

CHAPTER 212

THE INCOME TAX ACT

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INCOME TAX

(1st January, 1957.)

PART I
PRELIMINARY

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1811989.

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

2. In this Act— **Interpretation.**

"Appeal Board" means the persons appointed by the Governor-General to be the Appeal Board for the purposes of this Act;

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

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

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

"the Commonwealth" means Antigua and Barbuda, any of the countries specified in the Schedule and any dependency of any such country as well as such other countries as may, from time to time, be added to the countries specified in the Schedule by Order made by the Cabinet and published in the Gazette; **Schedule.**

however, Cabinet may, from time to time, by Order published in the *Gazette*, delete from the Schedule any country so specified or so added;

"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 any company incorporated or registered under any law for the time being in force in Antigua and Barbuda and any company which, though incorporated or registered outside Antigua and Barbuda, carries on business or has an office or place of business therein;

"guardian", in relation to an infant, includes parent;

"income year" means, in respect of income of any person, the year in which that income has been derived by him;

"resident in Antigua and Barbuda", in relation to a year of assessment means—

(a) in the case of an individual, that—

- (i) his permanent place of abode is in Antigua and Barbuda, and that he is physically present therein for some period of time in the basis period for that year of assessment, unless the Commissioner is satisfied that his absence throughout the whole of that basis period was for the purposes of education, medical treatment or the performance of duties on behalf of the Government.
- (ii) he is physically present in Antigua and Barbuda for not less than one hundred and eighty-three days in the basis period for that year of assessment; or
- (iii) he is physically present in Antigua and Barbuda for some period of time in the basis period for that year of assessment and such period is continuous with a period of physical presence in the basis period for the

immediately preceding or succeeding year of assessment of such duration as to qualify him for the status of a resident for such preceding or succeeding year under sub-paragraph (ii);

(b) in the case of an estate of a deceased person, that immediately prior to his death the deceased person qualified for the status of a resident under paragraph (a); and

(c) in the case of a trust or a body of persons (other than a company), that such trust or body of persons was established in Antigua and Barbuda,

and the terms "resident" and "non-resident", in relation to a person mean that such person is resident or not resident in Antigua and Barbuda as the case may be;

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

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

"year of assessment" means the period of twelve months commencing on the first day of January, 1957, and each subsequent period of twelve months.

PART II

ADMINISTRATION

3. For the due administration of this Act the Public Service Commission may appoint a Commissioner and such officers and persons as may be necessary. **Appointment of administrative authority.**

4. (1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists, and copies of such lists relating to the income or items of 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 list 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-General to communicate it; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence against this Act.

(3) Where under any law in force in any part of the Commonwealth, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Antigua and Barbuda, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that part of the Commonwealth 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 Antigua and Barbuda or from income tax in that part aforesaid.

PART III

IMPOSITION OF INCOME TAX

Charge of income tax.

5. (1) Income tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereafter for the year of assessment commencing on the 1st day of January, 1957, and for each subsequent year of assessment, upon the income of any person accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not 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, other than the dwelling-house with garden or grounds not exceeding one acre which is an individual's only or main residence; such annual value to be ascertained in the manner prescribed by rules made under this Act;

(d) dividends, interest or discount;

(e) any pension, charge or annuity;

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

(g) any annual gains or profits not falling under any of the foregoing heads;

(h) gains or profits deemed to be income of that person under this Act:

Provided that in the case of income arising outside Antigua and Barbuda—

(i) which is earned income; or

(ii) which arises to a person who is not ordinarily resident or not domiciled in Antigua and Barbuda,

the tax shall be payable on the amount received in Antigua and Barbuda:

Provided also that the gains or profits from any employment in Antigua and Barbuda shall be deemed to be income arising within Antigua and Barbuda whether the gains or profits from such employment are received in Antigua and Barbuda or not.

(2) This Act shall not apply to income which accrues on and after 1st January, 1977, to any resident person who is—

(a) an individual;

(b) a deceased estate;

(c) a trust to the extent to which the income therefrom will pass to resident individuals;

(d) the trustee of a resident bankrupt individual.

BASIS OF ASSESSMENT

**Basis of
assessment.**

6. (1) Subject to the provisions of this Act, tax shall be charged, levied, collected and paid annually.

(2) Subject to the provisions of this Act, tax shall be payable by every person on all income derived by him during the year preceding the year of assessment, notwithstanding that no income may arise for or within the year of assessment from a source from which income arose in the preceding year.

**Special periods 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 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:

Provided that where such 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, may be just and reasonable.

PART IV

EXEMPTIONS

**Income
exemptions.**

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

(a) the official emoluments received by the Governor-General;

(b) the income of any local authority or trade union in so far as such income is not derived from a trade or business carried on by such local authority or trade union;

(c) the income of any statutory or registered building 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 United Kingdom funds to members of Her Majesty's Forces and to persons in the permanent service of the United Kingdom Government in Antigua and Barbuda in respect of their offices under the United Kingdom Government;

(g) wound and disability pension granted to members of Her Majesty's Forces;

(h) gratuities granted to members of Her Majesty's Forces in respect of services rendered during war;

(i) gratuities granted to persons on expiration of a contract of service with the Government for a fixed period;

(j) the income of the Government Savings Bank;

(k) the incomes of Ministers of Religion derived from their occupation as such;

(l) capital sums withdrawn by individuals on retirement from any provident society or other fund approved by the Governor-General;

(m) income arising from a scholarship held by a person receiving full time instruction at a university, college, school, or other educational establishment.

