

REPORT

OF THE

INTER-DEPARTMENTAL COMMITTEE ON INCOME TAX

IN THE

COLONIES NOT POSSESSING RESPONSIBLE GOVERNMENT.

Presented to Parliament by Command of His Majesty.

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OF THE

Inter-departmental Committee on Income Tax in the Colonies not possessing responsible government.

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APPENDIX I.

MODEL INCOME TAX ORDINANCE.

AN ORDINANCE TO IMPOSE A TAX UPON INCOMES AND TO REGULATE THE COLLECTION THEREOF.

Be it enacted, etc.

1. This Ordinance may be cited for all purposes as the *Income Tax Short title Ordinance 19*

2. In this Ordinance, unless the context otherwise requires :—

Definition of certain general terms.

“Commissioner” means the Commissioner charged with the administration of this Ordinance.

“Company” means any company incorporated or registered under any law in force in the Colony, and any company which, though incorporated or registered outside the Colony, carries on business, or has an office or place of business therein.

“Person” includes a body of persons.

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

“Incapacitated person” means any infant, married woman, lunatic, idiot, or insane person.

“Prescribed” means prescribed by rule under this Ordinance.

“Tax” means the income tax imposed by this Ordinance.

“Year of assessment” means the period of twelve months commencing on the () day of (), 1923, and each subsequent period of twelve months.

“Chargeable income” means the aggregate amount of the income of any person from the sources specified in Section 5 remaining after allowing the appropriate deductions and exemptions under this Ordinance.

Administration.

3. For the due administration of this Ordinance the Governor may appoint a Commissioner and such collectors and other officers and persons as may be necessary and shall furnish such Commissioner and collectors with warrants of appointment under his hand.

Appointment of administrative authority.

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

Official secrecy.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the

income or items of income of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person—

- (a) other than a person to whom he is authorised by the Governor to communicate it ; or
 (b) otherwise than for the purposes of this Ordinance,
 shall be guilty of an offence against this Ordinance.

Imposition of Income Tax.

5. Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for the year of assessment commencing on () 1923 and for each subsequent year of assessment upon the income of any person accruing in, derived from, or received in, the Colony in respect of :—

- (a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession, or vocation may have been carried on or exercised ;
 (b) gains or profits from any employment, including the estimated annual value of any quarters or board or residence or of any other allowance granted in respect of employment whether in money or otherwise ;
 (c) the annual value of land and improvements thereon used by or on behalf of the owner or used rent-free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain or profit, such annual value being deemed to be [5] per cent. of the capital value of such land and improvements ;
 (d) dividends, interest or discounts ;
 (e) any pension, charge or annuity ;
 (f) rents, royalties, premiums and any other profits arising from property.

6. 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.

7. Where the Commissioner 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 may permit the gains or profits of that trade or business to be computed for the purposes of this Ordinance 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.

Exemptions.

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

- (a) the official emoluments received by the Officer Administering the Government ;
 (b) the income of any local authority in so far as such income is not derived from a trade or business carried on by the local authority ;
 (c) the income of any statutory or registered building or friendly society ;
 (d) the income of any ecclesiastical, charitable or educational institution of a public character in so far as such income is not derived from a trade or business carried on by such institution ;

- (e) the emoluments payable to members of the permanent consular services of foreign countries in respect of their offices or in respect of services rendered by them in their official capacity ;
 - (f) the emoluments payable from Imperial Funds to members of His Majesty's Forces and to persons in the permanent service of the Imperial Government in the Colony in respect of their offices under the Imperial Government ;
 - (g) wound and disability pensions granted to members of His Majesty's Forces ;
 - (h) gratuities granted to members of His Majesty's Forces in respect of services rendered during the late War ;
 - (i) the income of the Government Savings Bank ;
- provided that nothing in this section shall be construed to exempt in the hands of the recipients any dividends, interest, bonuses, salaries or wages paid wholly or in part out of the income so exempted.

9. The Governor may by proclamation published in the Gazette provide that the interest payable on any loan charged on the Public Revenue of the Colony shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in the Colony ; and such interest shall as from the date and to the extent specified in the Proclamation be exempt accordingly.

Ascertainment of chargeable income.

