

CHAPTER 81:01

INCOME TAX ACT

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CHAPTER 81: 01

1929 Ed.

c. 38

1953 Ed.

c. 299

INCOME TAX ACT

An Act to impose a Tax upon Incomes and to regulate the collection thereof.

17 of 1929

[23rd March, 1929]

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

2. (1) In this Act Interpretation

"associated companies" means two or more companies where one has directly or indirectly control of the other or others, or any person has control directly or indirectly of both or of all of them; and where two or more companies share directly or indirectly equally in the ownership of all the ordinary share capital of another company all shall be deemed to be associated companies; [22 of 1959
11 of 1962
25 of 1962
24 of 1969
7 of 1970
31 of 1970
4 of 1972
25 of 1973
18 of 1980

"body of persons" means any body politic, corporate or collegiate, and any company, fraternity, fellowship, or society of persons whether corporate or not corporate; 2 of 1986
4 of 1986
5 of 1987
3 of 1995
13 of 1996]

"business" includes an undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;

"chargeable income" means the aggregate amount of the income of, any person from the sources specified in section 5 remaining after allowing the appropriate deductions and exemptions pertaining to each source separately, and such appropriate exemptions and deductions as pertain to his aggregate income;

"close company" has the same meaning as in the Corporation Tax Act; c. 81:03

"Commissioner-General " means the Commissioner-General charged with the administration of this Act;

"the Commonwealth" shall be deemed to include those territories and their dependencies which are set out in the First Schedule to this Act;

"Commonwealth Income Tax" means any income tax charged under any law in force in any part of the Commonwealth other than the United Kingdom;

"company" means a body corporate or unincorporated but does not include a partnership;

"consolidated profits" means the gains and profits for the year of a whole group of subsidiary and associated companies, including that of the controlling company or companies, after the elimination of such income received by any of these companies which represents dividends paid by other companies of the group;

"consolidated turnover" means the turnover for the year of a whole group of subsidiary and associated companies, including that of the controlling company or companies, after the elimination of all transactions between the various subsidiaries and associated companies and these and the controlling company or companies;

"distribution" has the meaning assigned to it in section 38;

"earned income" means-

- (a) any income which is immediately derived by an individual or by his wife or reputed wife from the carrying on or exercise by him or by his wife or reputed wife of a trade, business, profession or vocation either as an individual, or, in the case of a partnership, as a partner acting therein; and
- (b) any income arising from any gains or profits including any allowance, from any employment held by an individual or by his wife or reputed wife;

"emoluments" include annuity other than an annuity paid out of a superannuation fund, and remuneration;

"employed" means performing the duties of an office or employment;

"employee" means any person receiving remuneration and includes an officer, servant or person holding a position of employment;

"employer" means any person paying remuneration (including the Government) and in relation to an officer means the person from whom the officer receives his remuneration;

"employment" means the position of an individual in the service of some other person (including the Government);

"head office expenses" means any expenses arising from a charge by a non-resident parent company or a non-resident associate company of a company resident in Guyana, or a non-resident associate or subsidiary company of a non-resident company in respect of a branch or agency owned by the non-resident company in Guyana, or the head office of a non-resident company in respect of a branch or agency in Guyana, for any administrative, technical, professional or other like service of an essentially managerial nature, performed by such a non-resident parent or non-resident associate or subsidiary company or head office of a non-resident company;

"incapacitated person" means any infant, lunatic, idiot or insane person;

"local authority" means the Mayor and Town council of Georgetown, the Mayor and Town Council of New Amsterdam, the council of any town or local government district established under the Municipal and District Councils Act, any local authority under the Local Government Act or constituted under any written law for the time being in force, any authority for the administration of drainage or irrigation or drainage and irrigation, any authority for the supply of water, any polder authority and any authority for the administration of sewerage, waterworks, roads or sea defenses;

c. 28:02

c.28:01

"office" means the position of an individual entitling him to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a Minister of the Government, the office of a member of Parliament, and any other office the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of a director of a body of persons and "officer" means a person holding an office;

"participator" has the same meaning as in the Corporation Tax Act 1970;

c. 81:03

"pension" includes any superannuation or other allowance, or deferred pay given in respect of the past services of an individual or of the husband or reputed husband or wife or reputed wife or parent of such individual or given to such persons in respect of the past services of any deceased person or under any superannuation fund or scheme, and "pensioner" means a person in receipt of a pension;

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

c. 65:10

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

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

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

"remuneration" means all salaries, wages, overtime, leave pay, sick bonus, stipend, commission, or other payment of any kind for services, director's fees, retiring allowances, compensation for the termination of any contract of employment or service, and any perquisites, including the annual value of any residence, quarters, board and lodging whether paid in money or otherwise, arising or occurring in or derived from or received in Guyana which are chargeable under this Act, but shall not include any salary or share of profits arising from a trade, business, profession or vocation carried on by a person either by himself or in partnership with any other person;

"resident in Guyana" when applied:-

- (i) to an individual means an individual who-
 - (a) resides permanently or being in Guyana intends to reside permanently in Guyana except for such temporary absences as to the Commissioner-General may seem reasonable and not inconsistent with the claim of such individual to be resident in Guyana; or
 - (b) resides in Guyana for more than 183 days in the year;
- (ii) to a body of persons means any body of persons the control and management of whose business are exercised in Guyana;

"sporting events" means such activities as are prescribed in the Second Schedule as amended from time to time by order of the Minister;

"sports organisation" means a body of persons established for the purpose of promoting or advancing any sporting event being a body of persons, to a share in the income of which no member of the organisation or person other than another sporting organisation is entitled, and being a body of persons the income of which is applied wholly to the promotion or advancement of sporting events or the provision of facilities or amenities for competitors or participants in or the members of the public who attend sporting events;

Provided that a body of persons shall not cease to be a sports organisation by reason of the fact that a portion of its income is donated to any charitable or educational institution of a public character;

"subsidiary" means a company which is controlled directly or indirectly by another company; without prejudice to the generality of the foregoing a company is deemed to be controlled by another company if and so long as not less than fifty percent of its ordinary share capital is owned directly or indirectly by that other company;

"tax" means the income tax imposed by this Act:

"turnover" means in the case of a person carrying on a business, trade, profession or vocation, the total receipts in money or money's worth of the year or of such other accounting period as the Commissioner-General may allow, from his activities, including all cash and credit sales, commissions and fees receivable, without any deductions for taxes or duties or expenses of whatsoever nature incurred;

"whole time service director" means a director of a company who is required to devote substantially the whole of his time to the services of such a company in a managerial or technical capacity and is not the beneficial owner of, or able, either directly or through the medium of other companies or by any other means, to control, more than five percent of the share capital or voting power of such company;

"year of assessment" means the period of twelve months commencing on the 1st January, 1929, and each subsequent period of twelve months.

- (2) For the purposes of this Act, a person shall be deemed to be resident in Guyana who is employed in the service of the Government of Guyana in an office the duties of which require that he shall reside outside Guyana.

ADMINISTRATION

- Appointment of administrative authority
[12 of 1931
11 of 1962
17 of 1966A
7 of 1970
6 of 1989
13 of 1993]
- 3.** (1) For the due administration of this Act, there shall be a Commissioner of Inland Revenue, a Senior Deputy Commissioner of Inland Revenue, two and such number of Assistant Commissioners of Inland Revenue Deputy Commissioners of Inland Revenue and other officers as may be requisite for the purpose.
- (2) Any functions conferred by this Act on the Commissioner shall be exercised, as may be necessary, by the Senior Deputy Commissioner of Inland Revenue, any Deputy Commissioner of Inland Revenue or any Assistant Commissioner of Inland Revenue, according as the Commissioner may direct, and reference in this Act to the Commissioner shall be construed accordingly.
- Official secrecy
[26 of 1949
7 of 1970]
- 4.** (1) Every person who has any official duty or is employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists and copies of those lists relating to the income or items of income of any person, as secret and confidential, and shall make and subscribe a declaration in the form prescribed to that effect before a magistrate
- (2) Every person having possession of or control over any documents, information, returns, or assessment lists or copies of those lists, relating to the income or items of income of anyone who at any time communicates or attempts to communicate that information, or anything contained in the documents, returns, lists or copies to any person-
- (a) other than a person to whom he is authorised by the President to communicate it; or
- (b) otherwise than for the purposes of this Act;
- shall be guilty of an offence.

IMPOSITION OF INCOME TAX

5. Income tax, subject to this Act, shall be payable at the rate or rates herein specified for each year of the assessment upon the income of any person accruing in or derived from Guyana or elsewhere, and whether received in Guyana or not, in respect of-

Charge
Income Tax
[6 of 1947
18 of 1951
42 of 1952
25 of 1962
17 of 1966A
31 of 1970
16 of 1980
18 of 1980
2 of 1986
16 of 1994
13 of 1996]

- (a) gains or profits from any trade, business, profession, or vocation, for whatever period of time the trade, business, profession, or vocation, may have been carried on or exercised;
- (b) gains or profits from any office or employment, including compensation for the termination of any contract of employment or service, the estimated value of any quarters or board or residence (after allowing in cases in which the quarters, board or residence is not free, for any sum paid or payable by way of rent, contribution or otherwise for such quarters, board or residence) or of any other allowance granted in respect of employment whether in money or otherwise, other than an allowance for medical or dental expenses, or for any passage to or from Guyana:

Provided that

- (i) the exclusion of an allowance for medical or dental expenses or for any passage to or from Guyana shall not apply in respect of any director other than a whole-time service director;
- (ii) no income tax shall be payable under this paragraph in respect of a subsistence, travelling, entertainment or expense allowance if it is proved to the satisfaction of the Commissioner-General that the allowance has been expended for the purposes in respect of which the allowance has been given;
- (iii) where any allowance to any such person as is mentioned in section 2(2) is certified by the Minister to represent compensation -
 - (A) for the extra cost of having to live outside Guyana in order to perform his duties;

- (B) for the actual expenses incurred by such person in performing his duties as a representative of Guyana outside Guyana;

that allowance shall not be deemed to be income for the purposes of this Act;

- (iv) no income tax shall be payable on any medical discharge or severance pay benefits or on any station allowance;
- (c) dividends, not being dividends paid by companies resident in Guyana, interest or discounts;
- (d) any charge or annuity other than an annuity paid out of a superannuation fund;
- (e) rents, royalties, premiums, and any other profits arising from property:

Provided that in the case of income arising outside Guyana which is earned income, or which arises to a person who is not ordinarily resident in Guyana or not domiciled therein, the tax shall be payable on the amount received in Guyana.

Gains or
Profits from
employments
deemed to be
derived from
Guyana
[18 of 1951]

6. The gains or profits from any employment exercised in Guyana shall be deemed to be derived from Guyana whether the gains or profits from such employment are received in Guyana or not.

Provisions
relating to
Income
from employ-
ment etc.
[11 of 1962
2 of 1978]

7. (1) Notwithstanding anything to the contrary contained in any other provisions of this Act, but subject to subsection (2), any remuneration received in respect of employment or services rendered in a year other than the year in which it is received, shall be deemed to be income in respect of such other year:

Provided that where such remuneration is received in respect of a year which expired earlier than six years prior to the year in which it was received, it shall be deemed to be income of the year which expired seven years prior to the year in which it was received.

- (2) Where any amount has been received as compensation for the termination of any contract of employment or service and the contract is for a specified term, whether or not provision is made in such contract for the payment of such compensation, such amount shall be deemed to have accrued evenly over the unexpired period of such contract, and where the contract is for an unspecified term, whether or not the contract provides for compensation on the termination thereof, the amount received as compensation shall be deemed to have accrued in the period immediately following such termination at a rate equal to the rate per annum of the gains or profits from such contract immediately prior to such termination:

Provided that where any amount has been received as compensation for the termination of any contract of employment or service in a year more than four years after the year which the contract of employment or service was terminated, such contract shall be deemed for the purposes of this section to have terminated five years prior to the year in which the amount of compensation was received.

8. (1) Notwithstanding the provisions of section 39(1)(c), (d) and (e) any person referred to in subsection (3) whose income from all sources does not exceed four hundred and twenty thousand dollars per annum shall be exempt from taxation on interest earned on savings accounts. Relief for aged and incapacitated persons [2 of 1986 28 of 1991 8 of 1992
- (2) Any such person mentioned in subsection (1) shall on or before the prescribed day in every year deliver to the Commissioner-General a true and correct return of his income from all sources and shall be entitled to a repayment of withholding tax deducted under section 39(1)(c), (d) and (e); 13 of 1993 3 of 1995 3 of 1996 13 of 1996 17 of 1997 4 of 2003 9 of 2006
- (3) Subsection (1) shall apply to a person who is a resident in Guyana and who is - 12 of 2007 2 of 2008]
- (i) sixty years or over at the commencement of the year preceding the year of assessment; or
- (ii) incapacitated by illness or infirmity.

- (4) Where the income of a person from all sources exceeds four hundred and twenty thousand dollars per annum then, notwithstanding section 39(6)(b) that person shall at his option be subject to income tax on his income from all sources including interest on savings accounts in which case, withholding tax deducted under section 39(1)(c), (d) and (e) shall be granted as a set-off against the tax assessed.

Profit of non - resident persons from sale of exported produce [22 of 1956]

9. (1) Where any person who is not resident in Guyana in the year preceding the year of assessment carries on in Guyana any agricultural, manufacturing or other productive undertaking and sells any produce of such undertaking outside Guyana or for delivery outside Guyana, whether the contract is made within or without Guyana, the full profit arising from the sale in a wholesale market shall be deemed to be income accruing in, or derived from Guyana;

Provided that if it is shown that the profit has been increased through treatment of the produce outside Guyana other than by handling, grading, blending, sorting, packing and disposal, such increase of profit shall not be deemed to be income accruing in, or derived from Guyana.

- (2) Where any such produce is not sold in a wholesale market, the amount deemed to be income accruing in, or derived from Guyana shall not be less than the profit which might have been obtained if such person had sold such produce wholesale to the best advantage.

Profit arising From Deductions Previously Allowed [22 of 1956 13 of 1996]

10. Where a sum has formerly been allowed as a deduction section 16(1), and where in a later year the whole or part of the sum so allowed is recovered, or the liability for the outgoing is released in whole or in part, or where the original sum being in the nature of a provision or reserve, its further retention, in whole or in part, has become unnecessary, then any sum so recovered or released shall be deemed to be a gain or profit within the meaning of section 5(a) for the year of assessment in the basis period for which such sum is so recovered or released:

Provided that if any person chargeable with tax in respect of any such sum requests the Commissioner-General in writing to exercise his power under this proviso, the Commissioner-General may divide such sum into so many portions not exceeding six, as he may think fit, and one such portion shall be taken into account in

computing the income of such person for the year in which such sum is so brought to charge under this subsection and for each of the preceding years corresponding to the number of such portions; and notwithstanding anything to the contrary in this Act, all such additional assessments as are necessary to enable effect to be given to the provision of this proviso shall be made.

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| 11. | Subject to this Act, tax shall be charged, levied, and collected for each year of assessment upon the chargeable income of any person for the year immediately preceding the year of assessment. | Basis of Assessment
[26 of 1949
11 of 1962] |
| 12. | Where the Commissioner-General is satisfied that any person usually makes up the accounts of his trade or business on some day other than that immediately preceding any year of assessment the Commissioner-General may permit the gains or profits of that trade or business to be computed for the purposes of this Act upon the income of the year terminating on that day in the year immediately preceding the year of assessment on which the accounts of the said trade or business have been usually made up: | Special periods of assessment
[5 of 1932
26 of 1949
13 of 1996] |
| | <p>Provided that where permission has been given for any year of assessment, tax shall be charged, levied and collected for each subsequent year upon the gains or profits for the full year terminating on the like date in the year immediately preceding the year of assessment subject to any such adjustment as in the opinion of the Commissioner-General may be just and reasonable.</p> | |
| 13. | There shall be exempt from the tax - | Exemptions |
| | (a) the official emoluments received by the President both when in and when absent from Guyana and the provisions of this paragraph shall mutatis mutandis apply to the emoluments of the Chancellor and Chief Justice | 13 of 1937
24 of 1946
18 of 1951
42 of 1952
22 of 1956
4 of 1958
28 of 1957 |
| | (b) the income of any person exempt from corporation tax under section 7 of the Corporation Tax Act | 11 of 1962
7 of 1970
4 of 1972 |
| | (c) the emoluments payable to members of the permanent consular | 12 of 1973
18 of 1980
14 of 1982
11 of 1983 |

2 of 1986
5 of 1987
6 of 1990
9 of 1991
28 of 1991
8 of 1992
7 of 2004]

- services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity;
- (d) wound and disability pensions granted to members of the Guyana Defence Force;
- (e) gratuities granted to members of the Guyana Defence Force in respect of services rendered during any war;
- (f) the income arising from any 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;
- (g) the emoluments payable to personnel of any Government other than the Government of Guyana, whether employed directly by the said Government or under contract with any public or private organisation, in Guyana in connection with a technical co-operation or assistance programme or project where the

agreement or conditions relating to such programme or project so provide, but in respect of such personnel of the Government of the United States of America engaged in Guyana in connection with such programme or project to be carried out under the Agreement for Technical Co-operation entered into between the Government of the United Kingdom and the Government of the United States of America on the 13th July, 1951, and applying to Guyana, the exemption from tax conferred by this paragraph shall be deemed to have come into effect on the 12th July, 1954;

- (h) the emoluments payable as supplements to salaries by the Government of the United Kingdom to persons employed in Guyana under the British Expatriates Supplementation Scheme established under section 2 of the Overseas Development and Service Act, 1965, of the United Kingdom;
- (i) any emoluments payable under any incentive scheme approved by the Minister;
- (j) pensions, gratuities paid in lieu of pensions to Government employees in respect of contracts of employment or service, and annuities paid out of superannuation funds.

1965 c. 38

Provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interests, bonuses, salaries, or wages, paid wholly or in part out of the income so exempted.

14. The Minister may, by order provide that the interest payable on any loan charged on the Consolidated Fund or guaranteed by the Government shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in Guyana; and that interest, as from the date and to the extent specified in the order, shall be exempt accordingly.

