of the seller's business.

(2) Where, in the case of any sale of machinery or plant—

- (a) the sale is one to which sub-paragraph (a) of paragraph 1 of this Part applies and sub-paragraph (b) of the said paragraph 1 does not apply; and

- (b) an initial allowance fell to be made to the seller of the machinery or plant in respect of the capital expenditure which he incurred on the provision thereof; and
- (c) a balancing charge is made on the seller by reason of the sale; and
- (d) the price which the machinery or plant would have fetched if sold in the open market at the time of the sale exceeds three-fifths of the limit of recharge on the seller,

paragraph (a) of sub-paragraph (1) shall not apply, but the initial allowance to the buyer shall not exceed whichever of the three following amounts is the least, that is to say—

- (i) the excess of the said price over three-fifths of the said limit of recharge;
- (ii) the initial allowance which fell to be made to the seller as aforesaid; and
- (iii) the amount on which a balancing charge is made on the seller as aforesaid.

(3) In this paragraph, “the limit of recharge” means, in relation to a person who sells machinery or plant, the expenditure incurred by him on the provision thereof.

4. Where the sale is one to which sub-paragraph (a) of paragraph 1 of this Part applies and sub-paragraph (b) of that paragraph does not apply, and the parties to the sale by notice in writing to the Commissioner so elect, the following provisions shall have effect—

- (a) paragraph 2 of this Part shall have effect as if for the reference to the price which the property would have fetched if sold in the open market there were substituted a reference to that price; and
- (b) paragraph (b) of sub-paragraph (1) of paragraph 3 shall not apply; and
- (c) notwithstanding anything in the preceding provisions of this Part such balancing charge, if any, shall be made on the buyer on any event occurring after the date of the sale as would have fallen to be made on the seller if the seller had continued to own the property and had done all such things and been allowed such allowances or deductions in connection therewith as were done by or allowed to the buyer.

5. In this Part “control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the

affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person, and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership.

PART XI. *Effect, in Certain Cases, of Succession to Trades, etc.*

1.—(1) Where a person succeeds to any trade, profession or vocation which until that time was carried on by another person and the trade, profession or vocation is to be treated as discontinued, any property which, immediately before the succession takes place, was in use for the purposes of the discontinued trade, profession or vocation and, without being sold, is, immediately after the succession takes place, in use for the purposes of the new trade, profession or vocation, shall, for the purposes of this Schedule (except so much of Part III thereof as relates to annual allowances), be treated as if it had been sold to the successor when the succession takes place, and as if the net proceeds of the sale had been the price which that property would have fetched if sold in the open market:

Provided that no initial allowance shall be made under any of the provisions of this Schedule by virtue of the provisions of this paragraph.

(2) Where, after the setting up and before the permanent discontinuance of a trade, profession or vocation which at any time is carried on in partnership, anything is done for the purposes thereof, any allowance or charge which, if the trade, profession or vocation had at all times been carried on by one and the same person, would have fallen to be made to or on him under any of the provisions of this Schedule shall be made to or on the person or persons from time to time carrying on that trade, profession or vocation, and the amount of any such allowance or charge shall be computed as if that person or those persons had at all times been carrying on the trade, profession or vocation, and as if everything done to or by his or their predecessors in the carrying on thereof had been done to or by him or them:

Provided that this sub-paragraph shall not apply to any annual allowances under Part III.

PART XII. *Manner of Making Balancing Charges*

Subject to paragraph 6 of Part IX a balancing charge imposed under any of the provisions of this Schedule shall be levied by treating the amount on which the charge is made as a gain or profit within the meaning of the Act.

SECOND SCHEDULE

(Section 94)

PART I. *The Income Tax (Employments) Regulations*

GENERAL

1. These Regulations may be cited as the Income Tax (Employments) Regulations.

2. In these Regulations unless the context otherwise requires—

“Collector” means Collector of Taxes for the parish in which the payment of emoluments is made or in the case of emoluments paid to employees of the Government, the Accountant-General;

“Commissioner” means the Commissioner of Taxpayer Audit and Assessment; L.N. 165/1999.

“cumulative emoluments” in relation to any date, means the sum of all payments of emoluments made by the employer to the employee from the beginning of the year up to and including that date;

“cumulative tax” means the cumulative gross tax due in respect of any cumulative taxable emoluments at the relevant date in accordance with the appropriate tax tables; 38/1976 2nd Sch.

“determined allowances” means such allowances as the Commissioner may determine in relation to an employee with more than one source of income for the purpose of securing the collection in any year of assessment, by means of deductions from the emoluments of the employee arising from one or more sources of his income, of the total tax payable by him in that year in respect of all the sources of his income; L.N. 128B/1986.

“emoluments” means emoluments to which the Act applies, and reference to payments of emoluments includes reference to payments on account of emoluments; 7/1956 S. 33

“employee” means any person in receipt of emoluments;

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

“ESOP contributions” means any part of an employee’s emoluments deducted for the purpose of acquiring ESOP shares in accordance with the Employees Share Ownership Plan Act; L.N. 38C/1995.

“ESOP shares” has the same meaning as in the Employee Share Ownership Plan Act; L.N. 38C/1995.

“income tax month” means every calendar month throughout the year of assessment;

"reliefs from income tax" includes allowances and deductions;

"tax deduction card" means a tax deduction card in the form prescribed by the Commissioner or such other document corresponding to a tax deduction card as may be authorized by the Commissioner in any particular case;

L. N.
38C/1995

"taxable emoluments" means emoluments reduced by—

- (a) deductible expenses as agreed with the Commissioner; and
- (b) an exemption or relief from tax pursuant to the Employee Share Ownership Plan Act and taken into account for the purposes of these Regulations in a manner agreed with the Commissioner;

"tax tables" means the tax tables prepared by the Commissioner;

"total net tax deducted" means, in relation to the emoluments paid to any employee during any period, the total tax deducted from those emoluments less any tax repaid to the employee;

"year" means year of assessment.

3.—(1) Where an employee works under the general control and management of a person who is not his immediate employer that person (referred to hereafter in this regulation as the "principal employer") shall be deemed to be the employer for the purposes of these Regulations, and the immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of these Regulations.

(2) If the employee's emoluments are actually paid to him by the immediate employer—

- (a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted or repaid when the emoluments are paid to the employee, and shall deduct or repay the amount so notified to him accordingly; and
- (b) the principal employer shall make a corresponding deduction or addition on making to the immediate employer the payment out of which the said emoluments will be paid.

4. Anything which is authorized or required by these Regulations to be done by the Commissioner or the Collector may be done by the Commissioner or such Collector respectively, or by Income Tax (Employments) Officers appointed in accordance with regulation 5.

5. The Commissioner may appoint Income Tax (Employments) Officers from the members of the staff of his Department to carry out such duties in connection with these Regulations as he may assign to them.

6. Any notice or tax deduction card which is authorized or required to be given, served or issued under these Regulations may be sent by post.

7. Every employer, on making any payment of emoluments during any year to any employee in respect of whom a tax deduction card has been issued to him for that year by the Commissioner shall deduct or repay tax in accordance with these Regulations.

8. The Commissioner may disregard part or all of any expenses in respect of which the employee is entitled to relief from income tax if it is impracticable to take account of all those expenses in determining the appropriate allowance in relation to that employee and where he does so he shall direct the employer to disregard an equivalent amount of the employee's emoluments in calculating the tax to be deducted or repaid when any payment of emoluments is made to the employee. L.N. 128B/86.

9.—(1) The Commissioner may determine that an allowance of such amount as he may specify be deducted from any emoluments of an employee with more than one source of income, in order to ensure that the total tax payable by such employee in respect of his emoluments arising from all sources, is collected during the year of assessment. L.N. 128B/86.

(2) The Commissioner may determine that no tax shall be deducted from any emoluments if—

- (a) the emoluments will be included in the profits of a trade, profession or business; or
- (b) the Commissioner is not satisfied that the emoluments will be chargeable to tax.

10. Subject to section 40A of the Act, unless the Commissioner otherwise directs, the value of any quarters or residence provided by an employer to an employee shall be regarded as being 15 per cent of the other emoluments paid to that employee, and the employer shall deduct tax accordingly. L.N. 128B/86.

11. Where by reason of his employment a motor vehicle is provided (without transfer of the property in it) for the use of an employee in relation to his office or employment and the motor vehicle is available in any year for the private use of the employee or members of his family or household, the value of the benefit accruing to the employee shall, for the purpose of ascertaining the tax payable in relation thereto, be determined by the Commissioner in accordance with Appendix A. L.N. 56/96. Appendix A.