10.—(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 preceding the year of assessment by such person in the production of the income, including—

- (a) sums payable by such person by way of interest upon any money borrowed by him, where the Commissioner 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 any plant or machinery which was used or employed in such trade, business, profession or vocation, and which has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof ;
- (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 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 to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year, provided that all sums recovered during the said year on account of amounts previously

Deductions
allowed.

written off or allowed in respect of bad or doubtful debts shall for the purposes of this Ordinance be treated as receipts of the trade, business, profession or vocation for that year ;

(f) Such other deductions as may be prescribed by any rule made under this Ordinance.

(2) The Governor in Council may by rules provide for the method of calculating or estimating the deductions allowed or prescribed under this section.

Allowance for wear and tear.

11. In ascertaining the chargeable income of any person engaged in a trade, business, profession or vocation, there shall be allowed as a deduction a reasonable amount for the exhaustion, wear and tear of property owned by him, including plant and machinery, arising out of the use or employment of such property in the trade, business, profession or vocation during the year immediately preceding the year of assessment.

Deductions not to be allowed.

12. For the purpose of ascertaining the chargeable income of any person no deduction shall be allowed in respect of :—

- (a) domestic or private expenses ;
- (b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income ;
- (c) any capital withdrawn or any sum employed or intended to be employed as capital ;
- (d) any capital employed in improvements ;
- (e) any 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 Empire income tax as defined by this Ordinance.

Allowance of trade losses.

13. Where the amount of a loss incurred in the year preceding any year of assessment in any trade, business, profession or vocation carried on by any person either solely or in partnership is such that it cannot be wholly set-off against his income from other sources for the same year, the amount of such loss shall to the extent to which it is not allowed against his income from other sources for the same year be carried forward and shall, subject as is hereinafter provided, be set-off against what would otherwise have been his chargeable income for the next five years in succession, provided that the amount of any such loss allowed to be set off in computing the chargeable income of any year shall not be set-off in computing the chargeable income of any other year and provided also that in no case shall such set-off be allowed to an extent which would 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.

Deduction in respect of earned income.

14.—(1) For the purpose of ascertaining the chargeable income of any individual there shall be allowed in respect of so much of the income as is earned a sum equal to (one-tenth) of the amount of such earned income, provided that such deduction shall not in the case of any individual exceed (£200) ; and provided also that where a loss arises in the exercise of any trade, business, profession, or vocation or a loss is brought forward from a previous year under section thirteen of this Ordinance, no deduction shall be allowed except in respect of the amount, if any, by which the earned income exceeds such loss or the aggregate amount of such losses as the case may be.

(2) For the purposes of this section the expression “ earned income ”

means any income arising in respect of any gains or profits immediately derived by the individual from any trade, business, profession, employment or vocation carried on or exercised by him either as an individual or in the case of a partnership as a partner personally acting therein, or in respect of any pension, superannuation, or other allowance given in respect of past services of the individual or of the husband or parent of the individual or given to the individual in respect of the past services of any deceased person whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation or other allowance or not; after deducting the expenses referred to in sections ten and eleven of this Ordinance, but before allowing the other deductions to be made in arriving at chargeable income.

15. In ascertaining the chargeable income of an individual who is resident in the Colony or who is a British subject, there shall be allowed a deduction of £

Deduction in case of residents in the Colony and British Subjects.

16. In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had during the year immediately preceding the year of assessment his wife living with him or wholly maintained by him there shall be allowed a deduction of £ : provided that this deduction shall not be allowed in the case of any individual whose chargeable income would, apart from the deductions specified in this and the next section, exceed [£500].

Deduction for Wife.

17. In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had a child or children living and under the age of sixteen years at the commencement of the year preceding the year of assessment, there shall be allowed a deduction of £ in respect of every such child; provided that this deduction shall not be allowed in the case of any individual whose chargeable income would, apart from the deductions specified in this and the last preceding section, exceed [£500].

Deduction for Children.

The expressions "child" and "children" in this section include a step-child or step-children but do not include an illegitimate child or illegitimate children.

18. In ascertaining the chargeable income of any person who (a) shall have made insurance on his life or the life of his wife in any Insurance Company or, (b) shall have made annual contribution to the Widows' and Orphans' Fund in the Colony or such other Fund as the Governor may consider as equivalent to a Widows' and Orphans' Fund, there shall be allowed a deduction of the annual amount of the premium paid by him for such insurance or contribution as aforesaid: provided that no such deduction shall be allowed in respect of any such annual amount of premium or contribution beyond an amount equal to one-sixth part of the chargeable income of such person estimated in accordance with the provisions of this Ordinance before making the deductions specified in this section and in sections sixteen and seventeen of this Ordinance.