Government
loans
[3 of 1996B
7 of 1970
31 of 1970]

Exemption of approved mortgage finance company from payment of tax.
[20 of 1968
6 of 2000]

- 15.**
- (1) The Minister may, by order, designate as an approved mortgage finance company, any company which has entered into an agreement with the Government whereunder the company agrees to finance housing development by making loans in accordance with the terms of the agreement.
 - (2) Notwithstanding the other provisions of this Act, there shall be exempt from tax in such manner and to such extent as may be provided in any such agreement -
 - (a) the income of an approved mortgage finance Company;
 - (b) the dividends paid by any such company; and
 - (c) the interest paid by any such company on any loan raised by the company for purposes of its operations.
 - (3) A copy of any agreement mentioned in subsection (1) shall be laid before the National Assembly as soon as practicable after the making, of an order under the said subsection (1).
 - (4) The agreement referred to in subsection (3) shall include:
 - (a) a list of collateral to be accepted for the loan including-
 - (i) a transport or registered declaration of title;
 - (ii) a certificate or document of absolute title under the Land Registry Act;
 - (iii) a lease for a term of not less than forty years;
 - (iv) an assurance issued by the Minister under the provisions of Section 7A(2)(c) of the New Building Society Act respect of a Government Government Housing Scheme or such an assurance issued in respect of a private housing scheme to which the provisions of section 7A of the said Act have been extended by order of the Minister under that section;

- (b) the rate of interest to be charged on the loan, such interest being not greater than the rate charged by the New Building Society Limited;
- (c) the percentage of the loan in relation to the value of the security, such percentage being not less than 75% of the estimated value of the property when completed;
- (d) a statement that in addition to the exemption mentioned in subsection (2) where any financial institution under the Financial Institutions Act is designated an approved mortgage finance company the reserve requirement mentioned in section 41 of the Bank of Guyana Act shall, where the Minister so approves, not apply to such a company in relation to the liabilities used for mortgage financing; c. 85:01
c. 85:02
- (e) a statement that where an approved mortgage finance company is in breach of any term or condition of the agreement the relief from taxation and other benefits thereunder shall cease forthwith;
- (f) a requirement that the approved mortgage finance company shall cause proper records and accounts to be kept in relation to the mortgage financing transactions and such records and accounts shall be made available for inspection by any person authorised by the Minister;
- (g) the period in which the loan shall be repaid, such period being not less than twenty years in the case of low income persons.
- (4) For the purposes of subsection (1), the expression "housing development" means such provision for housing accommodation as may be specified in the agreement.

ASCERTAINMENT OF CHARGEABLE INCOME

16. (1) For the purpose of ascertaining the chargeable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred during the year immediately preceding the year of assessment by that person in the production of the income, including - Deductions
allowed.
[2 of 1941
5 of 1943
26 of 1949
18 of 1951

-
- 11 of 1962
17 of 1966A
15 of 1969
6 of 1989
9 of 1991
13 of 1996]
- (a) sums paid by the person by way of interest upon any money borrowed by him where the Commissioner-General is satisfied that the interest was payable on capital employed in acquiring the income;
 - (b) rent paid by any tenant of land or buildings occupied by him for the purpose of acquiring the income;
 - (c) where any person engaged in any trade, business, profession or vocation, has expended any sum in replacing plant or machinery which was used or employed in that trade, business, profession or vocation, and has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost the sum representing the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of the plant and machinery and any sum realised by the sale thereof;
 - (d) any sum expended for repair of premises, plant and machinery employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed;
 - (e) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner-General to have become bad during the year immediately preceding the year of assessment and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner-General to have become bad during that year notwithstanding that the bad or doubtful debts were due and payable prior to the commencement of the year, provided that all sums recovered during that year on accounts of amounts previously written off or allowed in respect of bad or doubtful debts be treated for the purposes of this Act as receipts of this trade, business, profession or vocation for that year;
 - (f) annuities or other annual payments which, subject to section 13, are chargeable to tax in the hands of the recipients under section 5 (d), whether payable within

or without Guyana, either as a charge on any property of the persons paying them by virtue of any deed or will or otherwise or as reservation thereout, or as a personal debt or obligation by virtue of a contract, provided that deduction shall not be allowed of any annuity or annual payment which directly or indirectly is, or is part of an arrangement, for any purpose in respect of which no deduction is allowed under section 18(a), (c), (d), (e), (f), (g) and (h) or any other section of this Act, and provided further that no voluntary allowances or payments of any description be deducted:

- (g) rates and taxes on immovable property;
- (h) premiums paid on any fire insurance policy on property used in acquiring the income;
- (i) such other deductions as may be prescribed by the Minister.

(2) The Minister may, by regulations, provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

Allowance for
wear and tear
[18 of 1951
13 of 1996]

- 17.** (1) In ascertaining the chargeable income of any person who carries on or exercises any trade, business, profession or vocation there may be allowed as a deduction such sum as the Commissioner-General may think just and reasonable as representing the amount by which the value of -
- (a) any plant, machinery or equipment owned by him has been diminished by reason of wear and tear arising out of the use or employment of such plant, machinery or equipment in production of the income; and
 - (b) any building, housing machinery owned by him, has been diminished by reason of wear and tear arising out of the use or employment of the machinery in such building:

Provided that -

- (i) where the value of any such plant, machinery, equipment or building has been diminished as aforesaid and the full burden of the wear and tear thereof falls upon the person by whom the trade, business, profession or vocation is carried on, but the plant, machinery, equipment or building does not belong to him, he shall be entitled to the deduction to which he would have been entitled if the plant, machinery, equipment or building had belonged to him;
 - (ii) where the value of any such plant, machinery, equipment or building has been diminished as aforesaid and the full burden of the wear and tear thereof falls upon the owner of such plant, machinery, equipment, or building, but the trade, business, profession or vocation is not carried on by him, he shall be entitled to any deduction to which he would have been entitled if he had carried on that trade, business, profession or vocation;
And
 - (iii) no deduction under this subsection shall be allowed for any year in excess of the written down value of the plant, machinery, equipment or building housing machinery at the commencement of that year.
- (2) In ascertaining the chargeable income of any person who carries on or exercises any trade or business, there shall be allowed as a deduction such sum as the Commissioner-General may think just and reasonable as representing the amount by which the value of any mine, oil well or forest grant has been diminished by reason of exhaustion or by way of depletion.
 - (3) For purposes of this section the expression "written down value" at any date of any asset means the remainder at that date of the capital cost of the asset ultimately borne by the owner thereof, after the deduction from the cost of the aggregate of the following amounts, that is to say -
 - (a) where for any year a deduction for wear and tear or exhaustion of capital in respect of the asset has been allowed, the total for all such years of the deductions which have been allowed in computing the profit or loss for income tax purposes up to that date;

- (b) where for any year no deduction for wear and tear or exhaustion of capital in respect of the asset has been allowed the total for all such years of the deductions which would have been allowed had this section been in force without limitation as to the rate at which the deduction might be calculated from the date of acquisition of the asset by the owner up to that date.

18. For the purpose of ascertaining the chargeable income of any person no deduction shall be allowed in respect of -
- | | | |
|-----|---|---|
| (a) | domestic or private expenses; | Deductions not to be allowed [26 of 1949 |
| (b) | any disbursement or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income; | 18 of 1951
22 of 1956
11 of 1962
25 of 1962
17 of 1966A
25 of 1971 |
| (c) | any capital withdrawn or any sum employed or intended to be employed as capital; | 4 of 1972
6 of 1989
28 of 1991 |
| (d) | any capital employed in improvements; | 13 of 1996] |
| (e) | any sum recoverable under an insurance or contract of indemnity; | |
| (f) | rent of or cost of repairs to any premises or part of premises not paid or incurred for the purpose of producing the income; | |
| (g) | any amounts paid or payable in respect of the United Kingdom income tax, or super-tax, or Commonwealth income tax; | |
| (h) | income tax, corporation tax, property tax or any other identical or substantially similar tax; | |
| (i) | expenses in excess of the amount which the Commissioner-General considers reasonable and necessary having regard to the requirements of the trade and business, and in the case of directors' fees or other payments for services to the actual services rendered by the persons concerned: | |

Provided that no deduction shall be allowed as head-office expenses in excess of one per cent of sales or gross income of any company (including premium income in the case of a company carrying on in Guyana insurance business other than long-term insurance business as defined in section 2 of the Insurance Act).

c.91:02

Losses carried
forward
[11 of 1962
17 of 1966A
10 of 1985]

- 19.** Where a loss is incurred in the year preceding a year of assessment in any trade, business, profession or vocation carried on by any person either solely or in partnership or from the letting of property by any person either solely or in partnership, the amount of the loss shall be carried forward and, subject as hereinafter provided, shall be set-off against what would otherwise have been his chargeable income in the year or years following until it is completely recouped:

Provided that -

- (a) in computing the chargeable income of any year of assessment, in the case of an individual, the loss allowed to be set-off shall not exceed the amount, if any, of the gains or profits for the year of assessment in respect of each source (as specified under each subhead of the several heads of income in the prescribed return to be made of the income of persons) from which such losses have arisen;
- (aa) in computing the chargeable income of any year of assessment, in the case of a company, the loss allowed to be set off shall not exceed the amount, if any, of the gains or profits for the year of assessment in respect of each source as specified below, from which such losses have arisen -
 - (i) gains or profits from the working or occupation or cultivation of land of every description;
 - (ii) gains or profits from any trade, business, profession or vocation, other than the working or occupation or cultivation of land;

- (iii) dividends, interest or discounts arising or accruing from any source whatsoever in Guyana or elsewhere;
- (iv) rents, royalties, premiums and any other profits arising from property in Guyana or elsewhere;
- (b) the amount of loss allowed to be set-off in computing the chargeable income of any year shall not be set-off in computing the chargeable income of any other year;
- (c) in no case shall the set-off be allowed to an extent which will reduce the tax payable for any year of assessment to less than one-half of the amount which would have been payable had the set off not been allowed:
- (d) where the income derived from part of the trade or business of any person has been exempt from Income Tax under section 2(1) (b) of the Income Tax (In Aid of Industry) Act, and the income derived from any other part of his trade or business is not so exempt, the parts of the trade or business shall be deemed to be separate businesses for the purposes of this section.
- 20.** Subject to this Act, in ascertaining the chargeable income of an individual for any year of assessment there shall be allowed a deduction of four hundred and twenty thousand dollars and such deduction shall be apportioned according to the individual's earning period and allowed accordingly.

c.81:02

Deductions
 (5 of 1987
 6 of 1989
 9 of 1991
 8 of 1992
 13 of 1987
 3 of 1995
 3 of 1996
 17 of 1997
 4 of 2003
 9 of 2006
 12 of 2007
 2 of 2008)

Presumptive
method of
determining
income of
certain self-
employed
individuals.
[13 of 1996
15 of 2003)

- 21.** (1) The Minister may by regulations prescribe a presumptive method of ascertaining taxable income for purposes of determining liability for tax on income from self-employment of individuals who have annual turnover from self-employment of less than ten million dollars.
- (2) Under the presumptive method, annual taxable income for each category of self-employment shall be fixed -
- (a) using factors such as size of business premises, number of employees, assets used in the business, education, training, years in practice, specialty certification, and salaries of comparable employed individuals; and
 - (b) specifying a standard deduction amount for each category.
- (3) Tax payable under the presumptive method is due on the first day of each tax year, although by regulations made by the Minister the Commissioner-General may allow tax liability to be paid in installments.

- (4) The Commissioner-General may, by written notice to a taxpayer submitting a presumptive tax return as provided under section 60(4B) for a year, require that taxpayer to file a regular tax return under section 60(1) with respect to the following tax year in addition to the presumptive return for that year.
- (5) A taxpayer required under subsection (4) to file both a regular and a presumption tax return for a year shall be liable in respect of income from self-employment for the higher of the presumptive tax or the regular tax, and shall be given credit against tax due for the year for any tax paid with respect to that year's tax liability.
- (6) Any regulations made under this section requiring a presumptive method, may phase-in the presumptive method, beginning with selected categories of tax-payers and gradually extending the reach of the presumptive regime.
- (7) For the purposes of this section, "turnover" shall have the same meaning as under section 10A of the Corporation Tax Act.

c.81:03

22. Notwithstanding anything to the contrary contained in this Act, it is hereby provided that -

Special Provisions as to certain companies [5 of 1932 11 of 1962 17 of 1966A 31 of 1970 25 of 1971 2 of 1978 13 of 1996] Mutual Insurance Companies Other than life Insurance Companies

- (a) in the case of an Insurance Company (other than a Life Insurance Company) incorporated in Guyana as a Mutual Insurance Company the gains or profits on which tax is payable shall be ascertained by taking the gross premiums, interest and other income (less any premiums returned to the insured and premiums paid on re-insurances) and deducting from the balance so arrived at a reserve at the percentage adopted by the Company for unexpired risks at the end of the year preceding the year of assessment and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment, and from the net amount so arrived at deducting the losses (less the amount recovered in respect thereof under re-insurance) the management expenses and any interest or annual payments made by the Company by virtue of any obligation statutory or otherwise;

Insurance
Companies
other
than Life
Insurance
Companies

- (b) in the case of an Insurance Company (other than a Life Insurance Company) where the gains or profits accrue in part outside Guyana, the gains or profits on which tax is payable shall be ascertained by taking the gross premiums and interest and other income received or receivable in Guyana (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the Company in relation to its operations as a whole for such risks at the end of the year preceding the year of assessment, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of the year preceding the year of assessment, and from the net amount so arrived at deducting the actual losses (less the amount recovered in respect thereof under re-insurance), the agency expenses in Guyana and a fair proportion of the expenses of the head office of the Company:

Provided that in the case of a company the head office of which is outside Guyana the proportion of expenses of the head office to be deducted in any year shall not exceed one-half per cent of the net amount remaining after deducting from the gross premiums received in Guyana any premiums returned to the insured and any premiums paid on re-insurance, unless the Commissioner-General is satisfied that a higher allowance is reasonable in the circumstances;

Life Insurance
Companies
Cap.91:02

- (c) In the case of a company carrying on a long term insurance business as defined in section 2 of the Insurance Act, the gains or profits on which tax is chargeable shall be the income accruing from the investment of its statutory fund as mentioned in section 23 (1) of that Act where the company is registered under that Act, or its life assurance fund where the company is not so registered, less the amount allowed as expenses in earning that income as provided in subsection (d):

Provided that where the company is not so registered and received premiums outside Guyana, the gains or profits shall be the same proportion of the total income of the company accruing from investment as aforementioned as the premiums received in Guyana bore to the total premiums received;

- (d) the amount allowed for expenses incurred in respect of income from investment aforesaid shall be -
- (i) twenty per cent of the said income of the company for the year of assessment commencing 1st January, 1970;
 - (ii) sixteen per cent of the said income of the company for the year of assessment commencing 1st January, 1971;
 - (iii) twelve per cent for every year of assessment thereafter.

Profits of non-
resident
ship owner
[11 of 1962
13 of 1996]

- 23.** (1) Where for any period a person not resident in Guyana who carried on the business of ship owner produces the certificate mentioned in subsection (2), the gains or profits accruing in Guyana from his business as ship owner for such period before deducting any allowance for wear and tear shall be taken to be a sum bearing the same ratio to the sums receivable in respect of the carriage of passengers, mails, livestock and goods shipped in Guyana as his total profits for the relevant accounting period shown by that certificate bear to the total sums receivable by him in respect of the carriage of passengers, mails, livestock and goods.
- (2) The certificate shall be one issued by or on behalf of the principal income tax authority of the district or place in which the principal place of business of the ship owner is situate and with regard to which authority the Commissioner-General is satisfied that it computes and assesses the full profits of the non-resident person from his shipping business on a basis not materially different from that prescribed by this Act and shall certify for the relevant accounting period as regards such business -
- (a) that the ship owner has furnished to the satisfaction of that authority an account of the whole of his business;
 - (b) the ratio of the gains or profits or, where there are no profits, of the loss, as computed for the purposes of income tax by that authority according to the income tax law of that place, without making any allowance by way of depreciation, but after deducting interest on any money borrowed and employed in acquiring the gains and profits, to the total sums receivable in respect of the carriage of passengers, mails, livestock or goods; and

-
- (c) the ratio of the allowance for wear and tear as computed by that authority to the total sums receivable in respect of the carriage of passengers, mails, livestock and goods.
- (3) Where at the time of assessment subsection (1) cannot for any reason be satisfactorily applied, the gains or profits accruing in Guyana may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, livestock and goods shipped in Guyana:

Provided that where any person has been assessed for any year of assessment by reference to such percentage, he shall be entitled to claim at any time within five years after the end of such year of assessment that his liability to tax for that year of assessment be recomputed on the basis provided by subsection (1); and where such a claim has been made and certificate has been produced to the satisfaction of the Commissioner-General, as provided for in subsections (1) and (2), such repayment of tax shall be made as may be necessary to give effect to this proviso, save that, if the claimant fails to agree with the Commissioner-General as to the amount of tax to be so recomputed and repaid, the Commissioner-General shall give him notice of refusal to admit the claim and the provisions of this Act relating to appeals against assessments made by the Commissioner-General shall apply accordingly with the necessary modifications.

- (4) Where the Commissioner-General decides that the call of a ship belonging to a particular non-resident ship-owner at a port in Guyana is casual and that further calls by that ship or others in the same ownership are improbable, this section shall not apply to the profits of such ship and no tax shall be chargeable thereon.
- (5) Gains or profits arising from the business of shipping carried on by a person not resident in Guyana 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 Guyana and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom.

- (6) For the purposes of this section a company shall be deemed to be resident in that country in which the central management and control of its business is situate.
- (7) In this section the expressions: "ship owner" means an owner or charterer of any ship or ships, and "business of shipping" means the business carried on by an owner of ships and for the purposes of this definition the expression "owner" includes any charterer.

Profits of non-resident's air transport and cable undertakings
[11 of 1962
13 of 1996]

- 24. Where a person not resident in Guyana carries on the business of air transport or the business of transmission of messages by cable or by any form of wireless apparatus he shall be assessable to tax as if he were a non-resident ship owner and section 30 shall apply mutatis mutandis to the computation of the gains or profits of such business, subject to any adjustment as in the opinion of the Commissioner-General may be just and reasonable.