11A. The categories of employees entitled to the relief specified in paragraph (i) (B) of the proviso to section 5 (1)(c) of this Act in respect of allowances for the provision of uniform and the laundering thereof, shall be those specified in Appendix B. 41/2002 S. 20. Appendix B.

L.N.
238N/2012.

11B.—(1) The provisions of this regulation shall apply in determining the portion of the emoluments of an applicable group head office employee that is exempt from income tax in accordance with section 12(a) of the Act.

(2) Where the employee is wholly engaged in group head office activities, the total amount of his emoluments shall be exempt from income tax.

(3) Where the employee is partly engaged in group head office activities and partly in other activities, the portion of his emoluments that is exempt from income tax shall be derived as follows—

$$\text{Employee Tax Exempt Emoluments} = \frac{\text{EAOB}}{\text{TGHOE}} \times \frac{\text{EMPLOYEES}}{\text{EMOLUMENTS}}$$

(4) In this regulation—

“applicable group head office employee” means an employee who is not a citizen of Jamaica and who is employed to carry out group head office activities in the group head office company;

“EAOB” means subject to the provisions of section 13 of the Act, expenses incurred in the performance of group head office activities for the benefit of an overseas business, as reflected in the accounts of the approved group head office company for the permitted accounting period (within the meaning of section 6(7) of the Act) and which are recovered by the approved group head office company by way of fees, reimbursement or otherwise;

“overseas business” means a business activity that is conducted outside of Jamaica by a non-resident of Jamaica;

“TGHOE” means subject to the provisions of section 13 of the Act, total expenditure incurred by the approved group head office company in the performance of group head office activities as reflected in its accounts for the permitted accounting period (within the meaning of section 6(7) of the Act).

L.N.
38C/1995.

12.—(1) Subject to paragraph (2), on the occasion of payment of emoluments, an employee’s ESOP contributions made from such emoluments shall not be taken into account as taxable emoluments for the purpose of these Regulations.

(2) Where in any year, on the occasion of payment of emoluments to an employee, the employee’s aggregate ESOP contributions in that year up to

and including that occasion, exceeds 10 per cent of the employee's aggregate emoluments in that year up to and including that occasion, the provisions of paragraph (1) shall not apply to the excess.

(3) Adjustments may be made, where appropriate, in accordance with regulation 14 in relation to the emoluments of an employee to whom this regulation applies.

13. [Deleted by L.N. 128B/1986.]

DEDUCTION AND REPAYMENT OF TAX

14. -(1) On the occasion of any payment of emoluments to the employee, the employer, except where these Regulations otherwise provide, shall ascertain the cumulative emoluments of the employee at the date of the payment, the cumulative gross tax thereon, the cumulative tax free emoluments and the corresponding cumulative net tax.

38/1976
2nd Sch.
L.N.
128B/86.

(2) If the said cumulative net tax exceeds the cumulative net tax corresponding to the employee's cumulative emoluments at the date of the last preceding payment of emoluments (hereafter in this regulation referred to as the "previous cumulative net tax"), the employer shall deduct the excess from the emoluments on making the payment in question.

(3) If the said cumulative net tax is less than the previous cumulative net tax the employer shall repay the difference to the employee on making the payment in question.

(4) If the said cumulative net tax is equal to the previous cumulative net tax, no tax shall be either deducted or repaid when the payment in question is made.

(5) Where the payment in question is the first payment in the year, paragraph (2), (3) and (4) shall not apply, but the employer shall deduct the said cumulative net tax from the emoluments on making the payment in question.

(6) The employer shall record either on the tax deduction card or in such other form as may be authorized by the Commissioner, the following particulars regarding every payment of emoluments which he makes to the employee, namely—

- (a) the date of the payment;
- (b) the gross amount of the emoluments;
- (c) the amount of his gross emoluments in respect of which the Commissioner has agreed he qualifies for relief from income tax;

38/1976
2nd Sch.

- (d) the taxable emoluments to that date;
- (e) the cumulative taxable emoluments in relation to the said date;
- L.N. 128B/86. (f) the cumulative gross tax in relation to that date;
- (g) the cumulative tax-free emoluments appropriate to that date;
- (h) the cumulative net tax to the said date;
- (i) the amount of tax, if any, deducted or repaid on making the payment;
- L.N. 128B/86. (j) any benefits, perquisites or facilities provided for the employee (whether in money or otherwise).

L.N.
128B/86.

(7) Where the Commissioner determines that an allowance of such amount as he may specify shall be deducted from any emoluments or that no tax shall be deducted therefrom the foregoing provisions of this regulation shall not apply but the employer shall deduct the allowance so specified or shall deduct no tax, as the case may require, without regard to the employee's cumulative emoluments or the corresponding cumulative tax, and shall record the date of the payment, the gross amount of the emoluments and the amount of tax deducted therefrom:

Provided that, where the Commissioner's determination that no tax shall be deducted is an amended determination, the employer shall, if the Commissioner so directs, make any repayment of tax which may be due by reference to the employee's cumulative emoluments and the corresponding cumulative tax, and shall record the particulars mentioned in paragraph (6).

15. Where emoluments are paid at regular intervals other than regular intervals of a week or a month, any payment of such emoluments shall be deemed for the purposes of these Regulations to be made on the date on which it would have been made if a payment had been made on the last day of the preceding year:

Provided that the employer shall record the actual date of every such payment.

16.—(1) If the employer makes a payment in respect of overtime or other extra earnings to an employee whose main emoluments are paid monthly, and that payment is made at an earlier date in the income tax month than the date on which the main emoluments are paid, the employer shall repay no tax to the employee on the occasion of that payment notwithstanding that tax may be repayable under the provisions of regulation 14, but in such a case the said regulation 14 shall have effect as if that payment was made on the same date in that income tax month as the date on which the main emoluments are paid.

(2) The foregoing provisions of this regulation shall apply with the necessary modifications to payments in respect of overtime or other extra earnings which are made to an employee whose main emoluments are paid at intervals greater than a month.

17.—(1) This regulation applies to—

- (a) payments of emoluments made on the thirtieth or thirty-first day of December in a leap year or on the thirty-first day of December in any other year, to an employee who is paid weekly;
- (b) payments of emoluments made to an employee after he has ceased to be employed by the person making the payment; and
- (c) any other payments of emoluments made to any employee to which the Commissioner directs that this regulation shall apply.

(2) Regulation 14 shall not apply to payments of emoluments to which this regulation applies, and on making any such payment the employer shall deduct therefrom the amount of tax which would have been deductible therefrom if the payment had been made on the preceding first day of January.

(3) On making any such payment as aforesaid, the employer shall record, either on the tax deduction card or in such other form as may be authorized by the Commissioner, the date of the payment, the gross amount of the emoluments, the amount of the gross tax, the tax-free emoluments and the amount of tax, if any, deducted on making the payment.

38/1976
2nd Sch.
L.N.
128B/86

18.—(1) If the employer ceases to employ an employee in respect of whom a tax deduction card has been issued to him, he shall forthwith send to the Commissioner a certificate on the prescribed form containing the following particulars, namely—

- (a) the name of the employee;
- (b) any number used to identify the employee;
- (c) the date on which the employment ceased;
- (d) any benefits, perquisites or facilities provided for the employee (whether in money or otherwise);
- (e) the week or income tax month in which the last payment of emoluments was made to the employee, or in a case falling within regulation 15 was deemed to be so made, and the cumulative emoluments at the date of that payment; and
- (f) the corresponding cumulative tax.

L.N.
128B/86.

(2) The employer shall make on the prescribed form two copies of the said certificate and shall deliver them to the employee on the day on which the employment ceases.

(3) Immediately on commencing his next employment the employee shall deliver the two copies of the certificate to his new employer, who shall, subject to the provisions of paragraph (4)—

- (a) insert on one copy of the certificate the address of the employee, any number used to identify him and the date on which the employment commenced, and forthwith send that copy to the Commissioner;
- (b) prepare a tax deduction card in accordance with the particulars given in the copies of the certificate and record on the card the cumulative emoluments, the cumulative tax-free emoluments, any benefits, perquisites or facilities provided for the employee (whether in money or otherwise) and the corresponding cumulative tax as at the week or month shown in the copies of the certificate; and
- (c) on making any payment of emoluments to the employee, deduct or repay tax in accordance with regulation 14 and keep the records required by that regulation as if the cumulative emoluments and the cumulative tax shown on the tax deduction card prepared in accordance with sub-paragraph (b) represented emoluments paid to the employee by the new employer and tax deducted by him;

38/1976
2nd Sch.
L.N
128B/86.