Deduction in respect of life insurance, and contribution to Widows' and Orphans' Fund.

19. Notwithstanding anything to the contrary contained in this Ordinance, it is hereby provided that:—

Special provisions as to certain companies and businesses.

- (1) in the case of an Insurance Company (other than a Life Insurance Company) where the gains or profits accrue in part outside the Colony, 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 the Colony (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

(1) Insurance Companies other than Life Insurance Companies.

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 the Colony and a fair proportion of the expenses of the head office of the Company :

(2) Life Insurance Companies.

(2) In the case of a Life Insurance Company, whether mutual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission) ; provided that where such a Company received premiums outside the Colony, the gains or profits shall be the same proportion of the total investment income of the Company as the premiums received in the Colony bore to the total premiums received after deducting from the amount so arrived at the agency expenses in the Colony and a fair proportion of the expenses of the head office of the Company.

Wife's Income.

20. The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee, provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

Rate of tax.

Rates of tax upon persons other than companies.

21. The tax upon the chargeable income of every person other than a company shall be charged at the following rates :—

For every pound of the first £.....

For every pound of the next £

For every pound of the next £

[and so on for every pound of the remainder].

Flat rate of tax on company.

22. The tax upon the chargeable income of a company shall be charged at the rate of on every £ of the chargeable income thereof.

Deduction of tax from dividends of companies.

23.—(1) Every company which is registered in the Colony shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections forty-six and forty-seven of this Ordinance) on the income out of which such dividend is paid, provided that where tax is not paid or payable by the company on the whole income out of which the dividend is paid the deduction shall be restricted to that portion of the dividend which is paid out of income on which tax is paid or payable by the company.

(2) Every such company shall upon payment of a dividend whether tax is deducted therefrom or not furnish each shareholder with a certificate setting forth the amount of the dividend paid to that shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend.

24. Any tax which a company has deducted or is entitled to deduct under the last preceding section from a dividend paid to a shareholder, and any tax applicable to the share to which any person is entitled in the income of a body of persons assessed under this Ordinance, shall, when such dividend or share is included in the chargeable income of such share-

holder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

25. Tax shall not be payable in respect of any income arising out of the Temporary Colony and received therein by any person who is in the Colony for some residents. temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in the Colony 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, etc.

26. A receiver appointed by the Court, trustee, guardian, curator, Chargeability or committee, having the direction, control, or management of any property of Trustees, or concern on behalf of any incapacitated person shall be chargeable to tax etc. in like manner and to the like amount as such person would be chargeable if he were not an incapacitated person.

27.—(1) A person not resident in the Colony (hereinafter in this section Chargeability referred to as a non-resident person), whether a British subject or not, of agent of shall be assessable and chargeable in the name of his trustee, guardian, person or committee, or of any attorney, factor, agent, receiver, branch, or residing out of the Colony manager, whether such attorney, factor, agent, receiver, branch, or manager has the receipt of the income or not, in like manner and to the like amount as such non-resident person would be assessed and charged if he were resident in the Colony and in the actual receipt of such income; provided that in the case of any individual who is not resident in the Colony, and who is not a British subject, no deduction shall be allowed in respect of earned income or in respect of wife or child or in respect of life insurance.

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

(2) Where a non-resident person, not being a British subject, or a firm or company whose principal place of business is situated in His Majesty's Dominions or in territory under His Majesty's protection, or a branch thereof, carries on business with a resident person, and it appears to the Commissioner that owing to the close connection between the resident person and the non-resident person and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged and is so arranged, that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to tax in the name of the resident person as if the resident person were an agent of the non-resident person.

(3) Where it appears to the Commissioner 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 or 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 such case the provision of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be furnished by the resident person of the business so done by the non-resident person through or with the

resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged; provided that the amount of the percentage shall in each case be determined, having regard to the nature of the business and shall, when determined by the Commissioner, be subject to an appeal to a Judge as provided by section forty-four of this Ordinance.

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

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

(6) Where a non-resident person is chargeable to tax in the name of any attorney, factor, agent, receiver, branch or manager, in respect of any gains or profits arising from the sale of goods or produce manufactured or produced out of the Colony 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 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 had bought from the manufacturer or producer direct, and on proof to the satisfaction of the Commissioner or Judge of the amount of the profits on the basis aforesaid, the assessment shall be made or amended accordingly.