Special provisions as to gold or diamond mining companies
[3 of 1949
7 of 1970
4 of 1972]

- 25. Notwithstanding anything to the contrary contained in this Act, it is hereby provided that in ascertaining the chargeable income of a gold or diamond mining company there shall be allowed in respect of expenditure on exploration and development, and for the exhaustion, wear and tear of property, deductions computed in accordance with regulations which the Minister, subject to negative resolution of the National Assembly, may make for that purpose.

Allowances of trade loss to gold or diamond mining companies
[3 of 1949
17 of 1966A]

- 26. Where a gold or diamond mining company incurs a loss in the year preceding a year of assessment such loss shall be carried forward and set off against what would otherwise have been chargeable income in the year or years following the year in which such loss was incurred until it is completely recouped.

Certain provisions inapplicable in ascertaining chargeable income from petroleum

- 27. Notwithstanding anything to the contrary contained in this Act-
 - (a) in ascertaining the chargeable income, from petroleum operations, of any person engaged in the business of carrying on such operations, sections 16(1)(c) and 17 shall not apply; And
 - (b) for the purpose of carrying forward, and allowing set-off, of

operations
[4 of 1986]

loss incurred in petroleum operations by any person engaged in the business of carrying on such operations under section 19, paragraph (c) of the proviso thereto shall not apply.

Petroleum
capital
expenditure
allowance
[4 of 1986]

28. (1) In this section-

"petroleum capital expenditure" means-

(a) expenditure incurred in or on searching for and discovering petroleum and ascertaining and testing the extent and characteristics thereof, including expenditure incurred for-

(i) geological, geophysical, geochemical, aerial, magnetic and other surveys and all analyses, interpretation and studies thereof;

(ii) drilling of shot holes, core holes, bore holes and holes for the discovery and delineation of petroleum reservoirs;

(iii) appraisal of surveys and drilling including the drilling and testing of appraisal wells and all reservoir studies;

(iv) acquisition of petroleum information;

(b) expenditure incurred in or on -

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

(ii) the provision of machinery or the acquisition of any right to use machinery for petroleum operations;

- (iii) the construction of any building or works, including expenditure incurred in or on any payment for or contribution to the cost of providing-
 - (A) water, light or power for use on,
 - (B) access to, or
 - (C) communication with,any site for the conduct of petroleum operations;
or
 - (iv) the provision of residential accommodation and welfare facilities for employees employed for the purposes of petroleum operations;
 - (v) the provision of any vehicles or office equipment, furniture or machinery in connection with the carrying on of petroleum operations;
- (c) any expenditure incurred in or on-
- (i) preparing a site for petroleum production, including delineation work and feasibility studies done to determine the best means of operation;
 - (ii) the intangible costs of preparing for and drilling production wells, such costs including, by way of example only, all costs of labour, fuel, repairs, hauling and supplies and materials without salvage value, incurred in-
 - (A) drilling, shooting and cleaning wells;
 - (B) clearing and draining ground, road making, surveying and other preparations for drilling; or
 - (C) constructing and erecting drilling rig, drilling and producing platform, tank,

pipeline and other plant, machinery or equipment necessary for producing petroleum;

- (d) any expenditure incurred prior to the year of commencement in or on-
- (i) general administration and management directly connected with petroleum operations;
 - (ii) any interest accrued on any loan taken by the assessee and for the time being utilised to finance petroleum operations;

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

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

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

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

- (2) In ascertaining the chargeable income, from petroleum operations, of any person engaged in the business of carrying on such operations (hereinafter referred to as the petroleum assessee), there shall be allowed as a deduction an allowance to be known as petroleum capital expenditure allowance, which shall be-
- (a) for the year of assessment being the year of commencement, the deduction that shall be allowed under subsection (3); and

- (b) for any year of assessment subsequent to the year of commencement, the aggregate sum of any deductions, that shall be allowed under subsections (3) and (5).
- (3) In the year of assessment which is the year of commencement, and in every subsequent year of assessment, until the aggregate sum of the petroleum capital expenditure incurred by a petroleum assessee in the years preceding the year of commencement is completely recouped, there shall be allowed as a deduction, by way of petroleum capital expenditure allowance, twenty per cent, or such lower per cent as the assessee may elect, of the aforesaid aggregate sum of the petroleum capital expenditure.
- (4) Where in or before the year immediately preceding the year of commencement any amount has been received by a petroleum assessee as consideration for the assignment by him of the whole or part of his interest in a petroleum licence or rights under a petroleum contract, for the purposes of subsection (3) the aggregate sum of the petroleum capital expenditure incurred by such assessee in the years preceding the year of commencement shall be reduced by the amount so received by the petroleum assessee.
- (5) Where in the year, immediately preceding any year of assessment subsequent to the year of commencement, a petroleum assessee has incurred any petroleum capital expenditure, in that year of assessment and in every subsequent year of assessment, until such petroleum capital expenditure is completely recouped, there shall be allowed as a deduction by way of petroleum capital expenditure allowance twenty per cent, or such lower per cent as the assessee has elected for the purpose of subsection (3) of such petroleum capital expenditure.
- (6) Notwithstanding anything to the contrary contained in the preceding subsections, where in the year, immediately preceding any year of assessment subsequent to the year of commencement, a petroleum assessee has assigned the whole or part of his interest in a petroleum licence or rights under a petroleum contract-
- (a) the petroleum capital expenditure allowance deductible, under the provisions of this section, in that year of

assessment, and subsequent years of assessment, on account of petroleum capital expenditure incurred by that petroleum assessee in the year in which the assignment is made and in any years prior thereto shall be reduced in proportion to the extent to which the interest of the assignor in the petroleum licence or the rights of the assignor in the petroleum contract has been assigned; and

(b) any petroleum capital expenditure allowance to which the assignee would otherwise have been entitled in any year of assessment, in respect of petroleum capital expenditure incurred by the assignee in the year in which the assignment was made, or in any subsequent year, shall be increased by an amount equal to the amount by which the petroleum capital expenditure allowance of the assignor for the corresponding year of assessment has been reduced pursuant to paragraph (a).

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

Export
allowance
[11 of 1988]

29. (1) Subject to subsection (2) where during a year of income a company registered in Guyana has made export sales, either directly or through any other person to any country of manufactured or processed product or any product of agriculture, in ascertaining the chargeable profits of the company for that year of income, a deduction or export allowance shall be allowed to the extent specified in Part I of the Fifth Schedule.

(2) Subsection (1) applies to all export sales of the products, except-

(a) export sales made to a country specified in Part II of the Fifth Schedule;

-
- (b) export sales of products specified in Part III of the Fifth Schedule.
- (3) The Minister may by order amend the Fifth Schedule;
- Land
Development
Expenditure
allowance
[11 of 1988]
- 30.** (1) Notwithstanding anything to the contrary in this Act, in ascertaining the chargeable income, in any year of income of any person, being a person owning or in possession of any land used or capable of being used for the purpose of agriculture there shall be allowed, subject to this section, as a deduction in the manner provided in subsection (2) all expenditure incurred in that year by that person for the purpose of development of any land for bringing it under cultivation by him or improving any land under his cultivation.
- (2) For the purposes of subsection (1) one-tenth of the expenditure shall be allowed as a deduction in the year of income in which it was incurred, the balance being allowed by equal instalments in each succeeding year of income in the following nine years.
- (3) In this section expenditure incurred in the development of land or improvement of land means capital expenditure incurred for the purpose of-
- (i) destruction and removal of timber, shrub or undergrowth indigenous to the land;
 - (ii) eradication or extermination of animal or vegetable pests from land;
 - (iii) destruction of weed or plant growth detrimental to the land;
 - (iv) preparation of land for agriculture, e.g. bulldozing, etc.;
 - (v) ploughing and grassing land for grazing purposes;
 - (vi) draining of swamp or low-lying land where the operation improves the agriculture or grazing value of the land;
 - (vii) preventing or combating soil erosion or flooding of land;

- (viii) providing water-conveying and conservation by dams, irrigation channels and wells for use in carrying on primary production on land;
- (ix) construction of access roads and aeroplane landing strips to facilitate aerial top-dressing of land;
- (x) erection on land of fences for the protection of crops, livestock and other products;
- (xi) construction of earth-works, ponds and making similar improvements on land;
- (xii) expenditure for such other activities relating to the development of land as may be prescribed by the Minister by regulations.

- (4) Any expenditure for the development of any land for the purpose of bringing it under cultivation or for the improvement of any land under cultivation by any person, being the owner of the land, in accordance with law, incurred by him in any year of income shall, notwithstanding that he is not the person in possession of the land, be allowed as a deduction in ascertaining the chargeable income of that person in that year of income, if the other conditions of this section are satisfied.

Special
provisions
for individual
operators in
gold and
diamond mining
Industry
[11 of 1988
13 of 1996]

- 31.** (1) There shall be levied and paid income tax (in this section referred to as gold or diamond withholding tax, as the case may be) as follows-
- (a) in the case of gold, at the rate of two percent of the gross proceeds realised from every sale to the Central Authority;
 - (b) in the case of diamond, at the rate of two percent on the value placed by the Central Authority on the amount declared by any individual, whether wholly owned by that individual or by him jointly with others or in partnership with others.
- (2) The tax under subsection (1) shall be collected in respect of each transaction and remitted to the Commissioner-General by the Central Authority at the end of each calendar month, and on

the payment thereof the Commissioner-General shall send to the Central Authority a receipt which shall, to the extent of the amount referred to therein, be a good and sufficient discharge of the liability of the Central Authority for any amount collected as required by the provisions of this section.

(3) The Central Authority for the purposes of subsection (2) shall be-

c. 66:01

(a) in the case of gold, the Guyana Gold Board, established under section 3 of the Gold Board Act.

c. 65:09

(b) in the case of diamonds, the Guyana Geology and Mines Commission, established under section 3 of the Guyana Geology and Mines Commission Act or such other authority as the Minister may by order prescribe, and notwithstanding anything contained in that Act the aforesaid Commission shall have power to exercise the functions conferred by this section on the Central Authority.

(4) Notwithstanding section 5, where withholding tax has been collected under subsection (1) income received consequent upon the sale of the gold or diamond shall not be taken into account in ascertaining the chargeable income of the person or any of the persons, as the case may be, who owned the gold or diamond.

(5) Nothing in this section shall be construed as exempting a gold or diamond miner from the requirement to keep adequate records of his income from mining operations.

(6) All remittances to the Commissioner-General under subsection (2) shall be accompanied by such form as may be determined by the Commissioner-General, duly completed by the Central Authority.

(7) A person who fails to deduct, account for or pay over withholding tax to the Commissioner-General shall be guilty of an offence under this section and the provisions of section 93 (4) shall mutatis mutandis apply.

c. 66:01

(8) In this section "gold" has the same meaning as in section 2 of the Guyana Gold Board Act.

Special provisions for deduction and payment of emoluments to tributor. [11 of 1988 13 of 1996]

- 32.** (1) Where on or after the commencement of this section any payment of emoluments is made by an employer to a tributor in relation to his employment as a tributor by the employer, the employer shall deduct or withhold tax at the rate of ten percent of the gross amount of such payment and shall account for and pay over the tax to the Commissioner-General on or before 1st April, 1st July, 1st October and 31st December, respectively, in each year of income.
- (2) The Commissioner-General shall give the employer a receipt on the official form for the total amount paid in accordance with the provisions of subsection (1), which shall be a good and sufficient discharge of the liability of the employer for the amount deducted and withheld as required by this section.
- (3) All remittances or payments of taxes deducted and withheld under subsection (1) to the Commissioner-General shall be accompanied by such forms as may be determined by the Commissioner-General duly completed by the employer.
- (4) After the end of the year, on or before the prescribed date for the delivery of returns to be delivered to the Commissioner-General under section 61 (2), (3) and (4), the employer shall give every tributor from whose emoluments he was liable to deduct and withhold tax a certificate in such form as the Commissioner-General may determine showing the total amount of the emoluments paid by the employer and the total tax deducted from the emoluments.
- (5) In the return to be delivered to the Commissioner-General under section 61 (2), (3) and (4) the employer shall furnish in respect of each tributor to whom he made payments of emoluments the total amount of the emoluments paid by him to each such tributor during the year, and the amount of tax deducted by him from the emoluments.
- (6) If the tax payable under the assessment exceeds the total tax deducted from any tributor's emoluments during the year of assessment, the difference shall be payable by such tributor to the Commissioner-General within thirty days after service of a notice of assessment under section 78.

- (7) If the tax payable under the assessment is less than the tax deducted from any tributor's emoluments during the year of assessment the Commissioner-General shall repay the difference to such tributor in accordance with section 107.
- (8) Every employer, when called upon to do so by the Commissioner-General or any officer authorised by him, shall produce to the Commissioner-General or that officer for inspection at the employer's premises, or the office of the Commissioner-General, as the employer may be required to do, all wages sheets and other documents and records whatsoever relating to the calculation or payment of the emoluments of his tributors or the deduction of tax therefrom.
- (9) Income Tax in respect of all emoluments paid to a tributor may be assessed and charged by the Commissioner-General, who for that purpose may exercise all the powers under this Act.
- (10) Any tax which is payable to the Commissioner-General by a tributor under this section may be recovered in accordance with this Act.
- (11) The provisions of section 93, in so far as they are not inconsistent with the provisions of this section shall, with such adaptations or modifications as are necessary or expedient, apply to this section.
- (12) Notwithstanding anything in this Act, the Income Tax (Deduction of Tax from Emoluments) Regulations shall not apply to tributors.
- (13) In this section "tributor" means persons engaged in the gold or diamond mining industry who are rewarded for their labour under the tribute system, and includes divers, cooks, sailors, general managers, or persons engaged in site operations.

Income of
painter,
sculptor, author
[6 of 1989]

- 33.** Notwithstanding section 5(a), where a painter, sculptor or author obtains any sum for the sale of his work in the production of which he was engaged for a period of-
- (a) more than one year but not more than two years, the income from the sale of such work shall be taxed, one-half in the year

of receipt of the income and the other one-half in the year preceding the year of receipt of the income;

- (b) more than two years, the income from the sale of such work shall be taxed, one-third in the year of receipt of the income and one-third in each of the two years preceding the year of receipt of the income.

Charge of
wife's income
to tax
[5 of 1987
9 of 1991]

- 34.** (1) The income of a married woman living with her husband shall be charged as of an individual in her name.

- (2) 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 close company; 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-

- (i) she or her husband satisfies the Commissioner-General that it is commensurate with work done by the wife wholly and exclusively with the object of enabling her husband, the close company or the partners, as the case may be, to make a profit; and

- (ii) the Commissioner-General notifies both the husband and the wife in writing that he is so satisfied.

- (3) Subsection (4) shall as it applies to any income in relation to a wife *mutatis mutandis* apply to any income in relation to a husband.

- c 81:03
- (4) In subsection (4) (b) "close company" has the same meaning as in the Schedule to the Corporation Tax Act.
- (5) Where any income arises or accrues in any of the circumstances mentioned in subsection (4) or (5)-
- (a) the wife; and
- (b) her husband, the close company or the partners, as the case may be,

shall deliver or cause to be delivered to the Commissioner-General, not later than 31st 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 against this Act.

Reputed wife's income
[9 of 1991]

35. Section 34 shall mutatis mutandis apply in the case of a reputed wife living with her reputed husband where the reputed husband has no wife living with and maintained by him.

Allowance in respect of donations to Government or national or international institutions or organisations
[20 of 1968
4 of 1972
11 of 1983
9 of 1991]

36. (1) In ascertaining the chargeable income of any person (other than an individual) who has, during the year preceding the year of assessment, donated any sum of money or other property held by that person for the sale in the ordinary course of business, to the Government of Guyana for public purposes, or to any prescribed institution or organisation of a national or international character in Guyana or elsewhere, there shall be deducted from the amount of the income of that person ascertained apart from this subsection (whether so ascertainable in conformity with section 29 or otherwise) so much thereof as is not in excess of the amount of money or the value of the other property, donated as aforesaid.

(2) The prescription during any year of an institution or organisation under subsection (1) shall have effect from such day, not earlier than the commencement of that year, as may be prescribed, and shall apply in relation to all such donations as aforesaid to that institution or organisation, as the case may be, being donations made while the prescription is in force.

- (3) For the purposes of subsection (1) the value of property shall be the cost to the donor on acquisition or the market value thereof whichever is the less, and for the purposes of this subsection, "market value" means the price which could reasonably have been obtained for the property in the open market on the date on which the property was donated.

Deductions,
exemptions
and additions
in relation to
approved
savings schemes
[9 of 1991]

- 37.** (1) Where any person, (other than an individual) engaged in any trade, business, profession or vocation has opened an account in the name of any of his employees in an approved Savings Scheme and has in the year preceding any year of assessment deposited any sums in such account-
- (a) in ascertaining the chargeable income of that person from the trade, business, profession or vocation for that year of assessment there shall be allowed a deduction of the aggregate of the sums deposited by him in the aforesaid account in the year preceding that year of assessment;
- (b) subject to the other provisions of this section, the employee shall not be liable to pay the tax, in respect of the sums so deposited, either in the year of assessment following the year in which such sums were deposited or in the year of assessment following the year in which he received the whole or part of the sums so deposited on the maturity of the approved Savings Scheme or in any other year of assessment.
- (3) The interest which accrued due to any individual during any year on the amount to his credit in any approved Savings Scheme shall be exempt from the tax.
- (4) Where the whole or part of the amount to the credit of any individual in the account in his name in any approved Savings Scheme is withdrawn by that individual during the continuance of the scheme and before the expiry of the period for which he was required by the Scheme to maintain the account for receiving full benefits thereunder, the amount so withdrawn shall, for the purposes of this Act, be deemed to be the income of that individual in the year in which the amount is withdrawn.
- (5) In this section "approved Savings Scheme" has the same meaning as in the Saving Scheme Act 1983.