Provided that, if tax is repayable on the occasion of the first such payment and the amount repayable exceeds ten dollars, the new employer shall forthwith notify the Commissioner and shall not make a repayment until authorized to do so by the Commissioner.

38/1976
2nd Sch.

(4) Where the two copies of the certificate show that the last payment of emoluments was in the year preceding that in which the new employment commences, the new employer shall—

- (a) if the date of the commencement of the new employment is within the first three weeks of the year, comply with the provisions of paragraph (3) with the modification that he shall deduct or repay tax without taking into account the cumulative emoluments and the cumulative tax shown on the copies of the certificate;
- (b) in any other case, comply with the provisions of sub-paragraph (a) of paragraph (3), but deduct tax from each payment of emoluments made by him to the employee, and keep records on the prescribed card as if those payments had been payments to which paragraph (2) of regulation 20 applies.

(5) If the new employer ceases to employ the employee he shall comply with the provisions of paragraphs (1) and (2) as if a tax deduction card in respect of the employee had been issued to him by the Commissioner.

(6) If the employee objects to the disclosure to his new employer of his aforesaid cumulative emoluments he may deliver the two copies of the certificate to the Commissioner before he commences his new employment and the Commissioner may issue a tax deduction card in respect of the employee to the new employer and direct that regulation 17 shall apply to all payments of emoluments which the new employer makes to the employee.

(7) Retirement on pension shall not be treated as a cessation of employment for the purposes of this regulation if the emoluments are paid by the same person both before and after the retirement.

19.—(1) On the death of an employee in respect of whom a tax deduction card has been either issued by the Commissioner or prepared by the employer under paragraph (3) of regulation 18, or to whom the provisions of paragraph (2) of regulation 20 apply, the employer shall forthwith send to the Commissioner the certificate (relating to cessation of employment) mentioned in paragraph (1) of regulation 18 or the certificate mentioned in paragraph (4) of regulation 20, as the case may require, together with the two copies of the said certificate mentioned in paragraph (2) of the said regulation 18, and shall insert thereon the name and address of the personal representative of the deceased employee if they are known to him.

(2) If any emoluments are paid by the employer after the date of the employee's death in respect of his employment with him, the employer shall, on making any such payment, deduct or repay tax as if the deceased employee was still in his employment at the date of the payment and—

- (a) if the amount of those emoluments and the date on which they will be paid are known to him at the time he completes the certificate mentioned in paragraph (1), he shall include thereon the amount of the emoluments, the date on which they will be paid and the amount of tax which will be deducted or repaid; and
- (b) in any other case, he shall indicate on the certificate that a further payment of emoluments will be made by him.

20.—(1) If the employer makes any payment of emoluments to an employee in respect of whom he has not received a tax deduction card from the Commissioner and that payment is equivalent to emoluments at a rate of one hundred and sixty-five dollars or more per week, or in the case of a new employee with other employment, the employer, on the occasion of the first such payment, shall forthwith render a return to the Commissioner giving the name and address of the employee, the date on which his employment commenced, and such other particulars as may be necessary to determine the amount of tax-free emoluments.

L.N.
128B/86.

L.N.
128B/86.

(2) If the said payment is the first payment of emoluments made by the employer to the employee during the year and is equivalent to emoluments at the rate of one hundred and sixty-five dollars or more per week, the employer on making it shall also deduct tax and keep records on the prescribed card as if the payment was one to which regulation 17 applied, with the exception that the amounts of the tax-free emoluments shall not be recorded on the prescribed card, and shall do likewise on making any subsequent payment of emoluments to the employee until a tax deduction card in respect of the employee is issued to him by the Commissioner.

(3) On making any payment of emoluments to the employee after a tax deduction card has been issued in respect of him by the Commissioner, the employer shall deduct or repay tax in accordance with regulation 14 and shall keep the records required by that regulation, and for those purposes—

- (a) any cumulative emoluments entered on the tax deduction card by the Commissioner shall be treated as if they represented emoluments paid by the employer; and
- (b) the cumulative tax before the first payment as aforesaid shall be taken to be the sum of any cumulative tax entered as aforesaid and any tax which the employer was liable to deduct from the employee's emoluments under paragraph (2).

(4) Where paragraph (2) applies and the employer ceases to employ the employee before a tax deduction card in respect of the employee has been issued to him by the Commissioner, regulation 18 shall apply as if a tax deduction card had been so issued, but subject to the modifications that—

- (a) the certificate of the employer under that regulation shall not contain particulars of the cumulative emoluments and cumulative tax; and
- (b) the new employer, instead of deducting or repaying tax by reference to the cumulative emoluments and cumulative tax, shall deduct tax and keep records in accordance with paragraph (2).

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128B/86.

(5) In the case of an employee who is paid monthly or at longer intervals, the references in this regulation to a rate of one hundred and sixty-five dollars or more per week shall be treated as a reference to a rate of seven hundred and fifteen dollars or more per month.

(6) This regulation shall not apply where—

- (a) the employee on commencing employment has delivered to his employer copies of a certificate such as is mentioned in regulation 18, except to the extent provided in paragraph (4); or

- (b) the employee performs the duties of his employment wholly outside the Island; or
- (c) the employee is outside the Island and the emoluments are paid outside the said Island; or
- (d) the employee is resident outside the Island and the emoluments consist of a pension:

Provided that if the employer pays a pension not being a pension arising wholly from an employment carried on abroad to a person who is resident outside the Island in respect of whom he had not received a tax deduction card from the Commissioner and the payment is equivalent to emoluments at the rate of one hundred and sixty-five dollars or more per week, the employer shall, on the occasion of the first such payment forthwith render a return to the Commissioner giving the name and address of the person entitled to the pension, the date on which the pension commenced and such other particulars as may be necessary to secure the issue of the appropriate tax deduction card.

L.N.
128B/86.

21. No tax shall be repaid to a new employee without the authority of the Commissioner, if, and to the extent that, it would have been repayable on the occasion of the first payment of emoluments to the new employee if tax was being deducted in accordance with regulation 14.

22. Where under these Regulations tax is deductible otherwise than by reference to cumulative emoluments and cumulative tax, the amount of tax to be deducted in any week or income tax month shall be calculated by reference to the aggregate of the emoluments paid to the employee in that week or month.

23. Where the employer makes a payment to or for the benefit of the employee in respect of his income tax, the amount of the emoluments which the employer pays to the employee shall be deemed, for the purposes of deduction and repayment of tax under these Regulations to be such a sum as will include the amount assessable on the employee in respect of the payment made by the employer in respect of the employee's income tax.

24.—(1) If owing to absence from work through sickness or other similar cause the employee is entitled to receive no emoluments on the usual pay day, the employer shall, on application being made in person by the employee or his authorized representative, make such repayment of tax to the employee as may be appropriate, having regard to his cumulative emoluments at the date of the pay day in question and the corresponding cumulative tax.

(2) If owing to absence from work otherwise than as aforesaid such an employee is entitled to receive no emoluments on the usual pay day, the

employer either—

- (a) shall make any such repayment of tax to the employee as would be appropriate under paragraph (1); or
- (b) not later than the first usual pay day on which no emoluments will be payable to the employee shall give notice to Commissioner of the employee's absence from work and of his intention to make no repayment to the employee under sub-paragraph (a), and shall render with the notice a return containing the same particulars with respect to the employee as the employer would be liable to certify under paragraph (1) of regulation 18 if the employment had ceased on the day on which emoluments were last paid to the employee; and where the said notice is given and the said return rendered within the time limited in this sub-paragraph, the employer—
 - (i) shall be relieved of the liability to make any repayment under the provisions of sub-paragraph (a);
 - (ii) on the employee's return to work shall forthwith notify the Commissioner; and
 - (iii) for the purposes of deducting or repaying tax on the occasion of any subsequent payment of emoluments to the employee during the year, shall take into account the amount of any repayment made by the Commissioner under paragraph (3) of which he is notified by the Commissioner.

(3) In the case of a person who has ceased to be employed or with respect to whom a notice has been given and return rendered under the provisions of sub-paragraph (b) of paragraph (2), any repayment which may be appropriate at any date, having regard to his cumulative emoluments at that date, and the corresponding cumulative tax, shall be made to him by the Commissioner or on behalf of the Commissioner in accordance with such arrangements as he may make for the purpose with the Collector; and a person who has ceased to be employed, shall, on applying for repayment, produce to the Commissioner the copies of the certificate mentioned in regulation 18 and such evidence of his unemployment as the Commissioner may require.