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

23. 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 Ordinance for the assessment of the income of any person for whom he acts and for paying the tax chargeable thereon.

Lists to be prepared by representative or agent.

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

(a) a true and correct statement of all such income:

(b) the name and address of every person to whom the same shall belong:

and the provisions of this Ordinance with respect to the failure to deliver lists or particulars in accordance with a notice from the Commissioner shall apply to any such list.

Manager of corporate bodies of persons.

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

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

32. When any person dies during the year preceding the year of assessment and such person would but for his death have been chargeable to tax for the year of assessment or when any person dies during the year of assessment or within two years after the expiration thereof and no assessment has been made upon him for that year the personal representative of such person shall be liable to and charged with the payment of the tax with which such person would have been chargeable, and shall be answerable for doing all such acts, matters and things as such person if he were alive would be liable to do under this Ordinance, provided that in the case of a person dying during the year preceding the year of assessment if his personal representative distributes his estate before the commencement of the year of assessment such personal representative shall pay the tax at the rate or rates in force at the date of distribution of the estate, if the rate of tax for the year of assessment has not been fixed at that date. Deceased persons.

33.—(1) Where any person pays a mortgage or debenture interest to a person not resident in the Colony and is entitled to deduct such interest under section ten (i)(a) of this Ordinance, he shall upon paying the interest deduct therefrom tax at the rate of _____ on every £ of such interest, and shall forthwith render an account to the Commissioner of the amount so deducted, and every such amount shall be a debt from him to the Government of the Colony and shall be recoverable as such. Deduction of and accounting for tax on mortgage and debenture interest.

(2) In the case of a company the account aforesaid shall be rendered by the manager or other principal officer of the company.

(3) Any person who fails or neglects to render an account due under this section, shall be guilty of an offence against this Ordinance.

General Powers of Commissioner.

34.—(1) It shall be the duty of every person chargeable with tax to give notice to the Commissioner within three months after the commencement of any year of assessment that he is so chargeable. Notices of chargeability and returns.

(2) The Commissioner may by notice in writing require any person to furnish him within a reasonable time with a return of income and such particulars as may be required for the purposes of this Ordinance with respect to the income for which such person is chargeable.

(3) Any person who fails or neglects to give such notice of chargeability or to furnish such return or particulars shall be guilty of an offence against this Ordinance.

35.—(1) The Commissioner may require any officer in the employment of the Government or any municipality or other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer, provided that no such officer shall by virtue of this section be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy. Official information and official secrecy.

(2) Every employer when required to do so by notice from the Commissioner shall, within the time limited by the notice, prepare and deliver for any year a return containing—

- (a) the names and places of residence of all persons employed by him; and

- (b) the payments and allowances made to those persons in respect of that employment, except persons who are not employed in any other employment and whose remuneration in the employment for the year does not exceed £ ;

and the provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any such return.

Provided that an employer shall not be liable to any penalty for omitting from any such return the name or place of residence of any person employed by him and not employed in any other employment if it appears to the Commissioner, on enquiry, that such person has no chargeable income.

(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.

Partnerships.

36. Where a trade, business, profession or vocation is carried on by two or more persons jointly—

(1) 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 (such income being ascertained in accordance with the provisions of this Ordinance) and shall be included in the return of income to be made by such partner under the provisions of this Ordinance.

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

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

shall, when required by the Commissioner, make and deliver a return of the income of the partnership for any year, such income being ascertained in accordance with the provisions of this Ordinance, 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.

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

(c) The provisions of this Ordinance with respect to the failure to deliver returns or particulars in accordance with a notice from the Commissioner shall apply to any return required under this section.

Signature of notices.

37.—(1) Every notice to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon, provided that any notice in writing under this Ordinance to any person requiring him to furnish particulars to the Commissioner, or any notice under this Ordinance requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorised by him.

(2) A signature attached to any notice and purporting to be the signature of any person so appointed shall be taken to be the signature of that person until the contrary be shown.

38. Notice 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 case be deemed to have been served, in the case of persons resident in the Colony, not later than the day succeeding the day when posted, and in the case of persons not so resident the day succeeding the day on which the notice would have been received in the ordinary course by post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Assessments.

39.—(1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the expiration of the time allowed to such person for the delivery of his return.