RATE OF TAX

- | | |
|--|---|
| Rates of Tax
(12 of 1973
3 of 1982
11 of 1983
5 of 1987
6 of 1989
9 of 1991
13 of 1993
17 of 1997
4 of 2003
9 of 2006) | <p>38. The tax upon the chargeable income of every person, other than a company, shall be at the rate of thirty three and one third per cent.</p> |
| Minimum tax
on
self-employed
professionals
(15 of 2003) | <p>39. (1) Self-employed individuals whose turnover from the performance of services exceeds the threshold specified in section 21 shall pay a minimum tax in respect of income from the performance of services in lieu of the regular income tax in circumstances specified in subsection (3).</p> <p>(2) The minimum tax is equal to two percent of annual turnover arising from self-employment in the performance of services.</p> <p>(3) Liability for minimum tax is imposed only if the amount of income tax payable for a year is less than the amount of the minimum tax computed for the year, and is payable at the same time and subject to the same procedures as regular income tax liability.</p> <p>(4) The Minister may by regulations phase-in the application of the minimum tax imposed under this section, beginning with selected categories of taxpayers and gradually extending the reach of the minimum tax regime.</p> <p>(5) For the purposes of this section “turnover” shall have the same meaning as in section 21.</p> |
| Meaning of
distribution
(31 of 1970
25 of 1971) | <p>40. (1) In relation to any company "distribution" means-</p> <p>(a) any dividend paid by the company including a capital dividend;</p> |

-
- (b) any other distribution of the assets of the company (whether in cash or otherwise) in respect of the shares of the company, except so much as represents the repayment of share capital, or is equal in amount or value to any new consideration given on the distribution;
 - (c) any redeemable share capital or security issued by the company in respect of shares in the company to the extent that such share capital or security is not issued for a new consideration;
 - (d) any interest or other distributions out of assets of the company in respect of securities of the company (except so much of any, of any such distribution as represents the principal thereby secured), where the securities are either-
 - (i) securities issued as mentioned in paragraph (c);
 - (ii) securities convertible directly or indirectly into shares of the company;
 - (iii) securities under which a consideration given by the company for the use of the principal secured is to any extent dependent on the result of the company's business or any part of it, under which the consideration so given represents more than a reasonable commercial return on the use of that principal; or
 - (iv) securities issued by the company to a non-resident company, where the former is a subsidiary of the latter or both are subsidiaries of a third company;
 - (e) any such amount as is required to be treated as a distribution by subsection (2) or (3).
- (2) Where on a transfer of assets or liabilities by a company to its members or to a company by its members the amount or value of the benefit received by a member (taken according to its market value) exceeds the amount of value (so taken) of any new consideration given by him, the company shall be treated as making a distribution to him of an amount equal to the

difference.

- (3) Where, after the first day of January, 1969 a company-
- (a) repays any share capital, or has done so at any time after the commencement of the accounting period for the year of assessment 1970, and
 - (b) at or after the enactment of this section issues as paid up otherwise than by receipt of a new consideration any share capital, not being redeemable share capital, the amount so paid up shall be treated as a distribution made in respect of the shares on which it is paid up, except in so far as that amount exceeds the amount or aggregate amount of share capital so repaid less any amounts previously so paid up and treated by virtue of this subsection as a distribution.
- (4) Where-
- (a) a company issues any share capital as paid up otherwise than by the receipt of new consideration, and has done so after the enactment of this section; and
 - (b) any amount so paid up does not fall to be treated as a distribution,

then for the purposes of subsections (1) to (3), distributions afterwards made by the company in respect of shares representing that share capital shall not be treated as repayments of share capital, except to the extent to which those distributions, together with any relevant distributions previously so made, exceed the amounts so paid up (then or previously) on such shares after that date and not falling to be treated as distributions.

- (5) In subsection (4) "relevant distributions" means so much of any distribution made in respect of shares representing the relevant share capital as apart from that subsection would be treated as a repayment of share capital, but by virtue of that subsection cannot be so treated.
- (6) For the purposes of subsections (4) and (5) all shares of the same class shall be treated as representing the same share capital, and where shares are issued in respect of other shares,

or are directly or indirectly converted into or exchanged for other shares, all such shares shall be treated as representing the same share capital.

- (7) In this section "new consideration" means consideration not provided directly or indirectly out of assets of the company, and in particular does not include amounts retained by the company by way of capitalising a distribution, so, however, that where share capital, has been issued at a premium representing new consideration, any part of that premium afterwards applied in paying up the share capital shall be treated as new consideration also for that share capital.
- (8) A distribution shall be treated under this section as made, or consideration as provided, out of assets of a company if the cost falls on the company.
- (9) The following kinds of expenditure when paid by a close company to a participator shall be treated as distributions-
- (a) interest, or other consideration paid or given by the company to a participator who is also a director (other than a whole-time service director) or an associate of such participator for the use of money advanced by any person, or to a person who is an associate of such director for the use of money so advanced;
 - (b) any annuity or other annual payment other than interest;
 - (c) any rent, royalty or other consideration paid for the use of property other than money.
- (10) For the purposes of subsection (9) (c) in the case of tangible property or copyrights, the excess only over what the Commissioner-General may consider to be reasonable consideration therefor, shall be treated as a distribution.

Rates of
withholding
tax
(31 of 1970
25 of 1971
2 of 1978
11 of 1983
5 of 1987
Y.A. 1978

- 41.** (1) There shall be levied and paid income tax (in this Act referred to as withholding tax) at the rate set out in the Third Schedule-
- (a) on any gross distribution made to any person not resident in Guyana.
 - (b) on any gross payment not being interest referred to in paragraphs (c), (d) and (e) made to any person not resident in Guyana or to any person on behalf of such

5 of 1987
9 of 1991
28 of 1991
16 of 1994
3 of 1995
3 of 1996
6 of 2000
15 of 2003)

non-resident person, where such person is not engaged in trade or business in Guyana, so, however, that in the case of payment of income arising outside Guyana to such a person withholding tax shall not be payable.

(c) on gross payment, being interest earned on savings accounts held at commercial banks and other financial institutions by any person whether resident in Guyana or not.

(d) on gross payment, being interest earned on loans secured by bonds and similar instruments by any person whether resident in Guyana or not;

(e) on every discount earned on treasury bills by the person who discounts the bill whether on or before maturity.

(2) Where, after the enactment of this section, a person makes any payment or distribution to any such person as is mentioned in subsection (1), the person shall under this subsection, within thirty days, account for and pay over withholding tax in respect of the payment or distribution aforesaid at the rate referred to in subsection (1):

Provided that where the gross payment is of the nature of expenses as mentioned in section 29(d), the amount of tax to be withheld from the aggregate of such payments in any year shall be equal to the tax which would be payable in respect of the aggregate sum allowed the company under that section for the year.

(3) Where the payment or distribution is made to a person who is not resident in Guyana and such person is resident in a country with which there is a double taxation agreement or Order under section 91, the person making the payment shall, nevertheless, deduct tax at the rate specified in the Third Schedule unless the person making the payments satisfies the Commissioner-General that a reduced rate of withholding tax applies under or by virtue of the double taxation agreement, or Order under section 91.

-
- (4) A person liable under subsection (2) to account for and pay over withholding tax to the Commissioner-General who fails so to do shall be guilty of an offence, and section 93(4) applies accordingly.
- (5) Notwithstanding section 5-
- (a) where a distribution that is subject to withholding tax is made to any person not resident in Guyana or to a company resident in Guyana; or
- (b) where a payment is subject to withholding tax, income tax under section 5 or corporation tax shall not be payable in respect of such distribution or payment.
- (6) Where an office or a branch or agency of any non-resident company engaged in trade or business in Guyana, remits or is deemed to remit any part of the profits of such non-resident company accruing in or derived from Guyana, such office or branch or agency of the non-resident company shall be liable to account for and pay over withholding tax in respect of such profits in accordance with the provisions of this section as if remitting of such profits was a distribution.
- (7) For the purpose of subsection (7) an office or agency of a non-resident company shall be deemed to have remitted all the profits thereof, except to the extent that the office or the branch or agency has reinvested to the satisfaction of the Commissioner-General such profits or any part thereof in Guyana, other than in the replacement of fixed assets, or in securities held for a period of less than thirteen months.
- (8) In subsections (7) and (8) "profits" mean profit after the payment of any corporation tax.
- (9) The Minister may by directions in writing reduce the rate of withholding tax on any distribution or payment for the purpose of giving effect to any agreement relating to tax between the Government and any person not resident in Guyana and the Commissioner-General may by notice in writing to that person by whom those payments are to be made sanction his complying with such reduction in the rate of withholding tax to such extent as the Minister shall decide and any deductions made in pursuance of this subsection shall be deemed for the

purposes of the foregoing provisions of this section to be in accordance with the requirements thereof in question.

- (10) (a) Without prejudice to any other provisions of this Act or any written law, income earned by commercial banks on treasury bills and on gross payments, being interest earned on loans secured by bonds and similar instruments, shall be exempted from the provisions of this section.

c. 81:03

- (11) Where a person is exempt from corporation tax under section 7 of the Corporation Tax Act that person shall also be exempt from withholding tax under this Act.

Meaning of
"payment"
(31 of 1970)

- 42.** In sections 38 to 44 (inclusive), "payment" means a payment without any deductions whatsoever other than a distribution, not being a payment to which section 93 applies, with respect to-

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

but does not include-

- (i) interest paid by any person on a temporary bank loan or in respect of any trade account; or

- (ii) any payment made after 1st January, 1969, in respect of a loan made to a company prior to 1st January, 1969, and which prior to that date was treated in its accounts by the company or according to the conditions subject to which the loan was made, as a loan free of interest.

- Discharge of liability for withholding tax
(31 of 1970)
- 43.** Where a person is liable under section 39 to account for withholding tax deducted or withheld in respect of any payment or distribution made by that person, the person shall as against any person entitled to the payment or distribution, be acquitted and discharged of so much money as is represented by the withholding tax as if that sum had actually been paid.
- Certificate for deduction of tax
(31 of 1970
25 of 1971)
- 44.** (1) Where, after the enactment of this section a person makes any payments or distribution which is subject to withholding tax, the payer shall furnish to the recipient of the payment or distribution a statement in writing showing the gross amount of the payment, the amount of the withholding tax and the actual amount paid.
- (2) The duty imposed by subsection (1) shall be enforceable at the suit or instance of the person entitled to the statement.
- Tax deducted from a distribution or dividend to be set off against tax of shareholders
(31 of 1970
28 of 1991
16 of 1994)
- 45.** (1) Every company shall upon the payment of a dividend whether tax is deducted or not furnish to each shareholder a certificate setting forth the amount of dividend paid to that shareholder and the amount of tax which the company has deducted in respect of that dividend, and also where the tax payable is affected by double taxation relief, the rate of tax paid or payable after taking double taxation relief into account.

- Temporary residents (6 of 1947) **46.** Tax shall not be payable in respect of any income arising out of Guyana to any person who is in Guyana for some temporary purpose only and not with intent to establish his residence therein and who has not actually resided in Guyana at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

TRUSTEES, AGENTS AND OTHER REPRESENTATIVES

- Chargeability of trustees and other representatives. **47.** A receiver appointed by the Court, trustee, guardian, curator, or committee, having the direction, control or management of any property or concern on behalf of any incapacitated person shall be chargeable to tax in like manner and to the like amount as that person would be chargeable if he were not an incapacitated person.
- Chargeability of agent of person residing out of Guyana (18 of 1951, 22 of 1956, 11 of 1962, 9 of 1991) **48.**
- (1) A person not resident in Guyana (hereinafter in this section referred to as a non-resident person) whether a Commonwealth citizen or not, shall be assessable and chargeable in the name of his trustee, guardian, or committee, or of any attorney, factor, agent, receiver, branch, or manager, whether the attorney, factor, agent, receiver, branch or manager has the receipt of the income or not, in like manner and to the like amount as the non-resident person would be assessed and charged if he were resident in Guyana and in the actual receipt of that income.
 - (2) A non-resident person shall be assessable and chargeable in respect of any income arising whether directly or indirectly through or from any attorney-ship, factorship, agency, receivership, branch, or management, and shall be so assessable and chargeable in the name of the attorney, factor, agent receiver, branch, or manager.
 - (3) Where a non-resident person carries on business with a resident person, and it appears to the Commissioner-General that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person, the course of business between arranged, that the business done by the resident person in those persons can be so arranged and is so 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-General by whom the assessment is made, or to the judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner-General or the judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid; and in that case the provision of this Act relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars of income to be charged are to be delivered by those acting for incapacitated or non-resident persons:

Provided that the amount of the percentage shall in each case be determined having regard to the nature of the business and, when determined by the Commissioner-General, shall be subject to an appeal to a judge as provided by section 78.

- (5) Nothing in this section shall render a non-resident person chargeable in the name of a broker or general commission agent or other agent where that broker, general commission agent, or agent, is not an authorized person carrying on the regular agency of the non-resident person, or a person chargeable as if he were an agent in pursuance of subsections (3) and (4) in respect of gains or profits arising from sales or transactions carried out through such a broker or agent.
- (6) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of subsections (3) and (4) in the name of a resident person shall not of itself make him chargeable in respect of gains or profits arising from those sales or transactions.
- (7) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch, or manager, in

respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of Guyana 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-General or in the case of an appeal to the judge, to have the assessment to tax in respect of those gains or profits made or amended on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner-General or judge of the amount of the profits on the basis aforesaid the assessment shall be made or amended accordingly.

- (8) Notwithstanding anything to the contrary contained in this Act in the case of a company carrying on business in Guyana which is a branch establishment, a subsidiary or an associated company of a non-resident company, the gains or profits on which tax is payable shall be deemed to be not less than that proportion of the total consolidated gains or profits of the whole group of associated companies (including both resident and non-resident companies) which the turnover of that company bears to the consolidated turnover of the whole group of associated companies.
- (9) Exemption from the provisions of subsection (8) shall be granted, where the resident company proves to the satisfaction of the Commissioner-General that no significant part of its business transactions (whether in the form of sales, purchases or otherwise) was conducted with or influenced by arrangements entered into by any non-resident associated company of the same group.
- (10) Where for any year of assessment it is proved to the satisfaction of the Commissioner-General that although a significant part of the business of the resident company was transacted with or influenced by arrangements entered into by any non-resident associated company of the same group, the gains or profits of the resident company have not thereby been less than they otherwise would have been the Commissioner-General may in ascertaining the gains or profits of the resident company for that year of assessment disregard subsection (8).

(11) In the case of companies referred to in subsection (8) which have not been granted exemption from the provisions of that subsection, the provisions of this Act relating to the delivery of returns and particulars shall extend to the furnishing of particulars of the consolidated profits and the consolidated turnover of the whole group of associated companies of which the resident subsidiary company or branch establishment forms a part.

Matters to be done by representatives.

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

Lists to be prepared by representative or agent
(26 of 1949)

50. (1) Every person who in whatever capacity is in receipt of any money or value being income from any of the sources mentioned in this Act of or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Guyana and not an incapacitated person, shall whenever required to do so by any notice from the Commissioner-General, prepare and deliver within the period mentioned in the notice a list in the prescribed form, signed by him, containing-

(a) a true and correct statement of all that income;

(b) the name and address of every person to whom the income belongs.

(2) Every person who refuses, fails, or neglects, to comply with this section shall be guilty of an offence.

Manager of corporate bodies

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

Indemnification of representatives
(26 of 1949)

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

- Power to
appoint agent
(11 of 1962)
- 53.** (1) The Commissioner-General may by notice in writing, if he thinks it necessary, declare any person to be the agent of any other person, and the person so declared the agent shall be the agent of such other person for the purposes of this Act, and may be required to pay any tax due from any moneys, including pensions, salary, wages or any other remuneration, which may be held by him for, or due by him to, the person whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him in the manner provided by this Act for the recovery and enforcement of the payment of tax.
- (2) Any person declared by the Commissioner-General to be the agent of any other person under subsection (1) may appeal against the declaration, and sections 78, 82 and 86 and any regulations or rules made for the purposes of the said sections shall, in so far as they are not inapplicable thereto, apply *mutatis mutandis* to an appeal under this section.
- Deceased
persons
(18 of 1951)
- 54.** Where any person dies, then as respects income arising before his death all rights and duties which would have attached to him, and any liability to be charged with or to pay tax to which he would have been subject under this Act if he had not died, shall pass to his personal representative, and the amount of any tax payable by the personal representative under this section shall be a debt due from and payable out of the estate of the deceased:
- Provided that-**
- (a) any assessment or additional assessment shall not be made later than the third year of assessment following that in which such person dies; and
- (b) in the case of any person dying during the year preceding the year of assessment, if the personal representative distributes the estate before the commencement of the year of assessment, such personal representative shall pay any tax for that year of assessment at the rate or rates in force at the date of distribution of the estate if the rate of tax for that year of assessment has not been fixed at that date.
- Deduction of tax
from premiums
paid in respect
- 55.** (1) Where any person pays any premium (other than a premium to which section 58 applies) to a foreign company in respect of insurance (including re-insurance) other than long-term

of insurance
other than
long term
insurance
(31 of 1970
25 of 1971)

insurance, then whether or not such premium is remitted outside Guyana, the person making the payment shall deduct therefrom tax at the rate of-

- (a) ten percent of the premium where payment is made to a foreign company which has not established a place of business in Guyana;
- (b) six per cent of the premium payment where payment is made to a foreign company which has established a place of business in Guyana,

and shall forthwith render an account to the Commissioner-General of the amount so deducted and every such amount shall be a debt due from that person to the Government:

Provided that where such a premium is received in Guyana by a Company, the obligation to deduct the tax imposed by this subsection and to render an account to the Commissioner-General shall lie on the company.

- (2) In the case of a company making the payment of the premium, the aforesaid account shall be rendered by the manager or other principal officer of the company.
- (3) Any person who fails or neglects to comply with the requirements of this section shall be guilty of an offence.
- (4) For the purposes of this section, the amount of the premium on which tax is payable shall be the amount remaining after deducting from the premium in case of insurance any commission paid to an agent resident in Guyana, and in the case of re-insurance the amount received for placing the re-insurance:

Provided that the maximum amount of commission or other sum which shall be allowed as a deduction under this subsection shall be ten per cent of the premium.

- (5) In this section, "foreign company" means a company the control of and management of whose business are exercised outside Guyana.

Agents of non-
residents to be

- 56.** Where any person pays or transmits any dividend, interest, rent, royalty, premium, annuity or other annual payment derived from any

assessed for tax (31 of 1970) source within Guyana to a person not resident in Guyana, the first named person shall be deemed to be the agent of the person not resident in Guyana and shall, subject to section 39, be assessed and pay tax accordingly.