25.—(1) After the end of the year the employer shall give the employee a certificate showing the total amount of the emoluments paid by the employer to the employee during the year, any benefits, perquisites or facilities provided for the employee (whether in money or otherwise) and the total net tax deducted from the emoluments.

(2) In the case of an employee taken into employment after the beginning of the year, the certificate shall include any emoluments paid to the employee by any previous employer and any tax deducted from those

emoluments, being emoluments and tax which the employer giving the certificate was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

(3) A certificate shall be given under this regulation to every employee who is in the employer's employment on the last day of the year and from whose emoluments any tax has been deducted during the year.

26.—(1) Within fourteen days of the end of every income tax month the employer shall pay to the Collector all amounts of tax which he was liable under these Regulations to deduct from the emoluments paid by him during that income tax month, reduced by any amount which he was liable under these Regulations to repay during that income tax month.

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

(3) If the amount which the employer is liable to pay to the Collector under paragraph (1) exceeds the amount actually deducted by him from emoluments paid during the relevant income tax month, the Commissioner, on being satisfied by the employer that he took reasonable care to comply with the provisions of these Regulations and that the under-deduction was due to an error made in good faith, may direct that the amount of the excess shall be recovered from the employee, and where he so directs, the employer shall not be liable to pay the amount of the said excess to the Collector.

(4) If the total of the amounts which the employer was liable to repay during any income tax month exceeds the total of the amounts which he was liable to deduct during that income tax month, he shall be entitled to deduct the excess from any subsequent payment which he is liable to make the Collector under paragraph (1) or to recover it from the Commissioner.

27.—(1) If within fourteen days of the end of any income tax month the employer has paid no amount of tax to the Collector under regulation 26 for that income tax month and the Collector is unaware of the amount, if any, which the employer is liable so to pay the Collector may give notice to the employer requiring him to render within the time limited in the notice a return showing the name of every employee to whom he made any payment of emoluments or repayment of tax in the period from the preceding first day of January to the day (being the last day of an income tax month) limited by the notice together with such particulars with regard to each such employee as the notice requires, being particulars of—

- (a) any benefits, perquisites or facilities provided for the employee (whether in money or otherwise);
- (b) the payments of emoluments made to him during that period; and

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128B/86.

- (c) any other matter affecting the calculation of the tax which the employer was liable under these Regulations to deduct or to repay to the employee during that period.

(2) The Collector by reference to the tax tables shall ascertain and certify the amount of tax which the employer is liable to pay to him in respect of the income tax month in question.

(3) The production of the return made by the employer under paragraph (1) and of the certificate of the Collector under paragraph (2) shall be sufficient evidence that the amount shown in the said certificate is the amount of tax which the employer is liable to pay to the Collector in respect of the income tax month in question; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

(4) Where a notice given by the Collector under paragraph (1) extends to two or more consecutive income tax months, the provisions of these Regulations shall have effect as if the said consecutive income tax months were one income tax month.

(5) A notice may be given by the Collector under paragraph (1) notwithstanding that an amount of tax has been paid to him by the employer under regulation 26 for any income tax month, if the Collector is not satisfied that the amount so paid is the full amount which the employer is liable to pay to him for that month, and the provisions of this regulation shall have effect accordingly.

28.—(1) The provisions relating to the recovery of income tax shall apply to the recovery of any amount of tax which an employer is liable under regulation 26 to pay to the Collector for any income tax month as if the said amount had been charged on the employer.

(2) Notwithstanding anything contained in section 80 of the Act, proceedings may be brought for the recovery of the total amount which the employer is liable to pay as aforesaid for any income tax month, without distinguishing the amounts which he is liable to pay in respect of each employee and without specifying the employees in question, but nothing in this paragraph shall prevent the bringing of separate proceedings for the recovery of each of the several amounts which the employer is liable to pay as aforesaid for any income tax month in respect of his several employees.

(3) A certificate of the Collector that any amount of tax such as is mentioned in paragraph (1) has not been paid to him or to the best of his knowledge and belief to any other Collector or to any other person acting on his behalf or on behalf of another Collector, shall be sufficient evidence that the sum mentioned in the certificate is unpaid and is due, and any document purporting to be such a certificate as aforesaid shall be

deemed to be such a certificate until the contrary is proved.

29.—(1) Not later than fourteen days after the end of the year the employer shall render to the Collector, either on the tax deduction card or in such other form as the Commissioner may approve, a return in respect of each employee showing the total amount of the emoluments paid by him to the employee during the year, any benefits, perquisites or facilities provided for the employee (whether in money or otherwise) and the total net tax deducted from the emoluments as well as the details of all allowances, perquisites and benefits whatsoever in cash or in kind arising or accruing by reason of the holding of an office or employment of profit by such employee.

22/1977
Sch.
L.N.
128A/86

(1A) Notwithstanding the provisions of paragraph (1), the Commissioner may, whenever he deems it necessary, give notice to an employer requiring him to render within the time specified in the notice, a return in respect of all or any of his employees showing the total of the emoluments, allowances, perquisites and benefits whatsoever, in cash or kind arising or accruing by reason of the holding of an office or employment of profit by that employee.

22/1977
Sch.

(2) The said returns shall be accompanied by a statement containing a list of all tax deduction cards issued to the employer by the Commissioner or prepared by him under the provisions of paragraph (3) of regulation 18 during that year and of the cards prepared by him under the provisions of paragraph (2) of regulation 20 in respect of an employee for whom a tax deduction card was not subsequently issued by the Commissioner, together with a certificate showing the total net tax deducted or the total net tax repaid in the case of each employee and the total net tax deducted or repaid by him in respect of all his employees during that year.

(3) In the case of an employee taken into employment after the beginning of the year the said return shall also show the total amount of any emoluments paid to the employee by any previous employer and of any tax deducted from those emoluments, being emoluments and tax which the employer rendering the return was required to take into account for the purposes of deducting or repaying tax in the case of emoluments paid by him.

(4) A return shall be made under this regulation in respect of every employee in respect of whom a tax deduction card has been either issued to the employer by the Commissioner or prepared by the employer under paragraph (3) of regulation 18 or to whom the employer has at any time during the year paid emoluments at a rate equivalent to the extent of the amounts specified in regulations 20(1) and 20(5), or if the Commissioner so requires, regardless of the amount so paid.

38/1976
2nd Sch.

(5) If within fourteen days of the end of any year an employer has

failed to pay to the Collector the total net amount of tax which he is liable so to pay, the Collector may prepare a certificate showing the net amount of tax remaining unpaid for that year. To the amount shown in the said certificate the provisions of paragraphs (1) and (2) of regulation 28 shall apply with the modification that proceedings for the recovery of the net amount of tax or such part of it as remains unpaid may be brought at any time before the expiry of twelve months after the date limited for delivery of the statement required by paragraph (2), or, if that statement is not delivered by that date, before the expiry of twelve months after its delivery; and to the said certificate the provisions of paragraph (3) of regulation 28 shall with all necessary modifications apply.

30.—(1) There shall be included among the debts which under section 139 of the Bankruptcy Act are to be paid in priority to all other debts in the distribution of the property of a bankrupt so much as is unpaid of the employer's liability for the period of six years next before the date of the provisional order.

(2) For the purposes of this regulation the expression "employer's liability for the period of six years" means all sums which an employer was liable under these Regulations to deduct from emoluments paid by him during the period of six years mentioned in this regulation, reduced by any amounts which he was under these Regulations liable to repay during the same period.

31. Every employer, when called upon to do so by the Commissioner or any officer authorized by him, shall produce to that officer for inspection at the employer's premises, all wages sheets, tax deduction cards and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees or the deduction of tax therefrom.

32. If an employer dies, anything which he would have been liable to do under these Regulations shall be done by his personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him, or if no person succeeds him, the person on whose behalf he paid emoluments.

33.—(1) This regulation applies where there has been a change in the employer from whom an employee receives emoluments in respect of his employment in any trade, profession or business, or in connection with any property or from whom an employee receives any annuity or pension.

(2) Where this regulation applies, the change shall not be treated as a cessation of employment for the purposes of regulation 18, but in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these Regulations if the change had not taken place:

Provided that the employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee before the change took place.

ASSESSMENT AND DIRECT COLLECTION

34.—(1) Income tax in respect of emoluments may be assessed and charged by the Commissioner, who for that purpose may exercise all the powers under the Act.