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

40. Where it appears to the Commissioner 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 may, within the year of assessment or within two years after the expiration thereof, assess such person at such amount or additional amount, as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

41.—(1) The Commissioner shall as soon as possible prepare lists of persons assessed to tax.

(2) Such lists (herein called the assessment lists) shall contain the names and addresses of the persons assessed to tax, the amount of the chargeable income of each person, the amount of tax payable by him, and such other particulars as may be prescribed.

42. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint an agent in the United Kingdom who shall make enquiries on behalf of the Commissioner in respect of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment list; provided that if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration; and provided also that nothing in this section

shall prevent the appeal to a Judge in the Colony conferred by section forty-four of this Ordinance.

Power of
Commissioner to
revise assess-
ment in case
of objection.

43.—(1) The Commissioner shall cause to be served personally or sent by registered post to each person whose name appears on the assessment lists a notice addressed to him at his usual place of abode or business, stating the amount of his chargeable income and the amount of tax payable by him, and informing him of his rights under the next sub-section.

(2) If any person disputes the assessment he may apply to the Commissioner, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment, provided that the Commissioner, upon being satisfied that owing to absence from the Colony, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2) of this section, the Commissioner may require the person giving the notice of objection to furnish such particulars as the Commissioner may deem necessary with respect to the income of the person assessed and to produce all books or other documents in his custody or under his control relating to such income, and may summon any person who, he thinks, is able to give evidence respecting the assessment to attend before him and may examine such person (except the clerk, agent, servant, or other person confidentially employed in the affairs of the person to be charged) on oath or otherwise.

(4) In the event of any person assessed, who has objected to an assessment made upon him, agreeing with the Commissioner as to the amount at which he is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person :

Provided always that in the event of any person who, under sub-section (2) of this section, has applied to the Commissioner for a revision of the assessment made upon him failing to agree with the Commissioner as to the amount at which he is liable to be assessed his right of appeal to a Judge under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

Appeals
against
assessments.

44.—(1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in subsection (4) of the preceding section may appeal against the assessment to a Judge upon giving notice in writing to the Commissioner within fifteen days from the date of the refusal of the Commissioner to amend the assessment as desired :

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against the said assessment if he shows to the satisfaction of a Judge that, owing to absence from the Colony, sickness or other reasonable cause he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) Every person appealing shall attend before the Judge in person on the day and at the time fixed for the hearing of his appeal :

Provided always that if it be proved to the satisfaction of the Judge that owing to absence from the Colony, 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 such reasonable time as 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 his behalf.

(3) Seven clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Commissioner of the date fixed for the hearing of the appeal.

(4) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(5) 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.

(6) Notice of the amount of tax payable under the assessment as determined by the Judge shall be served by the Commissioner upon the appellant.

(7) All appeals shall be heard *in camera*, unless the Judge shall, on the application of the appellant, otherwise direct.

(8) 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.

(9) The decision of the Judge hearing the appeal shall be final; provided that the Judge hearing such appeal may, if he so desires, and shall, on the application of the appellant or the Commissioner, state a case on a question of law.

(10) The Chief Justice may make rules governing such appeals and providing for the method of tendering evidence and appointing places for the hearing of such appeals and prescribing the procedure to be followed on a case being stated.

45.—(1) No assessment, warrant or other proceeding purporting to be Errors, etc.,
made in accordance with the provisions of this Ordinance shall be quashed, in assessments
or deemed to be void or voidable, for want of form, or be affected by the and notices.
reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Ordinance or any Ordinance amending the same, 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 liable; 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 cases of assessment the notice thereof shall be duly served on the person intended to be charged and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in Cases of Double Taxation.

46.—(1) Any person who has paid, by deduction or otherwise, or is Relief in
liable to pay, tax under this Ordinance for any year of assessment on any respect of
part of his income and who proves to the satisfaction of the Commissioner United
that he has paid, by deduction or otherwise, or is liable to pay, income tax Kingdom
in the United Kingdom for that year in respect of the same part of his Income Tax.
income, shall be entitled to relief from tax under this Ordinance paid or
payable by him on that part of his income at a rate equal to the amount
by which the rate of tax appropriate to his case under this Ordinance
exceeds half the appropriate rate of United Kingdom tax. If, however,

the rate of tax appropriate to his case under this Ordinance exceeds the appropriate rate of United Kingdom tax he shall be entitled only to relief at a rate equal to half the appropriate rate of United Kingdom tax.