Returns of claims for allowances to the Commissioner-General (11 of 1962) 13 of 1996) **57.** Any person whether an employee or the holder of an office or a pensioner to whom any payment is made at any time during the year 1963 or any year thereafter of or on account of any emoluments may, and any such person who is required by the Commissioner-General so to do shall, within the time specified by the Commissioner-General, for the purpose of enabling any deductions which may be made under section 93 to be calculated with reference to the allowances to which such person may be entitled under regulations made under section 117, submit to the Commissioner-General in a form approved by the Commissioner-General a claim for allowances.

RETURNS AND PARTICULARS OF INCOME

Returns to be furnished to the Commissioner-General (6 of 1947) 26 of 1949) 11 of 1962) 2 of 1978) 18 of 1980) 11 of 1983) 5 of 1987) 6 of 1989) 9 of 1991) 8 of 1992) 13 of 1993) 3 of 1995) 3 of 1996) 13 of 1996) 17 of 1997) 4 of 2003) 15 of 2003) 9 of 2006) 12 of 2007) 2 of 2008) **58.** (1) Every person being

(a) an individual whose income is not less than four hundred and twenty thousand dollars;

(b) a body of persons which was registered in or carried on business in Guyana,

shall on or before the prescribed day in every year deliver to the Commissioner-General a true and correct return of the whole of his income from every source whatsoever for the year immediately preceding the year of assessment, and shall if absent from Guyana give the name and address of an agent residing therein.

(2) The Commissioner-General may by notice in writing require any person to furnish him within a specified time any particulars in writing he requires for any purpose relating to the administration or enforcement of this Act, whether or not the person has been previously assessed or additionally assessed, with respect to the income, assets and liabilities of such person or of his wife.

(3) The Commissioner-General may, by not less than fourteen days notice in writing, require any person to attend before him and answer questions with respect to the income, assets and liabilities of the person or of his wife and produce all books or other documents in his custody or under his control relating to

such income, assets and liabilities.

- (4) The Commissioner-General may by notice in writing require any person or the attorney of any person, or the Secretary, attorney, manager, agent, or other principal officer of a company, residing in Guyana to make returns under this Act within the time specified by the notice.
- (5) Notwithstanding subsection (1) the Commissioner-General may require any individual who derives income from sources other than employment to deliver to the Commissioner-General a return comprising all sources of income.
- (6) Notwithstanding subsection (1) individuals taxable on income determined by a presumptive method under section 28A for a year shall file a simplified return for that year in accordance with regulations under that section.
- (7) The Minister may by regulations provide that individuals having no income for a year other than employment income with respect to which tax is withheld by the employer or interest income subject to withholding tax, or both, are not required to file a return for that year, provided that the Minister is satisfied that adequate compliance measures are in place.
- (8) Any person who refuses, fails, or neglects to perform any act required by this section shall be guilty of an offence.

Taxpayer
identification
number
(15 of 2006)

59. (1) Notwithstanding any other law, any person who makes an application to or is issued any permission, licence, authority or any such other document by any of the following entities –

Act 13 of 1996

(a) a Government Department;

Act 21 of 1988

(b) a Public Authority including Guyana Revenue Authority established under the Revenue Authority Act 1996 or a local authority;

(c) a Public Corporation established under the Public Corporations Act 1988 or any other law or other State Agency;

Cap. 85:02

(d) the Central Bank established under section 3 of the Bank of Guyana Act;

may be required to furnish the person processing the application or issuing the document with the taxpayer identification number (hereinafter referred to as the TIN number) of the person who makes the application.

- (2) Where any person referred to in subsection (1) fails to furnish his TIN number when required to do so, the public entity referred to in subsection (1) shall not process the application or issue the document.
- (3) In this Act “the taxpayer identification number” means the Guyana Revenue Authority taxpayer identification number assigned by the Revenue Authority to a taxpayer for the purpose of transacting business with the Authority under this Act.
- (4) Every employer shall record on the return made under section 61 (2) the TIN number of every employee, pensioner or annuitant from whose emoluments tax was deducted or to whom he paid a pension or an annuity.
- (5) The following persons shall be exempt from the compliance with the provisions of subsections (1), (2) and (3) –
 - (a) any person under the age of fifteen years;
 - (b) any person specified in section 13 but only in respect of emoluments of persons referred to in that section;
 - (c) temporary residents in Guyana not in receipt of income where the total period of residence in Guyana does not exceed one hundred and eighty-three days in the year;
 - (d) a person who satisfies the Revenue Authority that he is not in receipt of income or not required to furnish a return of income under this section.

Government and municipal officers to supply particulars; employers to make returns relating to

- 60.** (1) The Commissioner-General may require any officer in the employment of the Government or any municipality or other public body to supply any particulars required for the purposes of this Act and which may be in the possession of the officer, but the officer shall not be obliged by virtue of this section to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

- employees
(1 of 1949
26 of 1949
18 of 1951
11 of 1962
2 of 1986)
s 8. (13 of 1996)
- (2) Every employer shall, on or before the prescribed day in every year of assessment, prepare and submit to the Commissioner-General a return containing-
- (a) the names and places of residence of all those employed by him during the year immediately preceding except those who were not employed in any other employment and whose remunerations in the employment for the year did not exceed such amount or amounts as may be prescribed;
- (b) the payments and allowances made to those persons in respect of that employment;
- (c) the amount of tax deducted or withheld from the emoluments of every person aforesaid.
- (3) Where the employer is a body of persons, the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company or person engaged in the management of a company shall be deemed to be a person employed.
- (4) Any person who refuses, fails, or neglects to perform any act required by this section shall be guilty of an offence.
- Persons to estimate tax
(31 of 1970)
- 61.** Every person required by section 60 to deliver or submit a return of income shall in the return estimate the amount of tax payable.
- Power to require information
(18 of 1951
11 of 1962
8 of 1992)
s 8. (13 of 1996)
- 62.** (1) Every person who may be so required by the Commissioner-General shall within the time fixed by the Commissioner-General give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner-General for the purpose of enabling the Commissioner-General to make an assessment or to collect tax.
- (2) For the purposes of this section the Commissioner-General may require any person to give him information, or to permit him or any person duly authorised by him in writing in that behalf, to inspect any records of any moneys, funds or other assets held by him on his own behalf, or which may be held by him for, or of any moneys due by him to, any other person.

- (3) Every person who-
- (a) fails to give to the Commissioner -General any information required in accordance with this section; or
 - (b) fails to produce for the inspection of the Commissioner-General or any person duly authorised by him as aforesaid any of the records specified in subsection (2) which he may be required by the Commissioner-General or such duly authorised person to produce,

shall be liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for six months.

Information
by affidavit
(28 of 1991)
s 8. (13 of 1996)

- 63.** The Commissioner-General or any officer duly authorised in that behalf by him may, for any purpose connected with the administration or enforcement of this Act or other Acts administered by him, administer oaths, and take and receive affidavits, declarations and affirmations, and such oaths affidavits, declarations or affirmations shall be of the same force and effect as if administered, taken or received by a Commissioner of Oaths to Affidavits.

Powers
of the
Commissioner
-General
(18 of 1951
8 of 1992)
s 8. (13 of 1996)

- 64.** (1) The Commissioner-General or any officer duly authorised in writing in that behalf by him may enter any premises used for industrial, business or trade purposes at all reasonable times for the purpose of obtaining any information required for the application of this Act.
- (2) Any person who refuses to permit the Commissioner-General or such an officer after production of his authority, to enter any such premises or obstructs the Commissioner-General or such an officer in the discharge of his functions under the preceding subsection shall be liable on summary conviction to a fine of fifteen thousand dollars or to imprisonment for six months.

Accounts and
records
(2 of 1978)
8. (13 of 1996)

- 65.** (1) Every person carrying on any business, trade, profession or vocation shall keep proper accounts and records of his income and expenditure in the manner prescribed by the Minister to enable the Commissioner-General to make an assessment upon him under this Act, and such person shall retain the accounts and records for a period of at least eight years after the completion of the transactions, acts or operations to which they relate.

- c.81:03
- (2) Subsection (1) shall not require the preservation of any accounts or records in respect of which the Commissioner-General has notified any such person in writing that their preservation is not required.
- (3) Any non-resident company, within the meaning of the Corporation Tax Act, operating in Guyana shall keep in Guyana in the manner prescribed under subsection (1) all relevant accounts and records with respect to the business carried on by the company in Guyana.
- (4) Without prejudice to subsection (5), where a person has failed to keep proper accounts and records as prescribed the Commissioner-General may add to the assessment a sum of one hundred dollars or five percent of the amount of the tax assessed, whichever is greater, and such sum shall be deemed to be part of the tax assessed and shall be recoverable accordingly to make assessments under this Act.
- (5) Any person who refuses, fails or neglects to keep accounts and records as prescribed shall be guilty of an offence.
- Partnerships
(11 of 1962
17 of 1966A)
- 66.** Where a trade, business, profession or vocation is carried on by two or more persons jointly-
- (a) the income of any partner from the partnership shall be deemed to be the share to which he was entitled during the year preceding the year of assessment in the income of the partnership (that income being ascertained in accordance with this Act) and shall be included in the return of income to be made by the partner under this Act;
- (b) (i) the precedent partner, that is to say, the partner who of the partners resident in Guyana-
- (A) is first named in the agreement of partnership;
or
- (B) if there be no agreement, is named singly or with precedence over the other partners in the usual name of the firm; or
- (C) 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, that income being ascertained in accordance with this Act, and declare therein the names and addresses of the other partners in the firm together with the amount of the share of the said income to which each partner was entitled for that year;

- (ii) where no partner is resident in Guyana, the return shall be made and delivered by the attorney, agent, manager, or factor of the firm resident in Guyana.

- Offences
(26 of 1949)
- 67.** Any person who refuses, fails or neglects to deliver any return required by the last preceding section shall be guilty of an offence.
- Payment by companies of tax in accordance with disclosed chargeable income
(47 of 1974)
s 8. (13 of 1996)
- 68.** Without prejudice to any other provisions of this Act requiring the payment by a company of tax by instalments or in advance, a company which has, in accordance with section 62, estimated in a return of the company the amount of tax payable by it in respect of year of assessment shall pay to the Commissioner-General-
- (a) on or before 31st January, 1975, where such return is for a year of assessment prior to the year of assessment commencing 1st January, 1975; or
- (b) on or before 30th April of the year of assessment, where such return is for every subsequent year of assessment reckoning from 1st January, 1975,
- the balance of the tax estimated by the company in accordance with section 62, regard being had to any payment by instalments or in advance as aforementioned.
- Payment of tax by installments
(31 of 1970)
s 8. (13 of 1996)
- 69.** (1) Notwithstanding section 97, but subject to this section, every person shall pay to the Commissioner-General on or before 1st April, 1st July, 1st October and 31st December, respectively, in each year of income, an amount equal to one-quarter of the tax as estimated by him at the rates specified in section 36 on his estimated chargeable income for the year, and, on or before 30th April in the next ensuing year, the remainder of the tax, as estimated by him under section 62.
- (2) For the purposes of subsection (1), the estimated chargeable income of any person for a year of income shall be taken to be the chargeable income as disclosed in his return, if any, of total income for the preceding year of income.

s 8. (13 of 1996)

- (3) Where the estimated chargeable income of any person for the year of income as provided for by subsection (2) is, in the opinion of such person, likely to be less than the chargeable income of the preceding year, on an application by such person for the purpose, the Commissioner-General may revise the estimated chargeable income of that person and the amount of tax chargeable thereon, and the provisions of subsection (1) shall apply accordingly.
- (4) The Commissioner-General may estimate the amount of tax payable by any person where -
 - (a) that person fails to make a return required by section 60(1);
 - (b) no tax was payable in the year immediately preceding the year of income, and upon making a demand therefor in writing of such person, subsection (1) shall apply accordingly, as if the estimate of the Commissioner-General was the estimate of such person.
- (5) Where an individual is in receipt of emoluments, to which section 93 applies in the year of income, the provisions of subsection (1) shall not apply to that individual in respect of that part of his income arising or accruing to him from emoluments received by him in the year of income, but the installment of tax payable under subsection (1) shall be at the highest rates, as if that part of his income arising or accruing to him from emoluments as aforesaid was included in his estimated chargeable income for the year.
- (6) Where amounts have been deducted or withheld under section 93(1) from the emoluments received by an individual in a year of income, if the emoluments from which such amounts have been deducted or withheld and which he had received in the year, are equal to or greater than three-quarters of his total income for the year, he shall, on or before the 30th April in the next year, pay to the Commissioner-General the remainder of his tax for the year as estimated under section 62.
- (7) Where the income of an individual for a year of income consists solely of income from emoluments to which section 93 applies, that individual shall, on or before the 30th April in the next year, pay to the Commissioner-General the remainder of his tax, if any, as estimated by him under section 62.

ASSESSMENTS

- Commissioner
-General
to make
assessments
(26 of 1949
18 of 1951
11 of 1962
2 of 1978)
s 8. (13 of 1996)
- 70.**
- (1) The Commissioner -General shall proceed to assess every person chargeable with the tax as soon as may be after the day prescribed for delivering the returns.
- (2) Where a person has delivered a return the Commissioner-General may-
- (a) accept the return and make an assessment accordingly;
or
- (b) refuse to accept the return and, to the best of his judgment, determine the amount of the chargeable income of the person and assess him accordingly.
- (3) Where a person has not delivered a return on or before the due date (including such particulars as are required by section 49 (11) the Commissioner-General may make a provisional assessment of chargeable income within eight months after the prescribed date based on-
- (a) in the case of a person carrying on a trade or business, seven and one-half per cent of the turnover of the year previous to the year preceding the year of assessment; or where the turnover for that year has not been ascertained, on such reasonable estimate of that turnover as the Commissioner-General to the best of his judgment may determine;
- (b) in the case of a person exercising a profession or vocation, such average earnings of the particular profession or vocation as the Commissioner-General to the best of his knowledge may determine,

Y.A. 1978

but the assessment shall not affect any liability otherwise incurred by the person by reason of his refusal, failure, or neglect to deliver a return, and notwithstanding the provisions of section 78 it shall not be lawful for any person to dispute such an assessment unless he delivers a true and correct return within the period provided for by section 78(3) within which objections to an assessment shall be made.

- (4) Where a person has not delivered a return and the Commissioner-General is of the opinion that the person is liable to pay tax, he may, according to the best of his judgment, determine the amount of the chargeable income of that person and assess him accordingly, but the assessment shall not affect any liability otherwise incurred by the person by reason of his refusal, failure, or neglect, to deliver a return.

Recovery of
tax in certain
cases (5 of
1932)
s 8. (13 of 1996)

- 71.** (1) If in any particular case the Commissioner-General has reason to believe that a person who has been assessed to tax is about to leave Guyana before the expiration of the time allowed for payment of such tax under section 97 or 103 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 within the time so limited and in default of payment shall be recoverable forthwith by process of parate execution or in the manner prescribed by section 104 unless security for payment thereof be given to the satisfaction of the Commissioner-General.
- (2) If in any particular case the Commissioner-General has reason to believe that tax upon any chargeable income of a person who is likely to leave Guyana before he has been assessed to tax may not be recovered should the provisions of this Act be adhered to he may at any time and as the case may require -
- (a) 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;
- (b) make an assessment upon such person on the amount of the income returned or, if default is made in making such return or the Commissioner-General is dissatisfied with such return and on such amount as the Commissioner-General may think reasonable; and
- (c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to his satisfaction.
- (3) If in any particular case the Commissioner-General has reason to believe that tax upon any income which would for any year of assessment become chargeable to such tax may not be recovered should the provision of this Act be adhered to he

may at any time-

- (a) by notice in writing to the person by whom the tax would be payable determine a period for which tax shall be charged and require such person to render within the time specified therein returns and particulars of such income for that period; and
- (Y.A.1978)
- (b) make an assessment upon such person on the amount of the income returned or, if default is made in making a return or the Commissioner-General is dissatisfied with such return, on such amount as the Commissioner-General may think reasonable. Such assessment shall be made at the rate of tax in force at the time the assessment is made.
- s 8. (13 of 1996)
- (4) Notice of any assessment made in accordance with subsection (2) or (3) shall be given to the person assessed, and any tax so assessed shall be payable on demand made in writing under the hand of the Commissioner-General and shall in default of payment be recoverable forthwith by process of parate execution or in the manner prescribed by section 104 unless security for the payment thereof be given to the satisfaction of the Commissioner-General.
- 13 of 1993
- (5) Any person who has paid the tax in accordance with a demand made by Commissioner-General or who has given security for such payment shall have the rights of objection and appeal conferred by sections 78 and 86 and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.
- (6) Subsections (2) and (3) shall not affect the power conferred upon the Commissioner -General by section 72.
- (7) Notwithstanding anything in this Act, where the Commissioner-General is of the opinion that any person is about to or is likely to leave Guyana without making arrangements to the satisfaction of the Commissioner-General, when required by the Commissioner-General to do so, for the payment of all income tax that is or may become payable by that person under this Act on his income accruing in or derived from Guyana or elsewhere up to and including the year in which he proposes to leave Guyana, the Commissioner-General may issue a direction to the Commissioner of Police or Chief

s 8. (13 of 1996) Immigration Officer, or both, to prevent such person from leaving without paying the taxes or furnishing security to the satisfaction of the Commissioner-General for the payment thereof.

Additional assessment (6 of 1947 26 of 1949 11 of 1962 31 of 1970) s 8. (13 of 1996) **72.** Where it appears to the Commissioner-General that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner-General may, within the year of assessment (commencing with the year of assessment 1942) or within seven years after the expiration thereof, assess the person at such amount or additional amount as according to his judgment ought to have been charged, and the provisions of this Act as to notice of assessment, appeal, and other proceedings hereunder shall apply to that assessment or additional assessment and to the tax charged under it:

Provided that where any fraud or any gross or willful neglect has been committed by or on behalf of any person in connection with or in relation to tax for any year of assessment, an assessment in relation to such year of assessment may made at any time.

Commissioner-General may disregard certain transactions and dispositions. (3 of 1949) s 8. (13 of 1996) **73.** (1) Where the Commissioner-General is of the opinion that, any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that, any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the person concerned shall be assessable accordingly.