(2) All the emoluments of an employee may be included in one assessment.

35. The Commissioner may give notice to the employer requiring him to render a return of any emoluments paid by him to any employee for any year being emoluments which were not paid to the employee until after the end of that year and any such return shall be rendered to the Commissioner within the time limited by the notice.

36. The Commissioner shall serve a notice of assessment on every employee assessed by whom tax is payable or from whose emoluments any tax was deducted during the year of assessment, not being tax which was repaid during that year.

37.—(1) If the employee is aggrieved by the assessment he may give notice thereof to the Commissioner stating the grounds of his objection, within thirty days of the date of the notice of assessment.

(2) On receipt of any such notice of objection, the Commissioner, on proof to his satisfaction, may agree with the employee as to the correct amount to be assessed and may thereupon amend the assessment. Notice of the amended assessment shall then be served on the employee by the Commissioner.

(3) In default of agreement as aforesaid the employee, on giving notice to the Commissioner, may appeal to the Commissioner of Taxpayer Appeals against the assessment, and the provisions of the Act relating to the determination of objections to assessments and to appeals to the Commissioner of Taxpayer Appeals, Revenue Court and to the Court of Appeal shall apply accordingly; and for the purposes aforesaid, the employee shall be deemed to be the objector.

29/1971
S. 12.
L.N.
8B/2002.

7/1956
S. 33.
L.N.
8B/2002.

38.—(1) If the tax payable under the assessment is less than the total net tax deducted from the employee's emoluments during the year, the Commissioner may, and if the employee so requires shall, repay the difference to the employee instead of taking it into account in determining the appropriate code for a subsequent year.

(2) If the tax payable under the assessment exceeds the total net

INCOME TAX

tax deducted from the employee's emoluments during the year, the Commissioner may require the employee to pay the excess to the Collector.

(3) For the purpose of determining the amount of any difference or excess as aforesaid, any necessary adjustment shall be made to the aforesaid total net tax in respect of—

(a) any tax which the employer was liable to deduct from the employee's emoluments but failed so to deduct having regard to whether the Commissioner has or has not directed that that tax shall be recovered from the employee; and

(b) any tax overpaid or remaining unpaid for any year.

39.—(1) Any tax which is payable to the Collector by any employee may be recovered in the manner provided by the Act.

(2) Any tax which is payable to the Collector under paragraph (2) of regulation 38 shall be payable within fourteen days of the date on which the Collector first makes application for payment thereof.

40. An entry on a tax deduction card or other form authorized by the Commissioner, of the deduction, or, as the case may be, repayment of tax purposing to be made by the employer or other person authorized to make such entry, shall be *prima facie* evidence of such deduction or repayment.

APPENDIX A

(Regulation 11)

L.N.
56/96,
41/2002
S. 20(b).*Value of benefit where Motor Vehicle is available for Private Use*

Original Cost of Motor Vehicle	Age of Motor Vehicle			
	A		B	
	Under 5 years		5 years or more	
	Usage during year			
	Up to 50% Private Use	Over 50% Private Use	Up to 50% Private Use	Over 50% Private Use
Up to \$ 300,000	\$ 40,000	\$ 48,000	\$30,000	\$ 36,000
Over \$ 300,000 to \$ 700,000	\$ 50,000	\$ 60,000	\$40,000	\$ 48,000
Over \$ 700,000 to \$1,000,000	\$ 75,000	\$ 80,000	\$60,000	\$ 65,000
Over \$1,000,000 to \$1,500,000	\$ 90,000	\$100,000	\$72,000	\$ 80,000
Over \$1,500,000	\$120,000	\$140,000	\$98,000	\$100,000

APPENDIX B

(Regulation 11A)

41/2002
S. 20(b).*Employees entitled to relief in respect of allowances
for the provision of uniform and laundry***A. Members of the Jamaica Constabulary Force, Island Special Constabulary Force and Jamaica Defence Force****Members of the Jamaica Fire Brigade****Persons registered under the Dental Act, Medical Act, Opticians Act, Veterinary Act, Professions Supplementary to Medicine Act or Nurses and Midwives Act****Porters employed in hospital****Correctional Officers****Attorneys-at-law****Resident Magistrates**

APPENDIX B, *cont'd.*

Judges

Customs Officers

Air Traffic Controllers

Postal workers employed in the delivery of mail

Teachers required to wear protective clothing

Drivers and Conductors of Public Passenger Vehicles

The crew of any aircraft or ship

The staff of an airline company

Port workers

Attendants at petroleum filling stations

Messengers

Drivers

Watchmen

Private Security Guards

Cleaners

Gardeners

Workers employed in the hospitality or manufacturing industry, restaurants, agriculture, solid waste disposal, mining, or in refrigerated facilities.

- B. Other employees approved by the Commissioner, having regard to paragraph (i) (B) of the proviso to section 5 (1)(c) of the Act.

PART II. *Income Tax Rules*

1. These Rules may be cited as the Income Tax Rules.

30/1970
S. 21.

2.—(1) If the Commissioner thinks fit he may serve on any person a notice requiring that he shall not leave the Island unless at the time of leaving he has in his possession a certificate issued by or on behalf of the Commissioner within the preceding ninety days stating that he—

- (a) does not owe any income tax, or

- (b) has made satisfactory arrangements for the payment of income tax payable by him.

(2) On the application of any person on whom a notice under paragraph (1) has been served, the Commissioner shall issue to him within thirty days after the date of the application, a notice of assessment in respect of all income tax that will be due by him at the date of his intended departure from the Island.

(3) Where a notice has been served on a person under paragraph (1), and it has not been withdrawn by a further notice served on him by the Commissioner, that person shall, if he leaves the Island in contravention of the notice, be guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars or to a term of imprisonment not exceeding three months, or to both.

(4) A person who leaves or attempts to leave the Island in contravention of these Rules may be taken into custody without warrant by an Immigration Officer for a period not exceeding twelve hours.

THIRD SCHEDULE

(Section 98) 1/1972
S. 3.

PART I. *Treatment of farm animals for tax purposes*

1. In this Part—

Interpretation.

“Commissioner” means the Commissioner of Taxpayer Audit and Assessment;

L.N.
165/1999.

“connected person” has the meaning assigned to it by section 2 of the Act;

“herd” includes a flock, and any other collection of animals of the same species, however named;

“production herd” means, in relation to a farmer, a herd (irrespective of breed) kept by him wholly or mainly for the sake of the products which the animals therein produce for him to sell, being products obtainable from the living animal;

“products obtainable from the living animal” means—

- (a) the young of the animal; and
- (b) any other product obtainable from the animal, not being a product obtainable only by slaughtering the animal itself.

2.—(1) Subject to the provisions of this Part, animals kept by a farmer for the purposes of his farming shall be treated for tax purposes as trading stock;

The general rule.

Provided that animals forming part of production herds with respect to which an election made under paragraph 3 of this Part has effect shall not

be treated for the said purposes as trading stock, but shall be treated for the said purposes in accordance with the provisions of this Part and any regulations prescribed under paragraph 4 of this Part.

(2) An election under paragraph 3 of this Part is hereafter in this Schedule referred to as "an election for the herd basis".

Election for
the herd
basis

3.—(1) An election for the herd basis shall apply to all production herds of a particular class kept by the farmer making the election, including herds which he has ceased to keep before the making of the election or first begins to keep after the making thereof.

(2) An election for the herd basis must be made in writing to the Commissioner and must specify the class of herd to which it relates.

(3) An election for the herd basis in respect of any particular class of animal shall only be valid—

- (a) where a farmer, immediately prior to 3rd February, 1972, had a herd of that class of animals which was not being dealt with by the Commissioner on a herd basis, if the farmer elects for the herd basis not later than two years after the said date;
- (b) in the case of a farmer who for the first time, on or after the said date acquires and keeps a herd of that class of animal, if he elects for the herd basis not later than one year after the year of assessment in which he first acquires and keeps that herd.

(4) A farmer who, immediately prior to the said date, was keeping a herd of a particular class of animals which was being dealt with for tax purposes by the Commissioner on a herd basis shall be deemed for the purposes of this Schedule to have made an election for the herd basis.

(5) An election for the herd basis shall be irrevocable and shall have effect for the first year of assessment in relation to which the election is made or is deemed to be made and all subsequent years of assessment.

Regulations.

4.—(1) The Minister responsible for finance may make regulations for determining, where an election for the herd basis has effect, the consequences for tax purposes.