(2) For the purposes of this section a certificate issued by or on behalf of the Commissioners of Inland Revenue in the United Kingdom shall be receivable in evidence to show what is the appropriate rate of United Kingdom tax in any particular case.

(3) For the purposes of this section the expression "rate of tax" when applied to tax paid or payable under this Ordinance means the rate determined by dividing the amount of the tax paid or payable for the year (before the deduction of the relief granted under this section) by the amount of the income in respect of which the tax paid or payable under this Ordinance has been charged for that year except that where the income which is the subject of a claim to relief under this section is computed by reference to the provisions of section twenty-seven of this Ordinance on an amount other than the ascertained amount of the actual profits, the rate of tax shall be determined by the Commissioner.

Relief in
respect of
Empire
Income Tax.

47.—(1) If any person resident in the Colony who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay, Empire income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in the Colony paid or payable by him on that part of his income at a rate thereon to be determined as follows:—

- (a) if the Empire rate of tax does not exceed one-half of the rate of tax appropriate to his case under this Ordinance in the Colony the rate at which relief is to be given shall be the Empire rate of tax ;
- (b) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

(2) If any person not resident in the Colony who has paid, by deduction or otherwise, or is liable to pay, tax under this Ordinance for any year of assessment on any part of his income proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise, or is liable to pay Empire income tax for that year of assessment in respect of the same part of his income, he shall be entitled to relief from tax paid or payable by him under this Ordinance on that part of his income at a rate thereon to be determined as follows:—

- (a) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax ;
- (b) if the Empire rate of tax appropriate to his case exceeds the rate of tax appropriate to his case under this Ordinance, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Ordinance exceeds one-half of the Empire rate of tax.

(3) For the purposes of this section, Empire income tax means any income tax charged under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's Protection (other than the United Kingdom or this Colony), provided that the legislature of that part or place has provided for relief in respect of tax charged on income both in that part or place and this Colony in a manner similar to that provided in this section.

(4) For the purposes of this section the rate of tax under this Ordinance shall be computed in the manner provided by sub-section (3) of the last preceding section of this Ordinance and the Empire rate of tax shall be computed in a similar manner.

(5) Where a person is for any year of assessment resident both in the Colony and in a part or place in which Empire income tax is charged, he shall for the purposes of this section be deemed to be resident where during that year he resides for the longer period.

48. Where, under any law in force in any part of His Majesty's Dominions or in any place under His Majesty's protection, provision is made for the allowance of relief from income tax in respect of the payment of income tax in this Colony, the obligation as to secrecy imposed by section four of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that part of His Majesty's Dominions or in that place under His Majesty's protection of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from income tax in this Colony or from income tax in that part or place aforesaid. Official
secrecy.

Collection and repayment of tax.

49.—(1) The Commissioner shall from time to time forward to the Collector certified extracts from the assessment lists containing the names and addresses of the persons assessed together with the amount of tax payable by each person. Extracts
from assess-
ment lists to
be sent to
Collector:

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

50. Tax shall be payable within thirty days after the service of a notice of assessment under section forty-three of this Ordinance. Time within
which pay-
ment is to be
made.

51. If any tax is not paid within the period prescribed in section fifty of this Ordinance— Penalty for
non-payment
of tax; and
enforcement
of payment.

(a) a sum equal to [5] per centum of the amount of the tax payable shall be added thereto, and the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;

(b) the Collector shall serve a demand note upon the person assessed, and if payment is not made within thirty days from the date of the service of such demand note, the Collector may proceed to enforce payment under the law for the time being in force in the Colony relating to the collection of tax or as hereafter provided.

52. 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 such objection or appeal as the case may be shall be payable within thirty days from the receipt of the notification of the tax payable, and if such tax is not paid within such period the provisions of the last preceding section shall apply. Collection of
tax after
determina-
tion of objec-
tion or appeal.

53. Tax may be sued for and recovered in a Court of competent jurisdiction by the Collector in his official name with full costs of suit from the person charged therewith as a debt due to the Government of the Colony as well as by the means provided in section fifty-one of this Ordinance. Suit for tax by
Collector.

54.—(1) If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or other- Repayment
of tax.

wise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within two years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Treasurer shall cause repayment to be made in conformity therewith.

(2) 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 neglected to deliver a return or has been assessed in a sum in excess of the amount contained in his return, provided that he has received notice of the assessment made upon him for that year : unless it is proved to the satisfaction of the Commissioner that such 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.

General.

Penalties for offences.