(2) In this section "disposition" includes any trust, grant, covenant, agreement or arrangement.

Transfers of property income (18 of 1951 49 of 1952 4 of 1958 11 of 1962 11 of 1983 9 of 1991 28 of 1991) **74.** (1) Where any person transfers property to a minor either directly or indirectly or through the intervention of a trust or by any other means whatsoever, whether before or after the coming into effect of this section, such person shall, nevertheless, during the period of the minority of the transferee, 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

s 8. (13 of 1996)

substituted therefor, as if such transfer had not been made, unless the Commissioner-General is satisfied that such transfer was not made for the purpose of avoiding tax.

- (2) Where any person transfers, whether before or after the coming into effect of this section, 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, whether before or after the coming into effect of this section, that during the lifetime of the donor no disposition and no 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.
- (3) Notwithstanding anything to the contrary in this Act, where a company has, directly or indirectly, at any time before the end of the year immediately preceding the year of assessment, whether before or after the coming into effect of this subsection transferred, assigned or otherwise disposed of to any person otherwise than for valuable and sufficient consideration the right to income that would if the right thereto had not been so transferred, assigned or otherwise disposed of be included in ascertaining its chargeable income for the year immediately preceding the year of assessment, because the income transferred assigned or otherwise disposed of would have been received or receivable by it in or in respect of that year, such income shall be included in ascertaining the chargeable income of the company, and not the chargeable income of any other person, for that year, unless the income is from property and the company has also transferred, assigned or otherwise disposed of such property to that person, or unless the income has been transferred, assigned or otherwise disposed of for a period exceeding two years for the benefit of any ecclesiastical, charitable or educational institution, organisation or endowment of a public character within Guyana, or elsewhere as may be approved by the Minister for the purposes of section 7(e) of the Corporation Tax Act;

c. 81:03

Provided that where only the income has been transferred, assigned or otherwise disposed of (not being a case where the income is from property and such property has been transferred, assigned or disposed of) (hereinafter referred to as

transferred income), whether before or after the coming into effect of this proviso, to or for the benefit of any such institution, organisation or endowment, the amount of such income to be excluded from ascertaining the chargeable income of the transferor shall not exceed one-tenth part of the chargeable income estimated in accordance with the provisions of this Act (including the transferred income).

Provided further that nothing in this subsection shall apply to income the right to which has been transferred, assigned or otherwise disposed of to or for the benefit of any ecclesiastical, charitable or educational institution, organisation or endowment of a public character before the 1st January, 1958.

- (4) Where any person has either directly or indirectly created a trust or has covenanted in respect of any income, whether before or after the coming into effect of this section, and the income under that trust or by virtue of that covenant in the year preceding the year of assessment is during the life of the settlor payable to or accumulated for, or applicable for the benefit of a child or children of that person such child or children being under the age of twenty-one years and unmarried, such income shall be deemed to be the income of the settlor and not that of any other person.
- (5) In this section "disposition" includes any trust, grant, covenant, agreement or arrangement.

Lists of
persons
assessed
s 8. (13 of 1996)

- 75.** (1) The Commissioner-General shall as soon as possible prepare lists of those assessed to tax.
- (2) The lists (herein called the assessment lists) shall contain the names and addresses of those assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and any other necessary particulars.

Appointment
of agent in
United
Kingdom
(4 of 1958)
s 8. (13 of 1996)

- 76.** (1) 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 inquiries on behalf of the Commissioner-General in respect of any of those persons to whom such appointment relates who apply to be dealt with through the agent and ascertain and report to the Commissioner-General the amount of the chargeable income of the person in accordance with this Act,

and shall transmit to the Commissioner-General the accounts and computations upon which the report is based.

- (2) The Commissioner-General on receipt of the report shall enter the amount reported in the assessment list; but if it appears to him that any error has occurred in the accounts or computation he may refer the report back for further consideration.
- (3) Nothing in this section shall prevent the appeal to a judge in Guyana conferred by section 86.

Notice of
assessment
and power of
Commissioner
-General
to revise in
case of
objection
6 of 1947
26 of 1949
22 of 1956
11 of 1962
25 of 1971)
s 8. (13 of 1996)

- 77.**
- (1) The Commissioner-General shall cause to be served on every person whose name appears on the assessment lists a notice stating the amount of his chargeable income, the amount of tax payable by him, the amount of tax withheld or deducted from his emoluments, and informing him of his rights under the next subsection.
 - (2) If any person disputes the assessment he may apply to the Commissioner-General, by notice of objection in writing served on the Commissioner-General by registered post, to review and to revise the assessment made upon him.
 - (3) The application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment, but the Commissioner-General, upon being satisfied that owing to absence from Guyana, sickness, or other reasonable cause, the person disputing the assessment was prevented from making the application within that period, shall extend the period as may be reasonable in the circumstances.
 - (4) On receipt of the notice of objection referred to in subsections (2) and (3), the Commissioner-General may require the persons giving the notice of objection to furnish any particulars the Commissioner-General deems necessary with respect to the income, assets and liabilities of the person assessed or of his wife and to produce all books or other documents in his custody or under his control relating to such income, assets and liabilities and may summon any person whom the Commissioner-General considers to be able to give evidence respecting the assessment to attend before him and may examine the person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

s 8. (13 of 1996)

- (5) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner-General as to the amount at which he is liable to be assessed, the amount so agreed shall be the amount at which that person shall stand assessed and the assessment shall be confirmed or amended accordingly:

Provided that, in the event of any person who, under subsections (2) and (3), has applied to the Commissioner-General for a revision of the assessment made upon him failing to agree with the Commissioner-General as to the amount at which he is liable to be assessed, his right of appeal to the Board of Review constituted under section 79 or to a judge under this Act against the assessment made upon him, shall remain unimpaired.

- (6) Any person who refuses, fails or neglects to perform any act required by the Commissioner-General to be done in pursuance of the provisions of subsection (4) shall be guilty of an offence.

Board of
Review
(22 of 1956
7 of 1970
3 of 1976)

- 78.** (1) There shall be established three Boards of Review or such greater number as may be prescribed by Order of the Minister, which shall be subject to negative resolution of the National Assembly, for the purpose of hearing appeals as hereinafter provided and a reference hereinafter in this Act or in any regulations made under this section or section 85, to the Board, or a Board, shall be construed and have effect as a reference to a Board of Review established under this section.
- (2) A Board shall consist of not less than three and not more than five members who shall be appointed by the President.
- (3) No person who is employed in the public service shall be appointed as a member of the Board.
- (4) Three members present at any meeting of the Board shall constitute a quorum for the performance of its functions.
- (5) A member may by writing under his hand addressed to the Secretary to the Office of the President resign from the Board.
- (6) The Board shall meet when summoned by the Chairman.

- (7) The remuneration and any travelling and subsistence allowances of the Board shall be prescribed by the President.
- (8) Where the Board is unable to arrive at a unanimous decision on the hearing of any appeal, the decision of the majority shall prevail.
- (9) Every decision of the Board shall be in writing under the hand of the Chairman.

Appointment of officers of the Board (22 of 1956)

79. The Minister may appoint a secretary to the Board (hereinafter referred to as "the Secretary") and such other officers and servants of the Board as may be necessary at such remuneration as may be specified.

Minutes of the Board (22 of 1956)

80. The Board shall cause to be kept proper minutes of their acts and proceedings.

Appeals to the Board against assessments (22 of 1956 31 of 1970) s 8. (13 of 1996)

81. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner-General as provided in section 78(5) may appeal to the Board by lodging with the Secretary within fifteen days from the date of refusal of the Commissioner-General to amend the assessment as desired, four copies of the notice of appeal stating concisely the grounds upon which he desires to appeal, and by serving a copy of such notice on the Commissioner-General within the said time.

(2) Every such notice shall be signed by the appellant personally or by a solicitor on his behalf, and such notice shall contain the appellant's address and, if the notice has been signed by a solicitor, the business address of such solicitor.

(3) Where any person satisfies the Board that owing to his absence from Guyana, or from illness or other reasonable cause he was prevented from complying with subsection (1), the Board may grant him leave to serve his notice of appeal in the manner hereinbefore prescribed notwithstanding that the period of fifteen days has elapsed.

(4) Save with the consent of the Board and on such terms as the Board may determine an appellant may not, on the hearing of an appeal, rely on any grounds other than those stated in the notice of appeal.

s 8. (13 of 1996)

- (5) No appeal shall lie to the Board unless the person aggrieved by an assessment made upon him by the Commissioner-General has paid to the Commissioner-General tax equal to two-thirds of the tax which is in dispute.
- (6) Upon the receipt of any notice of appeal, and on being satisfied that the appellant has paid the amount of tax as required by subsection (5), the Secretary shall fix a time and place for the hearing of the appeal, and shall give not less than fourteen days' notice in writing of such fixture to the appellant and the Commissioner-General.
- (7) Immediately after receiving the copy of the petition of appeal from the Secretary to the Board, the Commissioner-General shall forward to the Board copies of all documents relevant to the assessment.
- (8) Every appellant shall attend in person before the Board on the day and at the time fixed for the hearing of his appeal:

Provided that, if it be proved to the satisfaction of the Board that owing to absence from Guyana, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the Board may postpone the hearing of the appeal for any reasonable time it considers necessary for the attendance of the appellant, or in any case it may admit the appeal to be made by counsel, solicitor, accountant, any agent, clerk or servant, of the appellant, on the appellant's behalf.
- (9) The Commissioner-General may appear in person or may be represented at the hearing by any member of his Department or by solicitor or counsel.
- (10) The onus of proving that the assessment appealed against is excessive shall be on the appellant.
- (11) The Board may, after hearing an appeal, confirm, reduce, increase, or annul, the assessment or make such order thereon as it may seem fit.
- (12) The Secretary to the Board shall, upon the disposition of an appeal, forward a copy of the decision and the reasons therefor to the Commissioner-General and to the appellant.

- s 8. (13 of 1996)
- (13) Notice of the amount of tax payable under the assessment as determined by the Board shall be served by the Commissioner-General upon the appellant.
- (14) Notwithstanding anything contained in section 97, if the Board is satisfied that the balance of tax in accordance with its decision upon appeal may not be recovered, the Board may require the appellant forthwith to furnish such security for payment of the balance of the tax, if any, which may become payable by the appellant as may seem to the Board to be proper. If such security is not given, the tax assessed shall become payable forthwith and shall be recoverable by process of parate execution or in the manner prescribed by section 104.
- (15) All appeals under this Act shall be heard in camera:
- Provided that-**
- (a) the Board may, on application of the appellant in any appeal, direct that that appeal be heard in public;
- (b) where, in the opinion of the Board, any proceedings heard in camera shall be reported, the Board may authorise publication of the facts of the case, the arguments and decision without disclosing the name of the appellant.
- (16) No costs may be awarded on the disposition of an appeal by the Board.
- Powers of the Board (22 of 1956)
- 82.** (1) The Board shall have the power to summon witnesses and to call for the production of books and documents and to examine witnesses on oath, and no member of the Board shall be liable to any action or suit for any matter or thing done by him as such member.
- (2) Any summons to a witness to attend before the Board to give evidence or to produce any book or document shall be signed by the Chairman and oaths may be administered by the Chairman.
- Duty of witnesses summoned (22 of 1956)
- 83.** (1) Any person summoned to attend and give evidence before the Board or to produce any books or documents shall be bound to obey such summons and any person who, without reasonable excuse fails so to do, shall be liable on summary conviction to

a fine of seventy-five dollars.

- (2) Any person who, being before the Board in pursuance of any summons, refuses to give evidence or refuses without lawful excuse to produce any book or document in his custody or control when required to do so by the Board shall be liable on summary conviction to a fine of seventy-five dollars:

Provided that no person giving evidence before the Board shall be compellable to answer any question if in the opinion of the Board the answer would tend to expose the witness, his wife, or her husband to any criminal charge or to any penalty or forfeiture other than civil proceedings at the instance of the State or of any other person.

Regulations
(22 of 1956)

84. The Minister may make regulations -

- (a) prescribing the manner in which appeals shall be made to the Board;
- (b) prescribing the procedure to be adopted by the Board in hearing appeals and the records to be kept by the Board; and
- (c) generally for the better carrying out of the provisions of this section.

Appeals to a
judge or the
Full Court
against
assessments
(26 of 1949
22 of 1956
21 of 1958
11 of 1962
31 of 1970)
s 8. (13 of 1996)

85. (1) (a) Subject to section 98, any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner-General in the manner provided in section 78(5) or having appealed to the Board under section 82, is aggrieved by the decision of such Board, may appeal against the assessment or decision, as the case may be, to a judge in chambers upon giving notice in writing to the Commissioner-General within thirty days from the date of the refusal of the Commissioner-General to amend the assessment as desired or within thirty days after the date of the decision of the Board as the case may be.

- (b) The Commissioner-General may, if he is dissatisfied with the decision of the Board, appeal against the decision to a judge in chambers upon giving notice in writing to the other party to the appeal under section 82 within thirty days after the date of such decision and the

s 8. (13 of 1996)

provisions of this section in so far as they are applicable shall apply to any such appeal by the Commissioner-General:

Provided that, notwithstanding the lapse of the period of thirty days, any person may appeal against an assessment or decision as the case may be if he shows to the satisfaction of a judge in chambers that, owing to absence from Guyana, sickness, or other reasonable cause, he was prevented from giving notice of appeal within the said period and that there has been no unreasonable delay on his part.

- (2) The appeal shall be brought by summons, and evidence shall be received at the hearing if tendered.
- (3) Every person appealing shall attend in person before the judge on the day and at the time fixed for the hearing of his appeal:

Provided that, if it be proved to the satisfaction of the judge that owing to absence from Guyana, sickness, or other reasonable cause, any person is prevented from attending in person at the hearing of his appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of the appeal for any reasonable time he thinks necessary for the attendance of the appellant, or he may admit the appeal to be made by any agent, clerk, or servant, of the appellant, on the appellant's behalf.

- (4) Seven clear days' notice, unless rules made hereunder otherwise provide, shall be given to the Commissioner-General of the date fixed for the hearing of the appeal.
- (5) The onus of proving that the assessment complained of is excessive shall be on the person assessed.
- (6) If the judge is satisfied that the appellant is overcharged he may reduce the amount of the assessment by the amount of the overcharge and if he is satisfied that the appellant is undercharged he may increase the amount of the assessment by the amount of the undercharge and where a judge has reduced the amount of the assessment the Commissioner-General shall forthwith refund the amount of the overcharge to the appellant together with interest calculated at the rate of twelve percent of the amount of the overcharge.

- s 8. (13 of 1996)
- (7) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner-General upon the appellant.
 - (8) All appeals shall be heard in camera, unless the judge, on the application of the appellant, otherwise directs.
 - (9) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.
 - (10) The decision of the judge on any question other than a question of law shall be final.
 - (11) The Chief Justice may make rules governing the appeals providing for the method of tendering evidence, appointing places for the hearing of the appeals, and prescribing the procedure to be followed on a case being stated.
 - (12) Any assessment or additional assessment which becomes necessary in order to give effect to a decision on appeal under this section, may be made at any time notwithstanding that the time limited by section 72 for the making of an assessment or additional assessment has expired.
- Errors in assessments and notices
- 86.**
- (1) No assessment, warrant, or other proceeding, purporting to be made in accordance with 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 proceeding is in substance and effect in conformity with or according to the intent and meaning of this Act, and if the person assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.
 - (2) An assessment shall not be impeached or affected
 - (a) by reason of a mistake therein as to -
 - (i) the name or surname of a person; or
 - (ii) the description of any income; or
 - (iii) the amount of tax charged;
 - (b) by reason of any variance between the assessment and

the notice thereof:

Provided that in case of assessment the notice thereof shall be duly served on the person intended to be charged and shall contain in substance and effect, the particulars on which the assessment is made.

Evidence
s 8. (13 of 1996)

- 87.** The production of any document under the hand of the Commissioner-General or of any person or persons appointed by him, purporting to be a copy of or extract from any return or assessment, shall in all courts and in all proceedings be sufficient evidence of the original, and the production of the original shall not be necessary; and all courts shall in all proceedings take judicial notice of the signature of the Commissioner-General, or of any person or persons appointed by him, either to the original or to the copy or extract.

RELIEF IN CASES OF DOUBLE TAXATION

Relief from
Double
Taxation
(31 of 1970)

- 88.** (1) If the Minister by order declares that arrangements specified in the order have been made with the Government of any country 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 country, and that it is expedient that those arrangements should have effect, then subject to the provisions of the next succeeding section the arrangements shall, notwithstanding anything in any enactment, have effect in relation to income tax in so far as-
- (a) they provide for relief from tax; or
 - (b) they provide for-
 - (i) charging the income arising from sources in Guyana to persons not resident in Guyana; or
 - (ii) determining the income to be attributed to such persons and their agencies, branches or establishments in Guyana; or

(iii) determining the income to be attributed to persons resident in Guyana who have special relationships with persons not so resident.

(2) The provisions of Part I of the Fourth Schedule shall have effect where arrangements which have effect by virtue of this section provide that tax payable under the laws of the country concerned shall be allowed as a credit against tax payable in Guyana.

(3) The Minister may by regulations, which shall be subject to negative resolution of the National Assembly, amend the Fourth Schedule or substitute a new schedule therefor.

(4) Where, under any arrangements which have effect by virtue of this section, relief may be given either in Guyana or in the country with the Government of which the arrangements are made, in respect of any income, and it appears that the assessment to income tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the arrangements, any such assessment may be made as is necessary to ensure that the total amount of the income assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in Guyana for payment, any such assessment may be made on the recipient of the income under this Act.

(5) Any arrangements to which effect is given under this section may include provision for relief from tax for periods before the commencement of this section or before the making of the arrangements and provisions as to income which is not itself subject to double taxation, and the preceding provisions of this section shall have effect accordingly.

(6) Any order made under this section may be revoked by a subsequent order and such revoking order may contain such transitional provisions as appear necessary and expedient.

Unilateral
Relief.

89. (1) To the extent appearing from the following provisions of this section and Parts II and III of the Fourth Schedule, relief from income tax shall be given in respect of income tax payable under the law of any country outside Guyana by allowing the last mentioned as a credit against income tax payable in Guyana notwithstanding that there are not for the time being in

force any arrangements under section 89 providing for such relief.