(2) All regulations made under this paragraph shall be subject to affirmative resolution of the House of Representatives.

Application
to trades
consisting
only in part
of farming.

5.—(1) The provisions of this Part shall, with the necessary adaptations, apply in relation to trades consisting only in part of farming, as they apply in relation to farming, and references to farmers shall be construed accordingly.

(2) Laying birds shall be treated for the purposes of this Part as becoming mature when they first lay.

(3) The provisions of this Part shall (both in relation to farming and in relation to other trades) apply, with the necessary adaptations, in relation to animals kept singly as they apply in relation to herds.

6. Nothing in this Part shall apply in relation to any animal kept wholly or mainly for—

Exclusion
of certain
animals

- (a) public exhibition or racing or other competitive purposes; or
- (b) the work they do in connection with the carrying on of farming.

7. Where an election for the herd basis is made, every person carrying on any farming or other trade affected by the election shall, if required to do so by notice from the Commissioner, make and deliver to the Commissioner, within the time specified in the notice, such returns as to, and as to the products of, the animals kept by him for the purposes of the trade as may be required by the notice; and the provisions of section 70 of the Act (which relates to returns of income, accounts, *etc.*) shall apply in relation to any return under this paragraph as they apply in relation to returns and accounts therein referred to.

Returns, *etc.*

PART II. *Investment Allowances for expenditure on livestock breeding*

1. In this Part—

Interpreta-
tion.

“approved animals” means beef cattle, dairy cattle, sheep, goats, pigs and such other animals as may be prescribed by the Minister responsible for agriculture;

“connected person” has the meaning assigned to it by section 2 of the Act.

2. Subject to the provisions of this Part, capital expenditure to which this Part applies is capital expenditure which the Commissioner is satisfied is incurred by a farmer on the purchase of an approved animal for the purpose of carrying on livestock breeding as a business.

Definition
of capital
expenditure
to which
this Part
applies.
Investment
allowances.

3.—(1) Subject to the provisions of this Part, where on or after the 1st day of April, 1968, a farmer incurs expenditure to which this Part applies an allowance (in this Part referred to as “investment allowance”) equal to forty *per centum* of such expenditure is to be made to him after all other permissible allowances and deductions have been made, for the year of assessment in which the expenditure is incurred.

(2) An investment allowance under this Part shall not be made to any person in respect of the purchase of an approved animal unless—

- (a) the animal is, at the end of the year of assessment in respect of which the allowance is claimed, in use in the trade or business of livestock breeding carried on by that person;

- (b) the person claiming the allowance had elected under Part I to be assessed on the herd basis in relation to that class of animal, and the animal is kept on the herd basis in accordance with that election;
- (c) the person claiming the allowance furnishes to the Commissioner a certificate from the Minister responsible for agriculture setting out such particulars in relation to the animal as that Minister may consider appropriate for the purpose of identifying the animal in respect of which the allowance is claimed.

Carry forward of allowance not fully utilized.

4.—(1) Notwithstanding anything contained in the Act, to the extent that an investment allowance under this Part is not utilized in the year of assessment in which a farmer becomes entitled thereto that allowance or the remainder thereof (as the case may be) shall be made—

- (a) to that farmer, or (as the case may be);
- (b) to any other farmer acquiring from the farmer aforesaid the approved animal for purposes of livestock breeding who satisfies the other requirements of this Part,

in the following eleven years of assessment until the allowance has been fully utilized, and in relation to any such year the provision in sub-paragraph (1) of paragraph 3 of this Part which requires all other permissible allowances and deductions to be made before an investment allowance is made shall have effect in the same manner as it applies to the year of assessment in which the expenditure is incurred:

Provided that no part of such investment allowance shall be taken into account in computing any part of the farmer's chargeable income which arises from sources other than husbandry.

(2) Nothing in this Part shall be construed as authorizing more than one investment allowance in respect of any one approved animal.

Withholding and withdrawal of allowances.

5.—(1) If, in the case of any expenditure to which this Part applies, any of the transactions mentioned in sub-paragraph (2) is carried out within the period of three years following the year of assessment in which the expenditure was incurred, no investment allowance shall be made in respect of the expenditure or, if such an allowance has been made before the carrying out of the transaction, it shall be withdrawn unless the person incurring the expenditure satisfies the Commissioner that the transaction did not have as its object, or one of its objects, the avoidance of tax.

(2) The transactions referred to in sub-paragraph (1) are—

- (a) any appropriation of the asset representing the expenditure made by the person incurring the expenditure or by a connected person to a purpose other than purposes of livestock breeding;

- (b) any sale or transfer of the asset representing the expenditure made by the person incurring the expenditure or by a connected person otherwise than to a person acquiring the asset for purposes of livestock breeding;
- (c) any sale, transfer or other dealing with the asset representing the expenditure by the person incurring the expenditure or by a connected person being a case where it appears either—
 - (i) that the expenditure was incurred in contemplation of the asset being so dealt with; or
 - (ii) that the sole or main benefit which accrued from that person's incurring the expenditure and the asset being so dealt with was or derived from the investment and other allowances in respect of the asset.

6.—(1) The person who has incurred any expenditure in respect of which an investment allowance has been made and has not been withdrawn shall give notice to the Commissioner, if to his knowledge any of the following events occurs at any time before the expiration of the period of three years following the completion of the work in respect of the which the expenditure was incurred, that is to say—

Information to be furnished to Commissioner.

- (a) the asset in respect of which it was incurred is sold by him or a connected person to a person who is not carrying on livestock breeding as a business; or
- (b) the asset is appropriated by him or a connected person to a purpose other than the purposes of livestock breeding.

(2) Any notice of a sale or transfer given under the foregoing subparagraph shall state the name and address of the person to whom the sale or transfer is made.

(3) Any person who, without reasonable cause, fails to comply with this paragraph shall be liable, in an additional assessment, to a penalty of two hundred dollars and a further penalty not exceeding three times the tax on the investment allowance made in respect of the expenditure in question.

7. All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of an investment allowance under this Part.

Adjustment of assessments.

FOURTH SCHEDULE

(Section 44A)

3/1987
S. 25.

Approved Retirement Schemes

1. In this Schedule—

Interpretation.

L.N.
165/1999.

“Commissioner” means the Commissioner of Taxpayer Audit and Assessment;

“retiring benefits” as respects any contributor to an approved retirement scheme, means—

1/2008
S. 7(a)(i).

- (a) pensions or annuities;
- (b) lump sums not exceeding the commuted value of one-quarter of the value of the member’s account at the date of retirement or twelve and one-half times one-quarter of the annual pension before commutation, whichever is higher; and

1/2008
S. 7(a)(ii).

payable either to the contributor or in the event of his death to his widow, children or dependents so, however, that in the case of payments to a spouse, children, dependents or legal personal representatives, the lump sum payments shall not exceed two years’ remuneration of the employee or two years’ chargeable income of the self-employed contributor or the actuarial value of the member’s interest in the scheme, whichever is greater.

Conditions
for approval
of retirement
schemes.

2.—(1) Subject to sub-paragraph (2), the Commissioner may approve any retirement scheme for the purposes of this Act but he shall not, except as hereafter provided, approve any scheme unless it is shown to his satisfaction that—

1/2008
S. 7(b).

- (a) the scheme is a scheme *bona fide* established under irrevocable trusts in connection with the provision of retiring benefits for persons contributing thereto;
- (b) the scheme has for its sole purpose the provision in any case, for payment of retiring benefits either on attaining a specified age or on becoming incapacitated at some earlier age;
- (c) the interest of a contributor in the scheme cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that provided for payment of retiring benefits or annuity to the contributor;
- (d) contributions to the scheme are by self-employed persons or persons who are employees but who are not contributors to an approved superannuation fund;
- (e) the assets of the scheme will not be commingled with other property except in a common trust fund or common investment fund.

(2) The Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the approval, approve a scheme or any part of a scheme, as an approved retirement scheme for the

purposes of this Act, notwithstanding that—

- (a) the rules of the scheme provide for the return in certain contingencies of contributions paid to the scheme;
- (b) the provision of retiring benefits although the main purpose is not the sole purpose, of the scheme;
- (c) the scheme provides for the payment of lump sums exceeding the amount specified in paragraph 1 if they are paid in commutation or in lieu of pensions or annuities not exceeding that amount.