55. Any person guilty of an offence against this Ordinance shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred pounds and in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

False statements and returns.

56. (1) Any person who, for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representations and

(2) Any person who aids, abets, assists, counsels, incites or induces another person :—

(a) to make or deliver any false return or statement under this Ordinance ; or

(b) to keep or prepare any false accounts or particulars concerning any income on which tax is payable under this Ordinance ;

shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months.

Saving for Criminal Proceedings. Rules.

57. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or Law.

58.—(1) The Governor in Council may from time to time make rules generally for carrying out the provisions of this Ordinance and may, in particular, by those rules provide :—

(a) for the form of returns, claims, statements and notices under this Ordinance ;

(b) for the deduction and payment of tax at the source in respect of emoluments and pensions payable out of the revenue of the Colony ;

(c) any such matters as are authorised by this Ordinance to be prescribed.

(2) All rules purporting to be made in pursuance of this section shall be published in the Gazette and shall come into operation on such publication or at such other time as may be named in such rules.

(3) If any person fails to comply with or contravenes the provisions of any rule made under this Ordinance he shall be guilty of an offence against this Ordinance.

(4) All rules made under this Ordinance shall be judicially noticed.

APPENDIX II.

TABULAR CALCULATION TO ILLUSTRATE WORKING OF THE PROPOSED SYSTEM OF SETTING-OFF OF LOSSES AGAINST FUTURE PROFITS (*see* PARA. 22 OF THE REPORT AND SECTION 13 OF THE MODEL INCOME TAX ORDINANCE).

In each of the first three cases it is assumed that there is a flat-rate of tax of 1s. in the £, i.e., 5 per cent., and that no allowances are due under sections 14 and 18 of the Ordinance. Each example also starts from the assumption that in the year 1930 the taxpayer incurred a total business loss of £10,000, but received £5,000 from other sources of income. The net loss, therefore, which could not be set off against other income in 1930 is £5,000.

CASE I.—Case in which there is a loss in one year only, and full allowance is made:—

1.	2.	3.	4.	5.	6.	7.	8.
—	Year of assessment.	Assessment is in respect of income of year.	Total income for year in Col. 3 before deducting loss brought forward is	Tax payable if no allowance was made for loss brought forward.	Maximum allowance of tax (= half amount in Col. 5).	Allowance of tax in Col. 6 represents an allowance of loss equal to	Balance of loss still to be carried forward.
Year in which loss is brought into assessment	1931	1930	£ Nil	£ —	£ —	£ —	£ 5,000
1st year of assessment after 1931	1932	1931	5,000	250	125	2,500	2,500
2nd do. do. do. ...	1933	1932	1,000	50	25	500	2,000

[Continued overleaf.]

APPENDIX II.—*continued.*

1.	2.	3.	4.	5.	6.	7.	8.
	Year of assessment.	Assessment is in respect of income of year	Total income for year in Col. 3 before deducting loss brought forward is	Tax payable if no allowance was made for loss brought forward.	Maximum allowance of tax (= half amount in Col. 5).	Allowance of tax in Col. 6 represents an allowance of loss equal to	Balance of loss still to be carried forward.
3rd year of assessment after 1931 assessment	1934	1933	£ 2,000	£ 100	£ 50	£ 1,000	£ 1,000
4th do. do.	1935	1934	1,600	80	40	800	200
5th do. do.	1936	1935	2,000	100	50	Remaining £200 (on which tax is less than £50) can be set off and 1930 loss is exhausted ; the allowance in 1936 required for this purpose being only £10.	

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CASE II.—In Case I. above, if the income arising in 1935 and assessed in 1936 had been only £200 (say), half tax payable on £200 = £5, and amount of loss allowable would be only £100. But as the provisions of the Act do not provide for any allowance after the year of assessment 1936, for a loss incurred in 1930, allowance could never be made for the remaining £100 of the loss.

Case III.— Case where a fresh loss is incurred while allowance is still being made for a previous loss.