- (2) The said relief (hereinafter referred to in this section and in Parts II and III of the Fourth Schedule as “Unilateral Relief”) shall be such relief as would fall to be given under Part I of the Fourth Schedule if arrangements with the Government of the foreign country containing such provision as appears in so much of Part II of the Fourth Schedule as applied to that country were in force by virtue of section 89, and any reference occurring in the said Part 1 which imports a reference to relief under arrangements for the time being in force by virtue of section 89 shall be deemed to import also a reference to unilateral relief:

Provided that-

- (a) the total credit to be allowed by way of unilateral relief in the case of any income shall not, if the country is within prescribed Commonwealth countries, exceed one-half and in any other case one quarter of the sum of the limits specified in regulations 4 and 5 of Part 1 of the Fourth Schedule; and
- (b) the provisions of Part 1 of the Fourth Schedule shall, as respects unilateral relief, have effect subject to the provisions set out in Part 111 the said Fourth Schedule.
- (3) Where unilateral relief may be given in respect of any income and it appears that the assessment to income tax in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given by way of unilateral relief, any such assessment may be made as is necessary to ensure that the total amount of income is assessed and the proper credit, if any is given in respect thereof, and where the income is entrusted to any person in Guyana for payment, any such assessment may be made on the recipient of the income under this Act.
- (4) References in this section and in Parts II and III of the Fourth Schedule to tax payable or tax paid under the law of a country outside Guyana include only references to taxes which are charged on income or profits and correspond to income tax in

Guyana, and, without prejudice to the generality of the foregoing, a tax which is payable under the law of a province, state or other part of a country, or which is levied by or on behalf of a municipality or other local body, shall not be deemed for the purposes of this subsection to correspond to income tax.

- Power to vary withholding tax
(31 of 1970)
- 90.** If the Minister, by order, so provides, the rate of withholding tax shall be reduced to the extent so provided as respects any person, notwithstanding that there are not for the time being in force any arrangements under section 89 providing for such relief.
- Official Secrecy
(22 of 1956)
- 91.** Where, under any law in force in any part of Commonwealth, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Guyana, the obligation as to secrecy imposed by section 4 shall not prevent the disclosure to the authorised officers of the Government in that part of the Commonwealth of any facts necessary to enable the proper relief to be given in cases where relief is claimed from income tax in Guyana or from income tax in that part or place aforesaid.
- Exchange of information
(14 of 1989)
- 92.** (1) The Government may enter into an agreement with the Government of any other country for the exchange of information for the prevention of evasion or avoidance of income tax chargeable under this Act or under the corresponding law in force in that country, the investigation of cases, of such evasion or avoidance, or other matters relating to income tax.
- (2) (a) The Minister may by order declare that an agreement referred to in subsection (1) shall have effect in accordance with its terms throughout and for its duration in relation to income tax notwithstanding anything in any other written law.
- (b) The Minister may subject to negative resolution of the National Assembly, make regulations for carrying out any agreement referred to in subsection (1).
- (c) The obligation as to secrecy imposed by section 4 shall not prevent the disclosure to an authorised officer of the Government of a country with which an agreement, referred to in subsection (1), has been entered any information within the requirement or contemplation of that agreement.

COLLECTION AND REPAYMENT OF TAX

Deduction and
payment of
emoluments
(11 of 1962)
s 8. (13 of 1996)

- 93.** (1) Notwithstanding any provision of this Act to the contrary, on the making of any payment on or after the 1st day of January 1963, to any employee, holder of any office or on account of any emoluments (including, except the Commissioner-General allows otherwise, any payments made in advance of emoluments or payment on loan to be repaid out of emoluments) arising or accruing in or derived from or received in Guyana during the year 1963 or any year thereafter, tax shall, subject to and in accordance with any regulations made under section 117, be deducted or withheld by the employer or the person making the payment notwithstanding that when the payment is made no assessment has been made in respect of the emoluments or that the tax on the emoluments is for a year of assessment other than the year during which the payment is made:

Provided that if any question arises whether any emoluments are or are not emoluments in respect of which tax shall be deducted or withheld pursuant to this section, such question shall be determined by the Commissioner-General subject to any provisions as to appeals against such determination as may be provided by the regulations made under section 117, and to the provisions of this Act relating to appeals.

- (2) The tax deducted or withheld as required by subsection (1) shall, subject to and in accordance with any regulations made under section 117, be paid to the Commissioner-General by the employer or the person deducting or withholding the same at such time or times and by such date or dates as may be prescribed and on the payment thereof the Commissioner-General shall send to the employer or such person a receipt which shall to the extent of the amount referred to therein be a good and sufficient discharge of the liability of the employer or such person for any amount deducted or withheld as required by the provisions of this section.
- (3) Subject to subsection (10), where an amount has been deducted or withheld under subsection (1) from the emoluments of any person, it shall, for the purposes of this Act, be deemed to have been received by such person at the time of the deduction or withholding thereof.

s 8. (13 of 1996)

- (4) If any person shall fail-
 - (a) to deduct or withhold any amount required to be deducted or withheld by him by subsection (1); or
 - (b) to remit or pay to the Commissioner-General any amount which he is required by subsection (2) to pay to the Commissioner-General by such date or dates as may be prescribed, he shall be guilty of an offence; and in addition to such amount there shall become payable by such person to the Commissioner-General, unless the Commissioner-General otherwise directs, a sum of ten percent of such amount or ten dollars whichever is the greater and section 99(1)(a) shall apply in relation to such amount and to such additional sum as if the same were tax payable by such person on the date when such amount was required to be deducted, withheld, remitted or paid, as the case may be.
- (5) All amounts deducted or withheld by any person pursuant to subsection (1) shall be deemed to be held in trust by such person for the State and shall not be subject to attachment in respect of any debt or liability of the said person and in the event of any liquidation, assignment, or bankruptcy the said amounts shall form no part of the estate in liquidation, assignment or bankruptcy but shall be paid in full to the Commissioner-General before any distribution of the property is made.
- (6) Every person who shall have deducted or withheld any tax pursuant to subsection (1) shall deliver personally or send by post within such time or times as may be prescribed to the person from whose emoluments the tax was deducted or withheld or to such other person as may be prescribed such certificate or statement or account relating to the amount of emoluments and the amount of tax deducted by him as may be prescribed.
- (7) If any person shall fail to comply with subsection (6) or shall fail to deliver or send to the Commissioner-General within such time or times as may be prescribed, any return, certificate or account or any copy thereof which he may be required by regulations made under section 117 to deliver or send to the Commissioner-General for the purpose of rendering him accountable to the Commissioner-General for any tax deducted

s 8. (13 of 1996)

or withheld by him pursuant to the provisions of this section, or to enable the Commissioner-General to give credit for tax deducted or withheld to the person from whose emoluments the tax was deducted or withheld, he shall be liable on summary conviction to a fine of ten dollars for every day during which such failure shall continue:

Provided that it shall be a good and sufficient defence to any complaint brought under this subsection that any such failure was not due to wilful neglect or default of the defendant or of any person acting on his behalf.

- (8) No action shall lie against any person for deducting or withholding any sum of money in compliance or intended compliance with subsection (1).
- (9) Where by this Act any obligation is imposed on any person to deduct or withhold any tax pursuant to the provisions of subsection (1) any agreement made by any such person not to deduct or withhold such tax shall be void and of no force or effect whatsoever.
- (10) Every person from whose emoluments any amount shall be deducted or withheld pursuant to subsection (1) shall upon the amount being so deducted or withheld be deemed to have paid the same and shall thereupon cease to be liable for tax to the extent of the amount so deducted or withheld.
- (11) The provisions of this Act requiring a person to deduct or withhold an amount in respect of taxes from emoluments payable to any person shall apply to the Government.
- (12) Where a trade, business, profession or vocation is carried on by two or more persons jointly, the precedent partner of the partnership as defined in section 66 (b) (C) shall be personally liable for the performance of the duties required by the preceding provisions of this section to be performed by the person making the payment or deducting or withholding any amount of tax; and where a trade, business, profession or vocation is carried on by a company, the managing director and the secretary of the company shall each, in addition to the company itself, be personally liable for the performance of the said duties.

- Commissioner
-General
to prepare tax
tables
(11 of 1962)
s 8. (13 of 1996)
- 94.** The Commissioner-General shall from time to time as occasion may require prepare tax tables, a copy whereof shall be made available to any person required by this Act or any regulations made under section 117 thereof to deduct or withhold tax pursuant to section 93(1), for the purpose of enabling any such person to calculate subject to and in accordance with any regulations made under the said section 117 the amount of any tax to be so deducted or withheld.
- Transitional
provisions
(25 of 1962)
- 95.** (1) Notwithstanding anything contained in this Act, but subject to this section, income tax on all emoluments arising or accruing in or derived from or received in Guyana during the year 1962 is hereby discharged.
- (2) Income tax shall not be discharged as aforesaid unless the person entitled to any emoluments arising or accruing in or derived from or received in Guyana during the year 1962 is at some time during the year 1963 in receipt of emoluments arising or accruing in or derived from or received in Guyana during the year 1963 from which deductions are made in accordance with section 93:

Provided that-

- (a) where the emoluments arising or accruing in or derived from or received in Guyana during the year 1962 exceed or are at a rate in excess of the aforesaid emoluments arising or accruing in or derived from or received in Guyana in the year 1963, the income tax on the emoluments for the year 1962 assessable under this Act in the year of assessment 1963 which shall be discharged shall be computed as if the emoluments for the year 1962 were the same as or were at the same rate as the aforesaid emoluments for 1963;
- (b) where a person is:-
- (i) resident in Guyana during part of the year 1963 and during some other part of that year is not resident in Guyana, or
- (ii) employed in Guyana during part of the year 1963 and during some other part of that year is not so employed,

so that emoluments received in the year 1963 from which deductions are made in accordance

with section93 do not represent emoluments of a full year, the income tax on the emoluments for the year 1962 assessable under this Act in the year of assessment 1963 which shall be discharged shall be an amount which bears to the full amount of the income tax assessable on such emoluments the same proportion as the period of residence or the period of employment in 1963, as the case may be, whichever is the lesser bears to a full year.

- (3) For the purpose of determining the amount of income tax on any emoluments which form a part only of the total income assessed to income tax pursuant to this Act, the amount of income tax on such emoluments shall be an amount that bears to the full amount of income tax so assessed the same proportion that the emoluments bear to the total income.

Special provisions 96.
for payment of
tax by
Companies
(28 of 1969
6 of 1989)
Effective
Y/A 1990
s 8. (13 of 1996)

- (1) Notwithstanding anything to the contrary in the other provisions of this Act, it shall be lawful for the Minister to prescribe the times for, and the manner of payment of, any advance on account of tax by a company in respect of the year of assessment succeeding the year in which such payment is required to be made pursuant to a prescription under this section, based provisionally on the chargeable income of the company for the year preceding the year in which payment is required to be made aforesaid, or on such other amount as may be agreed on with the Commissioner -General:

Provided that the Commissioner -General may require any company to pay any advance on account of tax based provisionally on the chargeable income of that company for each quarter of the year in which such income was earned by the company, if the Commissioner -General is satisfied that such basis will result in the satisfactory payment of the tax which the company ought to pay on its income for the year of assessment.

Provided further that if any question arises whether the income is income in respect of which the advance shall be paid pursuant to this section such question shall be determined by the Commissioner -General and the provisions of this Act and

s 8. (13 of 1996) any regulations made thereunder relating to appeals against an assessment made by the Commissioner -General shall subject to subsection (2), apply to a determination by the Commissioner- General under this section.

- (2) Nothing contained in section 97 (2) or section 103 shall be construed as applying to a determination of the Commissioner-General referred to in the provisos to subsection (1) of this section which is the subject of an appeal by virtue of this section.

COLLECTION AND REPAYMENT OF TAX

Time within which payment is to be made
(18 of 1951 II of 1962)
s 8. (13 of 1996)
Procedure in cases where objection or appeal is pending

97. (1) Tax shall be payable to the Commissioner -General on or before the prescribed date or dates, and a different date or dates may be prescribed for different classes of persons.

- (2) Collection of tax shall, in cases where notice of an objection or an appeal has been given, remain in abeyance until the objection or appeal is determined; but the Commissioner-General may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

- (3) Nothing contained in subsection (2) of this section or section 103 shall apply or be construed as applying to any provisions as to appeal referred to in the proviso to section 93 (1) which may be contained in any regulations made under section 117.

- (4) Notwithstanding anything contained in this Act, if the Commissioner -General is satisfied that tax remaining in abeyance under subsection (2) may not be recovered, or that the person giving the notice of objection is unreasonably delaying to proceed with his objection, the Commissioner -General may by notice in writing demand payment of the tax remaining in abeyance and if the tax is not paid within thirty days from the receipt of such notice payment thereof may be enforced under this Act.

(15 of 2003) (5) If any tax is not paid on or before the prescribed due date, the Commissioner-General shall serve a demand note upon the persons assessed, and if payment is not made within thirty days the Commissioner-General may proceed to enforce payment by process of parate execution.

(15 of 2003)
s 8. (13 of 1996)

- (6) Any document signed by the Commissioner-General containing a statement of the amount due in respect of income tax shall without proof of the signature or without proof of any other matter or thing be deemed by all courts to be prima facie evidence of the amount claimed being due and correct.

Appellant
to pay tax
31 of 1970
s 8. (13 of 1996)

98. No appeal shall lie under section 86(1)(a) to a judge by a person aggrieved by an assessment made upon him by the Commissioner - General or by a decision of the Board, unless that person has paid to the Commissioner -General the whole amount of tax which is in dispute under the assessment made upon him.

Penalties for
late payment
and failure to
file a return.
(15 of 2003)

99. (1) If a taxpayer fails to pay income tax on or before the due date, the taxpayer shall be liable to pay a penalty of-
- (a) two percent of the unpaid amount for each month or part thereof that the tax remains unpaid during the first three months after the due date;
 - (b) three percent per month or part thereof during the next three months;
 - (c) four percent per month or part thereof during the next six months;
 - (d) five percent per month or part thereof thereafter:

8. (13 of 1996)

Provided, however, that if the taxpayer has entered into an installment arrangement with the Commissioner-General the penalty amount shall be one percent per month or part thereof beginning on the date the installment arrangement takes effect.

- (2) If a taxpayer fails to file a tax return as required under section 60(1) or (4B) by the due date specified therein, the taxpayer is liable to pay a penalty of two percent of the amount of tax assessed.
- (3) If a taxpayer fails to file a tax return as required under section 60(4) by the due date specified therein, the taxpayer is liable to pay a penalty of five percent of the amount tax assessed.
- (4) In the case of any penalty imposed under this section, the amount of penalty shall be deemed to be part of the tax assessed and shall be recoverable accordingly; provided,

s 8. (13 of 1996) however, that nothing in this subsection shall limit the Commissioner-General authority to reduce or waive the amount of penalty as provided in section 108.

Certificates
(11 of 1962)
s 8. (13 of 1996)

100. (1) Where any payment payable to the Commissioner-General under section 93 or under any other provision of this Act has not been paid within thirty days after payment thereof became due, the Commissioner-General may make out a certificate in such form as may be prescribed stating the amount payable and the name, the trade or profession and the usual or last known place of business or abode of the person by whom such amount is payable.

(2) On production thereof to the Registrar of the Supreme Court, a certificate made under this section shall be registered by him in the High Court and when so registered shall have the same force and effect, and all proceedings may be taken thereon as if the said certificate were a judgement for the State obtained in the High Court for a debt of the amount specified in the certificate together with any interest required to be paid by this Act to the day of payment.

c.3:02 (3) Rules of Court may be made under section 67 of the High Court Act providing for the procedure to be followed upon the registration of such certificate.

(4) All reasonable costs and charges attendant upon the registration of the certificate shall be recoverable in like manner as if they had been included in such certificate.

Garnishments
(11 of 1962)
s 8. (13 of 1996)

101. (1) When the Commissioner -General's has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment of tax under this Act, he may, by registered letter or by letter served personally, require such first-mentioned person to pay the moneys otherwise payable to such second-mentioned person in whole or in part to him on account of the liability of the second mentioned person under this Act.

- s 8. (13 of 1996) (2) The receipt of the Commissioner-General for moneys paid as required under this section shall to the extent of the payment be a good and sufficient discharge of the original liability -
- (a) of the person who pays such moneys to the Commissioner-General to the person liable to make a payment of tax under this Act;
 - (b) of the person liable to make a payment of tax under this Act to the Commissioner-General.
- s 8. (13 of 1996) (3) Where the Commissioner-General, under this section, has required an employer to pay to him on account of the liability under this Act of an employee or pensioner to whom he pays a pension, as the case may be, moneys otherwise payable by the employer to the employee or pensioner as emoluments, the requirement shall be applicable to all future payments by the employer to the employee or pensioner in respect of emoluments until the liability of the employee or pensioner under this Act is satisfied and shall operate to require payments to the Commissioner-General out of each payment of emoluments due to the employee or pensioner of such amount as may be stipulated by the Commissioner-General in the registered or other letter.
- (4) Every person who has discharged any liability to a person liable to make payment of tax under this Act without complying with a requirement under this section shall be liable to pay to the Commissioner-General as a debt due to the State an amount equal to the liability discharged or the amount which he was required under this section to pay to the Commissioner-General whichever is the less.
- (5) Where the person who is or is about to become indebted or liable carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.
- (6) Where the persons who are or are about to become indebted or liable carry on business in partnership, the registered or other

letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of the partnership.