3.—(1) The Commissioner may by notice in writing—

- (a) require the trustees or other persons having the management of an approved retirement scheme to deliver to the Commissioner within such time as he may specify in such notice, such information and particulars as the Commissioner may require for the purposes of this Schedule;
- (b) addressed to the trustees or other persons having the management of an approved retirement scheme, withdraw his approval of the scheme if it appears to him—
 - (i) that any of the conditions specified in sub-paragraph (1)(a) to (e) of paragraph 2 are not satisfied; or
 - (ii) that any conditions imposed by him under sub-paragraph (2) of paragraph 2 have been contravened,

Commissioner may require certain particulars or withdraw approval.

or qualify his approval of the scheme if it appears to him that, having regard to the value of assets in the scheme and its probable future resources, the income of the scheme does not need to be exempted from income tax in order for the scheme to be of a size to enable it to be reasonably sure of meeting its present and future obligations.

(2) Where approval of a scheme is withdrawn by a notice under subparagraph (1), the withdrawal shall operate from the date of the notice or from such earlier date as may be specified in the notice, not being earlier than the first date on which the condition in question was not satisfied or was contravened.

(3) Where approval of a scheme has been qualified by a notice under subparagraph (1), the qualification shall take effect from the date of the notice, and the Commissioner may, if at any time it appears to him that the circumstances which led to the qualification being imposed no longer apply, by a further notice in writing addressed to the trustees or other persons having the management of the scheme, remove the qualification; but while the qualification remains in force it shall have the effect of disapplying the exemption from tax conferred by paragraph (7) of section 12 in relation to the income of the scheme.

1/2008
S 7(c).

(4) Where the Commissioner refuses, withdraws or qualifies approval of a retirement scheme under this paragraph, an appeal from the decision of the Commissioner of Taxpayer Appeals shall lie, within 60 days, to the Revenue Court and the decision of that Court shall be final.

8/1990
S 3

FIFTH SCHEDULE (Sections 12 and 31A)

Interest payments on deposits in foreign currency with approved persons

1. This Schedule applies to interest paid or credited by an approved person to any person arising from a deposit with that approved person of foreign currency in a specified account.

2. In this Schedule—

“approved person” means any person approved by the Bank of Jamaica for the purposes of this Schedule;

L.N.
165/1999

“Commissioner” means the Commissioner of Inland Revenue;

“specified account” means an account which the Commissioner is satisfied is—

(a) an account which, pursuant to directions issued by the Bank of Jamaica, is—

- (i) designated as a foreign currency “A” deposit account;
- (ii) denominated in foreign currency;
- (iii) comprised of moneys derived from sources outside of Jamaica; and
- (iv) credited and debited in accordance with such directions as aforesaid.

(b) an account which, pursuant to directions issued by the Bank of Jamaica, is—

- (i) designated as a foreign currency “B” deposit account;
- (ii) denominated in Jamaican dollars;
- (iii) comprised of moneys derived from sources outside of Jamaica; and
- (iv) credited and debited in accordance with such directions as aforesaid;

SIXTH SCHEDULE (Sections 12 and 31A)

PART I

41/2002
S. 21.*Registration of Investment Accounts*

Within thirty days after the end of the month in which the account is opened, the relevant prescribed person shall supply to the Minister responsible for finance or his nominee, the following information—

- (a) the taxpayer registration number of each account holder;
- (b) the amount invested;
- (c) the date on which the account is opened; and
- (d) the taxpayer registration number of the prescribed person.

PART II

*Certificate of Interest Paid and Tax withheld by
Prescribed Person*

Where tax is withheld from the interest paid or credited by a prescribed person, life insurance company or the trustees of a qualified unit trust scheme, a certificate of interest paid and tax withheld shall be provided on request to the investor. The certificate shall contain the following particulars—

39/2013
S. 39(3)(f).

- (a) date of certificates;
- (b) the name and address of issuer;
- (c) taxpayer registration number of issuer;
- (d) investor's name and address;
- (e) type of account/instrument/investment;
- (f) number of account/instrument/investment;
- (g) gross interest and period involved;
- (h) amount of withholding tax;
- (i) net interest credited or paid;
- (j) a declaration certifying that the tax deducted has been or will be accounted for to the Commissioner of Inland Revenue in accordance with the Income Tax Act.

PART III

14/2006
Sch.*Particulars to be Contained in
Certificate of Approval*

A certificate of approval issued under section 12(*ag*) shall set out the conditions under which the deposit or other investment of money is to be made, including a requirement that the Minister shall be informed of any change which results in the loss of exemption from tax under section 12(*ag*).

21/2016
Sch.

SEVENTH SCHEDULE

(Section 48B)

Junior Stock Market Companies

1. In this Schedule—

“admission” means admission of the Participating Voting Shares or other securities of an eligible company to trade on the Junior Market;

“eligible company” means a company that meets the requirements of the Junior Market Rules for the purposes of admission to the Junior Market and whose Participating Voting Shares are admitted for trading thereon;

“existing eligible company” means a company that became an eligible company prior to April 1, 2016;

“initial admission” means admission of the Participating Voting Shares of an eligible company to trading on the Junior Market;

“Junior Market” means the Junior Market platform of the Jamaica Stock Exchange for the trading of the Participating Voting Shares or other securities of eligible companies;

“Junior Market Rules” means the Rules of the Junior Market published by the Jamaica Stock Exchange as may be amended or supplemented from time to time;

“Main Market” means the Main Market platform of the Jamaica Stock Exchange;

“Main Market Rules” means the rules of the Main Market published by the Jamaica Stock Exchange as may be amended from time to time;

SEVENTH SCHEDULE, *cont'd.*

“newly eligible company” means a company that became an eligible company on or after April 1, 2016;

“other securities” means any security issued by an eligible company other than the Participating Voting Shares in respect of which it secured an initial admission to the Junior Market;

“Participating Voting Shares” means—

- (a) ordinary shares or stock units;
- (b) preference shares or stock units; or
- (c) any other shares or stock units,

in respect of which, an eligible company secured initial admission to the Junior Market and which qualify for equity treatment under International Financial Reporting Standards (“IFRS”);

“Participating Voting Shareholder” means holders of the Participating Voting Shares of an eligible company.

2.—(1) Subject to the conditions specified in paragraph 3, a newly eligible company and an existing eligible company shall be entitled to the tax incentives specified in sub-paragraph (2).

(2) The tax incentives referred to in sub-paragraph (1) are as follows—

- (a) in relation to a newly eligible company, an exemption from the payment of all income tax that the company would have otherwise been liable to pay under this Act in respect of income, profits and gains had it not been a newly eligible company, calculated as follows—
 - (i) in the first five year period after initial admission, a full exemption from the payment of such tax; and
 - (ii) in the subsequent five year period commencing on the date following the end of the period in sub-paragraph 2(a)(i), an exemption from payment of 50 percent of such tax;
- (b) in respect of an existing eligible company, the same relief from the payment of all income tax that the company would have otherwise been liable to pay under this Act in respect of income,

SEVENTH SCHEDULE, *cont'd.*

profits and gains had it not been an existing eligible company, calculated in the same manner as set out in sub-paragraphs 2(a)(i) and (ii).

3.—(1) Subject to sub-paragraph (2), the conditions referred to in paragraph 2 are that—

- (a) the eligible company shall remain listed on the Junior Market or Main Market for a combined continuous period of not less than fifteen years from the date of initial admission;
- (b) the subscribed Participating Voting Share capital of the eligible company shall not exceed five hundred million dollars or any other amount set by the Minister in accordance with the provisions of this Act from time to time, in the ten year period following from the date of initial admission; and
- (c) the eligible company shall not benefit in any way from any other income tax incentive, exemption, remission or other benefit granted under any other enactment, so that an eligible company may either elect to continue to receive such income tax incentives as it may have been granted prior to the date of commencement of this Act, or to receive the incentive referred to in paragraph 2 instead.

(2) Notwithstanding sub-paragraph (1)(a), if at any time before the expiry of the fifteen year period specified thereunder, the eligible company is—

- (a) suspended from the Junior Market or Main Market for any breach of the Junior Market Rules or Main Market Rules (as the case may be); or
- (b) is otherwise de-listed from the Junior Market or the Main Market for any reason whatsoever,

the eligible company shall immediately become liable to pay all income tax it would have been liable to pay, from the time of initial admission, had it not been granted the incentive under paragraph 2.

Transfer Pricing

1. In this Schedule—

“financial indicator” includes indicators such as price, profit margin and profit share;

“transfer pricing method” means a transfer pricing method described in paragraph 5.

2. The arm’s length consideration in respect of a connected transaction shall be determined by application of a transfer pricing method, or other method authorized under this Schedule, to the connected transaction and to comparable independent transactions.