1.	2.	3.	4.	5.	6.	7.	8.
—	Year of assessment.	Assessment is in respect of income of year.	Total income for year in Col. 3 before deducting loss brought forward is	Tax payable if no allowance was made for loss brought forward.	Maximum allowance of tax (=half amount in Col. 5).	Allowance of tax in Col. 6 represents an allowance of loss equal to	Balance of loss still to be carried forward.
Year in which first loss is brought into assessment	1931	1930	£ Nil	£ —	£ —	£ —	£ 5,000
1st year of assessment after 1931...	1932	1931	5,000	250	125	2,500	2,500
2nd do. do. ...	1933	1932	1,000	50	25	500	2,000
3rd do. do. ... in which a second loss is brought into assessment	1934	1933	Nil	—	—	—	1st loss, £2,000 2nd „ £2,000
4th year of assessment after 1931						(1) 500	(1) 1,500
1st do. do. 1934	1935	1934	1,000	50	25	(2) Nil	(2) 2,000
5th do. do. 1931						(1) 1,000	(1) Balance of £500 cannot be carried further.
2nd do. do. 1934	1936	1935	2,000	100	50	(2) Nil	(2) 2,000
3rd do. do. 1934	1937	1936	2,000	100	50	(2) 1,000	(2) 1,000
4th do. do. 1934	1938	1937	1,600	80	40	(2) 800	(2) 200
5th do. do. 1934	1939	1938	1,000	50	25	(2) Balance of £200 allowed for.	

(The figures (1) and (2) refer to the first and second losses in 1930 and 1933 respectively.)

APPENDIX II.—*continued.*

CASE IV.—Of an individual subject to the following assumed scale of tax:—

On first £100	nil.	On next £200	... 1s. 3d. in the £.
„ next 100	... 3d. in the £.	„ „ 200	... 1s. 6d. „
„ „ 100	... 6d. „	„ „ 500	... 1s. 9d. „
„ „ 150	... 9d. „	„ „ 500	... 2s. 0d. „
„ „ 150	... 1s. „	On all over £2,000	2s. 3d. „

It is assumed that the individual in question is a bachelor, and that no allowance is due in respect of earned income.

It is assumed that in 1930 there is a loss, which cannot be set off against other income, of £2,000.

1.	2.	3.	4.	5.	6.	7.	8.	9.
---	Year of assessment.	Assessment is in respect of income of year.	Total income for year in Col. 3 before deducting loss brought forward is	Tax payable if no allowance was made for loss brought forward.	Maximum allowance of tax (= half amount in Col. 5).	Tax in Col. 6 represents tax on an income of	Loss which can be set off. (Col. 4 less Col. 7).	Balance of loss still to be carried forward.
Year in which loss is assessed	1931	1930	£ Nil	£ s. d. —	£ s. d. —	£ —	£ —	£ 2,000
1st year after year of assessment	1932	1931	1,000	44 7 6	22 3 9	685	315	1,685

2nd year after year of assessment	1933	1932	1,500	88 2 6	44 1 3	996	504	1,181
3rd do. do.	1934	1933	2,000	138 2 6	69 1 3	1,282	718	463
4th do. do.	1935	1934	1,000	44 7 6	22 3 9	685	315	148
5th do. do.	1936	1935	800	29 7 6	14 13 9	556	(244)	Loss ex- hausted.

CASE V.—In Case IV. above—if the income arising in 1935 and assessed in 1936 had been £400 only, the tax thereon would have been £7 10s. Half of this tax is £3 15s., and this represents tax on first £300 of income. It would have been possible, therefore, to have set off only £100 of the £148 balance of loss outstanding. Allowance could never have been made for the remaining £48.

APPENDIX III.

The following example is intended to explain the proviso to subsection (1) of Section 23 of the Model Ordinance relating to the deduction of tax from the dividends of companies. (*Vide* also para. 29 of the Report.)

A company is resident in the Colony, where its chargeable income for a year of assessment amounts to £6,000, made up as follows:—

	£
Profits of the year preceding the year of assessment arising in the Colony	5,000
Profits received in the Colony during the year preceding the year of assessment and derived from business operations carried on by the Company outside the Colony... ..	1,000
	£6,000

The Company pays tax in the Colony on this amount at the flat rate of Xs. in the £.

The Company's profits outside the Colony during the year preceding the year of assessment amounted to £5,000 and out of the total profits of £10,000 for that year (£5,000 inside the Colony *plus* £5,000 outside the Colony), the Company paid dividends amounting to £9,000.

Section 23 of the Ordinance provides that in a case of this nature the Company's right of deduction shall be restricted to that "portion of the dividends which is paid out of income on which tax is paid or payable by the Company." In the case taken, the Company would, under Section 23, be entitled to deduct tax from six-tenths of the total dividend of £9,000, that is, from £5,400 of the dividend.