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| <p>Collection of tax after determination of objection or appeal
(11 of 1962)</p> | <p>102. Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of an appeal, the tax outstanding under the assessment as determined on the objection or appeal, as the case may be, shall be payable within thirty days from the receipt by the person assessed of the notification of the tax payable, and if the tax is not paid within that period payment thereof may be enforced under this Act.</p> |
| <p>Suit for tax by Commissioner-General
(11 of 1962)</p> | <p>103. Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner-General in his official name with full costs of suit from the person charged therewith as a debt due to the Government as well as the means provided in any other provisions of this Act relating to the collection, recovery and enforcement of the payment of tax.</p> |
| <p>Power to remit tax.
(13 of 2008)</p> | <p>104. The Minister may make regulations, subject to negative resolution of the National Assembly, to provide for the remitting wholly or in part of the tax payable by any person or category of persons on such income, in respect of any year of assessment, and in accordance with such conditions as may be specified in the regulations.</p> |
| <p>Repayment of tax
(6 of 1947
26 of 1949
31 of 1970)
s 8. (13 of 1996)</p> | <p>105. (1) If it be proved to the satisfaction of the Commissioner-General 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, that person shall be entitled to have the amount so paid in excess refunded.</p> <p>(2) Every claim for repayment under this section shall be made within seven years from the end of the year of assessment to which the claim relates.</p> <p>(3) The Commissioner-General shall give a certificate of the amount to be repaid and upon receipt of the certificate the Accountant General shall cause repayment to be made in conformity therewith.</p> <p>(4) 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 that person has failed or</p> |

- s 8. (13 of 1996)
- neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return (provided he has received notice of the assessment made upon him for that year) unless it is proved to the satisfaction of the Commissioner-General that the failure or neglect to deliver a true and correct return did not proceed from any fraud or wilful act or omission on the part of that person.
- Refund of excess tax collected under section 93 (11 of 1962)
- 106.** Notwithstanding anything to the contrary contained in section 106, where, after assessment has been made in accordance with this Act, any amount collected as required by section 93 is found to be in excess of the amount of tax shown to be payable in an assessment, the excess shall be refunded as soon as practicable thereafter to the person from whose emoluments the tax was deducted or withheld.
- Remission of certain penalties (18 of 1951
25 of 1962
15 of 2003)
Cap. 73:01
s 8. (13 of 1996)
- 107.** (1) The Commissioner-General may without the authority of any subsidiary or other legislation for good cause shown, remit the whole or part of any penalty imposed under section 99.
- (2) For purposes of this section, “good cause” means circumstances specified in section 6(1C) of the Financial Administration and Audit Act, or, with respect to a particular taxpayer, when there is doubt as to collectability that can be resolved by a whole or partial waiver of the penalty.

OFFENCES

- Penalties for offences (8 of 1992)
- 108.** Anyone guilty of an offence against this Act shall be liable on summary conviction to a fine of fifteen thousand dollars.
- Penalty for making incorrect return (18 of 1951
25 of 1962
8 of 1992)
- 109.** (1) Every person who without reasonable excuse-
- (a) makes an incorrect return by omitting or understating any income of which he is required by this Act to make a return, whether on his own behalf or on behalf of another person; or
- (b) makes an incorrect statement in connection with a claim for a deduction in estimating taxable income; or
- (c) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person,

shall notwithstanding anything to the contrary contained in this Act be liable on summary conviction to a fine -

- (i) of fifteen thousand dollars; and
- (ii) double the amount of the tax which has been undercharged in consequence of such incorrect return, statement, or information, or would have been so undercharged if the return, statement, or information had been accepted as correct.

s 8. (13 of 1996)

- (2) The Commissioner-General may compound any offence under this section, and may, before judgement, stay or compound any proceedings thereunder. When the Commissioner-General has compounded any such offence, the sum for which the offence is compounded shall be deemed to be tax assessed under this Act and all the powers of the Commissioner-General under this Act to enforce payment and recovery of any assessment shall apply to the payment and recovery of the sum compounded as if it were tax assessed under this Act:

Provided that sections 78 and 86 shall not apply to any composition deemed to be tax assessed under this subsection.

False
statements
and returns
(26 of 1949
18 of 1951
42 of 1952
22 of 1956
11 of 1962
25 of 1962
8 of 1992)

- 110.** (1) Any person who-
 - (a) (i) for the purpose of obtaining any deduction, rebate, reduction, or repayment in respect of tax for himself or for any other person, or
 - (ii) in any return, account, or particulars, made or furnished with reference to tax, knowingly makes any false statement or false representations; or
 - (b) aids, abets, assists, counsels, incites, or induces another person-
 - (i) to make or deliver any false return or statement under this Act; or
 - (ii) to keep or prepare any false accounts or particulars concerning any income on which tax

is payable under this Act, shall be liable on summary conviction to a fine of-

- (i) fifteen thousand dollars; and
- (ii) treble the amount of the tax which has been undercharged in consequence of such false account, particulars, return, statement, information, or representation, or would have been so undercharged if the account, particulars, return, statement, information, or representation had been accepted as correct, and to imprisonment for six months.

s 8. (13 of 1996)

- (2) The Commissioner-General may compound any offence under this section, and may, before judgement, stay or compound any proceedings thereunder. When the Commissioner-General has compounded any such offence, the sum for which the offence is compounded shall be deemed to be tax assessed under this Act and all the powers of the Commissioner-General under this Act to enforce payment and recovery of any assessment shall apply to the payment and recovery of the sum compounded as if it were tax assessed under this Act:

Provided that sections 78 and 86 shall not apply to any composition deemed to be tax assessed under this subsection.

- (3) For the purposes of this section a false statement or false representation must be presumed to have been knowingly made-
 - (a) whenever it reveals a degree of negligence on behalf of the person making it which is inconsistent with his obligation under this Act to make a true and correct return, account, statement, representation or declaration, or true and correct particulars; or
 - (b) whenever a person fails to notify the Commissioner-General without unreasonable delay of any error or omission in any return, statement, declaration or representation, account or particulars furnished, delivered, made, kept or prepared, as the case may be, by him.

Impeding or
obstructing
Commissioner

- 111.** Any person who obstructs or impedes, or insults, or molests the Commissioner -General, or other officer in the discharge of his duties, or in his official capacity, or in the exercise of his powers under this

- General or officers
(26 of 1949)
s 8. (13 of 1996)
- Act, shall be guilty of an offence.
- Proceedings
(18 of 1951)
- 112.** Proceedings for an offence under this Act may be instituted at any time within six years after the commission of the offence.
- Saving for criminal proceedings
- 113.** The provisions of this Act shall not affect any criminal proceedings under any other written law.

GENERAL PROVISIONS

- Signing of notices
(26 of 1949)
s 8. (13 of 1996)
- 114.** (1) Every notice to be given by the Commissioner-General under this Act shall be signed by the Commissioner-General or by some person or persons from time to time appointed by him for that purpose, and the notice shall be valid if the signature of the Commissioner-General or of that person or those 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-General, or any notice under this Act requiring the attendance of any person or witness before the Commissioner-General, shall be personally signed by the Commissioner-General or by any person duly authorised by him.

- (2) A signature attached to a 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 is shown.

- Service of notices
- 115.** Notices may be served on a person either personally or by being sent through registered post to his last known business or private address, and shall in the latter event be deemed to have been served, in the case of those resident in Guyana, not later than the fifteenth day succeeding the day when posted, and in the case of those not so resident the thirtieth day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving the service it shall be sufficient to prove that the letter containing notice was properly addressed and posted.

- Regulations
(11 of 1962)
25 of 1962
- 116.** (1) The Minister may from time to time make regulations generally for carrying out the provisions of this Act and may in particular by those regulations provide for-

30 of 1968
31 of 1970
2 of 1978)

s 8. (13 of 1996)

- (a) the form of returns, claims, statements, and notices under this Act;
- (b) the method of calculating or estimating in general cases as well as in any particular trade, business, profession or vocation any deduction to be allowed under section 17;
- (c) the collection, recovery, and refund of tax;
- (d) the paying of tax by instalments, which may include instalments of tax for any year of assessment commencing after the coming into operation of this paragraph that are to be paid during the preceding year by persons in general or of any prescribed class, and the furnishing of estimates of chargeable income for the purposes of this paragraph;
- (e) requiring any person, including the Government making any payment of, or on account of any emoluments at the time of making the payment to make a deduction of tax, calculated by reference to tax tables prepared by the Commissioner-General, under section 94 and for rendering persons who are required to make any such deduction accountable to the Commissioner-General;
- (f) prescribing the method of determining the appropriate code for the purpose of deducting or withholding tax under section 93;
- (g) the production to and inspection by the Commissioner-General or any person authorised by him of wages sheets and other documents and records for the purpose of satisfying the Commissioner-General that tax has been and is being deducted, or withheld and accounted for in accordance with the regulations;
- (h) appeals with respect to matters arising under the regulations which would not otherwise be the subject of appeal;
- (i) regulating the times when, the dates on which or the period within which claims may be submitted under

section 59;

- (j) regulating the manner in which amounts of excess of tax are refunded under section 107;
- (k) prescribing the manner and form of keeping accounts and records of any business, trade, profession or vocation by any person chargeable with tax for the purpose of enabling the Commissioner-General to make assessments under this Act;
- (l) the amendment of the Third Schedule or the substitution of a new schedule therefor, but any regulation for the amendment of Part 1 of the said Schedule shall be subject to affirmative resolution of the National Assembly:

s 8. (13 of 1996)

Provided that this paragraph shall be without prejudice to any other provision in this Act authorising a reduction in the rate of withholding tax in any particular case or for any particular purpose.

- (2) Any regulations made under this section shall not affect any right of appeal to a judge in chambers which a person would have apart from such regulations.
- (3) If anyone fails to observe or contravenes any regulation made under this Act, he shall be guilty of an offence.

s.2

FIRST SCHEDULE(22 of 1956
4 of 1958)

Aden	Malta
Australia	Mauritius
Bahamas	New Hebrides
Barbados	New Zealand
Basutoland	Nigeria
Bechuanaland	North Berneo
Belize	Pakistan
Bermuda	St. Helena
British Soloman Islands	Sarawak
Brunei	Seychelles
Canada	Sierra Leone
Channel Islands	Singapore
Cyprus	Somaliland Protectorate Southern
Falkland Islands	Southern Rhodesia
Fiji	South-West Africa
Gambia	Sri Lanka
Ghana	Swaziland
Gibraltar	Tanzania
Gilbert & Ellice Islands	Tonga
Hong Kong	Trinidad & Tobago
India	Uganda
Isle of Man	Union of South Africa
Jamaica	United Kingdom of Great Britian and Northern Ireland
Kenya	Windward Islands
Leeward Islands	Zambia
Malawi	
Malaysia	

s.2

SECOND SCHEDULE

Amateur boxing	Hockey
Amateur wrestling	Horse racing
Athletics	Model aeroplane flying
Badminton	Netball
Baseball	Polo
Basketball	Roller-skating
Billiards	Rounders
Boat racing	Rugby
Cricket	Soft-ball
Croquet	Swimming
Cycling	Table tennis
Flying	Tenequoits
Football	Lawn Tennis
Goat racing	Water polo
Golf	Weightlifting
Hand-ball	Yachting

s. 39, 45, 46,
117
(31 of 1970
9 of 1991)

THIRD SCHEDULE

PART 1

Reg. 2 of 1972
(2 of 1978
9 of 1991
28 of 1991
3 of 1996
4 of 2003)

1. Withholding tax shall be at the rate of twenty percent on gross distributions, all payments and discounts on treasury bills.

PART 11

[DELETED BY 28 OF 1991]

s. 89 & 90
(31 of 1970)

FOURTH SCHEDULE

DOUBLE TAXATION REGULATIONS

PART 1

PROVISIONS AS TO RELIEF FROM INCOME TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX

INTERPRETATION

1. (1) In this Part of these Regulations
 - "Guyana tax" means income tax;
 - "foreign tax" means in relation to any country, arrangements with the Government of which have effect by virtue of section 89 of the Act, any tax chargeable under the laws of that country for which credit may be allowed under the arrangements;
 - "foreign income tax" means any foreign tax which corresponds to income tax;
 - "total income" means the aggregate amount of the income of any person from the sources specified in section 5 of the Act for a year of income.
- (2) Where arrangements having effect by virtue of the said section 89 of the Act provide for any tax chargeable under the laws of

the country concerned being treated as income tax, that tax shall, notwithstanding anything contained in this regulation be treated as foreign income tax, or foreign tax other than foreign income tax, as the case may be.

- (3) Any reference in these Regulations to foreign tax or foreign income tax shall be construed, in relation to credit to be allowed under any arrangements, as a reference only to tax chargeable under the laws of the country with the Government of which the arrangements were made.

GENERAL

2. (1) Subject to the provisions of these Regulations where, under the arrangements, credit is to be allowed against any Guyana tax chargeable in respect of any income, the amount of the Guyana taxes so chargeable shall be reduced by the amount of the credit.
- (2) Nothing contained in this regulation authorises the allowance of credit against any Guyana tax against which credit is not allowable under the arrangements.

REQUIREMENT AS TO RESIDENCE

3. Credit shall not be allowed against tax for any year of income unless the person in respect of whose income the tax is chargeable is resident in Guyana for that year.

LIMIT ON TOTAL CREDIT

4. The credit shall not exceed the amount which would be produced by computing the amount of the income of the person in question in accordance with the provisions of the 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 89 of the Act) on the total income by the amount of the total income.
5. Without prejudice to the provisions of the last preceding regulation, the total credit to be allowed to a person against income tax for any year of income for foreign tax under all arrangements having effect by virtue of section 89 of the Act, shall not exceed the total tax payable by him for that year.

**EFFECT ON COMPUTATION OF INCOME OF
ALLOWANCE OF CREDIT**

6. (1) 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 Guyana, 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 paragraph a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.
- (2) Subparagraphs (a) and (b) of the preceding paragraph (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in regulation 4 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 89 of the Act.
7. (1) Where, in the case of any dividend, foreign income tax not chargeable directly or by deduction in respect of the dividend is, under the arrangements, 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 foreign income tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

- (2) For the purposes of paragraph (1) the relevant profits are -
- (a) if the dividend is paid for a specified period, the profits of that period;
 - (b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits;
 - (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable:

Provided that if, in a case falling under subparagraph (a) or subparagraph (c), the total dividend exceeds the profits available for distribution of the period mentioned in subparagraph (a) or subparagraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph) as equal to the excess; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

8. 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.

MISCELLANEOUS

9. Subject to the following provisions of this Schedule, the sums Guyana tax chargeable in respect of the income of any person if he elects that credit shall not be allowed in respect of that income.
10. Subject to regulation 11, any claim for an allowance by way of credit for foreign tax in respect of any income shall be made not later than six years from the year of the income and in the event of any dispute or claim to which the adjustment gives rise, being an assessment as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.
11. Where the amount of any credit given under the arrangements is rendered excessive or insufficient by the reason of any adjustment of the amount of any tax payable either in Guyana or under the law of any other country, nothing in this Act or in any other enactment limiting the time for making assessments or claims for relief shall apply to any assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in Guyana or elsewhere, as are material in determining whether any, and if so, what credit falls to be given.

**PART II
PROVISION FOR CREDIT BY WAY OF
UNILATERAL RELIEF**

1. Credit for tax paid under the law of the country outside Guyana in respect of income arising in that country shall be allowed against Guyana tax chargeable in respect of that income.

Provided that where arrangements with the Government of the country are for the time being in force by virtue of section 89 of this Act, credit for tax paid under the law of the country shall not be allowed under this regulation in the case of any income if any credit for that tax is allowable under these arrangements in the case of that income.

2. Profits from or remuneration for personal or professional services performed in the country shall be deemed to be income arising in the country for the purpose of the preceding regulation.
3. Where a dividend paid by the company resident in the country is paid to a company resident in Guyana which owns not less than one-quarter of all classes of voting and non-voting stock in the company paying

the dividend, tax paid under the law of the country by the first mentioned company in respect of its profits shall be taken into account in considering whether any, and if so, what credit is to allowed in respect of the dividend.

PART 111

MODIFICATIONS OF PROVISIONS OF PART 1 APPLICABLE TO UNILATERAL RELIEF

Notwithstanding anything in regulation 3 of Part 1 of these regulations (which provides that relief by way of credit shall be given only where the person is resident in Guyana) credit by way of unilateral relief for tax paid under the law of any country in respect of income from an office or employment or profits the duties whereof are performed wholly or mainly in that country may be allowed against tax chargeable in respect of that income if the person is for the particular year of income, resident either in Guyana or that country.

FIFTH SCHEDULE

PART 1

Calculation of Export Allowances

- 11 of 1988 **1.** For the purposes of section 33C a deduction or an export allowance shall be calculated in accordance with the Table below –

TABLE

10 of 1997*	Where the percentage of export sales in relation to total sales shall be -	Percentage of export profit deductible as export allowances
	(a) is under 10 percent	Nil
	(b) is 10 percent or more but does not exceed 21 percent	25 percent
	(c) exceeds 21 percent but does not exceed 31 percent	35 percent
	(d) exceeds 31 percent but does exceed 41 percent	45 percent

- | | | |
|-----|---|------------|
| (e) | exceeds 41 percent but does not exceed 51 percent | 55 percent |
| (f) | exceeds 51 percent but does not exceed 61 percent | 65 percent |
| (g) | exceeds 61 percent | 75 percent |

* N.B. The amendment to the Fifth schedule took effect from 1st January 1997.

2. For the purposes of this part -

- (a) "total sales" means the proceeds of sales (ex-factory), of the total output of a company during a year of income;
- (b) "export sales" means the proceeds of sale (ex-factory), of the output of a company, exported to a country other than a country specified in Part II by the company either directly or through any other person, during a year of income;
- (c) in relation to the definitions of "total sales" and "export sales"-
 - (i) "proceeds of sale" shall not take into account any amount of excise duty and consumption tax paid in respect of the products sold that year;
 - (ii) "output" means the product of an industry to which the export allowance applies;
- (d) "export profit" means that percentage of the total sales profits of a year of income which the export sales bear to the total sales of that year of income;
- (e) "total sales profits" means the amount which would be charged to tax as chargeable profits of the company if-
 - (i) the manufacture or production and sale of the product to which the export allowance applies were the only source of profit of the company; and
 - (ii) no loss available as a deduction under section 19 were taken into account.

PART II

Countries to which export do not qualify for export allowance

Antigua and Barbuda	Montserrat
Barbados	St Christopher & Nevis
Belize	St Lucia
Dominica	St Vincent & the Grenadines
Grenada	
Jamaica	
Trinidad & Tobago	

PART III

Products which do not qualify for export allowance

Bauxite	Molasses
Gold	Rice
Diamond	Timber
Petroleum	Lumber
Sugar	Shrimp
Rum	