3. In determining whether a transaction is an appropriate transaction for the purposes of the definition of a comparable independent transaction, the following matters shall be considered—

(a) whether there are economically relevant characteristics of the transaction, in relation to—

- (i) the characteristics of the property or services transferred by way of the transaction;
- (ii) the functions performed by persons with respect to the transaction, taking into account assets used and risks assumed;
- (iii) the terms and conditions, including the consideration, for the transaction;
- (iv) the economic and market circumstances in which the transaction takes place; and
- (v) the business strategies pursued by persons in relation to the transaction; and

(b) whether there is any significant difference between the transaction and the connected transaction with which it is to be compared that could materially affect the financial indicator being examined under a transfer pricing method or other method, and, if there is such difference, whether a reasonably accurate adjustment may be made to the relevant financial indicator being examined in order to eliminate the effect of the difference on the comparison.

4. The arm’s length consideration in respect of a connected transaction shall be determined by applying the most appropriate transfer pricing method

EIGHTH SCHEDULE, *cont'd.*

to the circumstances of the case, taking into consideration the following criteria—

- (a) the relative strengths and weaknesses of the various methods;
- (b) the appropriateness of a particular method in view of the nature of the connected transaction, determined in particular through an analysis of the functions undertaken by each person who participates in the connected transaction (taking into account assets used and risks assumed);
- (c) the availability of reliable information necessary for the proper application of a particular method; and
- (d) the degree of comparability between the connected transaction and independent transaction, including the reliability of comparability adjustments, if any, that may be required to eliminate differences in the comparison of the transactions.

5. The following are the transfer pricing methods that, subject to paragraph 10 may be applied in determining the arm's length consideration in respect of a connected transaction, as well as the manner of applying them—

(a) Comparable Uncontrolled Price Method—

the comparable uncontrolled price method consists in comparing the price charged for property or services transferred in a connected transaction to the price charged for property or services transferred in a comparable independent transaction;

(b) Resale Price Method—

the resale price method consists in comparing the resale margin that a purchaser of property in a connected transaction earns from reselling that property with the resale margin that is earned in a comparable independent transaction involving the purchase and resale of commercially equivalent property;

(c) Cost Plus Method—

the cost plus method consists in comparing the mark up on those costs directly and indirectly incurred in the supply of property or services in a connected transaction with the mark up on such costs directly and indirectly incurred in the supply of property or services in a comparable independent transaction;

EIGHTH SCHEDULE, *cont'd.*

(d) Transactional Net Margin Method—

the transactional net margin method consists in comparing the net profit margin relative to an appropriate base (such as costs, sales or assets) that a person achieves in a connected transaction with the net profit margin relative to the same base achieved in a comparable independent transaction;

(e) Transactional Profit Split Method—

- (i) the transactional profit split method consists in allocating to each connected person participating in a connected transaction the portion of common profit (or loss) derived from such transaction, such allocation being made in accordance with comparable allocations in the case of independent transactions; and
- (ii) when it is possible to determine the arm's length consideration for some, but not other, functions performed by connected persons participating in a connected transaction using the methods described in subparagraphs (a) to (d), the transactional profit split method shall be applied to determine the arm's length consideration for the other functions so performed, based on the common residual profit derived from the other functions.

6. Where, taking account of the criteria described in paragraph 4, a transfer pricing method described in paragraph 5(a) and a transfer pricing method described in paragraph 5(b) to (e) can be applied with equal reliability, the transfer pricing method described in paragraph 5(a) shall be applied.

7. Where, taking account of the criteria described in paragraph 4, a transfer pricing method described in paragraph 5(a) to (c) and a transfer pricing method described in paragraph 5(d) to (e) can be applied with equal reliability, one of the transfer pricing methods described in paragraph 5(a) to (c) shall be applied.

8. It shall not be necessary to apply more than one transfer pricing method in respect of a particular connected transaction.

9. Notwithstanding paragraph 5, another method (other than a transfer pricing method) may be applied by a person for determining arm's length consideration in respect of a connected transaction if the Commissioner General is satisfied that—

EIGHTH SCHEDULE, *cont'd.*

- (a) none of the transfer pricing methods can reasonably be applied to determine the arm's length consideration in respect of the connected transaction; and
- (b) the other method to be applied yields a result consistent with that which would be achieved by persons participating in a comparable independent transaction.

10. Notwithstanding paragraphs 5 and 9, the Commissioner General may apply a method (other than one that has been used by a connected person and whether or not it is a method provided by paragraph 5) to establish arm's length consideration in respect of a connected transaction if the Commissioner General is satisfied that the method to be applied is consistent with paragraph 4.

11. If a connected person participates, under the same or similar circumstances, in two or more connected transactions that are closely linked to one another economically, or that form a continuum such that they cannot reliably be analyzed separately, the transactions may be combined for the purposes of—

- (a) determining a comparable independent transaction in relation to those connected transactions; and
- (b) applying an appropriate transfer pricing method in relation to those connected transactions.

12.—(1) Where the actual consideration for a connected transaction (or for a number of such transactions that are combined under paragraph 11) is within the arm's length range, the actual consideration shall be treated as the arm's length consideration for such transaction or combined transactions.

(2) Where the actual consideration for a connected transaction (or for a number of such transactions that are combined under paragraph 11) is not within the arm's length range, the median in the arm's length range shall be treated as the arm's length consideration for such transaction or combined transactions.

(3) For the purposes of this paragraph, the arm's length range in relation to a connected transaction is a range of financial indicators produced by the application of the most appropriate transfer pricing method to a number of independent transactions that are reasonably comparable to the connected transaction.

13.—(1) Subject to subparagraph (2), the charge for a service between connected persons is considered to be arm's length consideration if—

- (a) it is a charge for a service that is actually rendered;

EIGHTH SCHEDULE, *cont'd.*

- (b) the service provides, or is expected to provide, the recipient of the service with economic or commercial value; and
- (c) the amount charged for the service is an amount that an independent person in comparable circumstances would have been willing to pay for the service to be performed by another independent person or for the service to be performed in-house at its own expense.

(2) A charge for a service that is paid by the recipient of a service to a person who is a connected person in relation to the recipient shall not be considered to be at arm's length consideration if it is a charge that is paid by a shareholder of the recipient solely by virtue of that person being a shareholder of the recipient, including a charge for any of the following services—

- (a) a service rendered in relation to the juridical structure of the parent company of the recipient, for example meetings of shareholders of the parent company, issuing of shares in the parent company and costs of the supervisory board of the parent company;
- (b) a service rendered in relation to reporting requirements of the parent company of the recipient, including the consolidation of reports; except where a reporting requirement arises from a statutory obligation relating to the business of the recipient (in which case subparagraph (1) applies);
- (c) a service rendered in relation to the raising of funds for the acquisition of participation in a business; except where the participation is directly or indirectly acquired by the recipient and the acquisition benefits the recipient or is expected to benefit the recipient (in which case subparagraph (1) applies).

14.—(1) Subject to subparagraph (2), if it is possible to identify a number of specific services provided by or to a connected person, the determination whether the charge for those services is considered to be arm's length consideration shall be made in respect of each specific service.

(2) Where services are provided to more than one connected person and it is not possible to identify the specific services provided to each of those persons, the total charge for the services shall be allocated among those persons according to reasonable allocation criteria based on one or more variables that—

- (a) take into account the nature of the services provided, the circumstances under which they are provided and the benefits obtained or expected to be obtained by the persons to whom the services are provided;

EIGHTH SCHEDULE, *cont'd.*

- (b) take into account only charges in respect of independent transactions; and
- (c) are capable of being measured in a reasonably reliable manner.

15.—(1) The determination of arm's length consideration for a connected transaction involving a grant of licence relating to, a sale or other transfer of intangible property between connected persons shall take into account—

- (a) the perspective of both the transferor and the transferee of the property, including in particular the price which an independent person would be willing to pay for, or accept for, the property in a comparable independent transaction; and
- (b) the value and usefulness of the property to the transferee.

(2) In applying the provisions of paragraph 3 to a transaction involving the grant of licence relating to, the sale or other transfer of, intangible property, any special factors relevant to the comparability of the connected and independent transactions shall be considered, including—

- (a) the benefits expected from the transfer of the property;
- (b) any geographic limitations on the exercise of rights to the property;
- (c) whether the rights to the property are exclusive or non-exclusive; and
- (d) whether the transferee has a right to participate in further development of the property by the transferor of the property.