The expression "scholarship" in this paragraph includes any exhibition, bursary or any other similar educational endowment;

(n) income arising from the business of shipping carried on by a person not resident in Antigua and Barbuda provided that Cabinet is satisfied that an equivalent exemption from income tax is granted by the country in which such person is resident to persons resident in Antigua and Barbuda and, if that country

is a country other than the United Kingdom, to persons resident in the United Kingdom.

The expression "business of shipping" herein means the business carried on by an owner of ships, and for the purposes of this definition the expression "owner" includes charterer.

- (o) (i) the income of an individual derived from money accruing to or in the hands of that individual or his agent, factor or trustee by way of interest on the money in any account in the name of the individual or his agent, factor or trustee in any bank.
- (ii) in this paragraph the expression "bank" has the meaning assigned to that expression in section 2 of the Banking Act, and includes the Government Savings Bank constituted by the Savings Bank Act;

(p) benefit under the Social Security Act, not being periodical payments by way of age benefit, invalidity benefit, survivors' benefit other than child allowance, disablement benefit, or death benefit other than child allowance.

(2) For the purposes of this section a company shall be deemed to be resident only in the country in which the central management and control of its business is situate:

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.

Exemption from
tax of interest on
public loans.

9. The Cabinet may by order published in the *Gazette* provide that the interest payable on any loan charged on the public revenue of Antigua and Barbuda shall be exempted from the tax, either generally or only in respect of interest payable to persons not resident in Antigua and Barbuda and such interest shall as from the date and to the extent specified in the order be exempt accordingly.

PART V

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—

Deductions allowed.

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

(b) half of the amount paid by such person by way of interest upon any money borrowed for the purpose of purchasing, constructing, repairing or altering his dwelling-house which is his only or main residence;

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

(d) where any person engaged by 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 sums as shall represent the total depreciation which has occurred by reason of exhaustion by wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof, or from insurance, salvage or compensation moneys;

(e) 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;

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

Cap. 408.

(g) the amount of any contribution paid pursuant to the Social Security Act:

Provided that—

- (i) Nothing in this paragraph shall be construed as allowing any amount to be deducted from the income of any person in respect of any contribution paid by him on behalf of any other person;
- (ii) nothing in this paragraph shall apply to any contribution of an employer which, apart from this paragraph, would be allowable as a deduction in computing the amount of any gains or profits;

Cap. 408.

- (iii) a person who by virtue of any provision of the Social Security Act, suffers a deduction from his emoluments in respect of any contribution payable under that Act shall be deemed for the purposes of this paragraph to have paid a contribution equal to the amount of the deduction;

(h) fixed annuities or other annual payments, secured by covenant for a period of at least five consecutive years, in favour of any religious, charitable or educational institution of a public character approved for such purpose by the Cabinet;

(i) such other deductions (not being deductions of the kind disallowed by section 11) as may be prescribed.

- (2) (i) Notwithstanding anything to the contrary contained in this Act— **Relief to hotel proprietors.**

(a) in any case approved by the Cabinet in which the erection of a hotel or of any extension to a hotel is commenced after the first day of January, 1954, and in which a licence has been granted to any person in respect of such hotel under the Hotels Aid Act, such person shall be exempt from income tax in respect of the income arising from such hotel in each of the five years of assessment next after the year of assessment in which the erection or extension of such hotel, as the case may be, is completed and where any part of the said income is distributed as dividends to shareholders in any company to which a licence as aforesaid has been granted, any dividend so distributed shall, for the period aforesaid, be exempt from income tax in the hands of the shareholder and thereafter such person or shareholder shall be allowed in each of any five of the eight years of assessment next following to set off against the income as aforesaid arising from such hotel one-fifth of the capital expenditure upon such hotel or extension thereof, as the case may be, so, however, that no such set-off be allowed in any year of assessment later than the thirteenth year of assessment next after the year of assessment in which the erection or the extension of such hotel, as the case may be, is completed; **Cap. 204.**

(b) in any case approved by the Cabinet in which a licence has been granted to any person under the Hotels Aid Act, but which is not within the contemplation of paragraph (i) (a) of this subsection, such person shall be allowed in each of any ten of the twelve years of assessment next after the year of assessment in which the licence is granted to set-off against the income as aforesaid arising from the hotel one-tenth of the capital expenditure upon such hotel, so, however, that no such set-off be allowed in any year of assessment later than the twelfth year after the year of assessment in which the capital expenditure was incurred. **Cap. 204.**

- (ii) Where the capital expenditure is allowed to be set off against the income arising from a hotel,

section 14 shall not apply in respect of such expenditure.

- (iii) No loss incurred in connection with any hotel, in any year in respect of which an allowance is granted under this section, shall be set off against profits arising from any other trade, business or vocation carried on by the person to whom the allowance is granted.
- (iv) For the purposes of this section, the question whether the erection or extension of a hotel was commenced before the first day of January, 1954, shall be for determination by the Cabinet. The Cabinet shall also for the purposes of this section determine on what date the erection or extension of a hotel is completed. Such determination in each case shall be final.
- (v) Relief under paragraph (i) (a) shall not be granted to any person unless such person—
 - (a) has applied in writing to the Cabinet for approval of the case before commencing the erection or extension, as the case may be, of the hotel; and
 - (b) has notified the Cabinet in writing of the date on which he intends to commence the erection or extension, as the case may be, of the hotel.
- (vi) Where any case has been approved by the Cabinet for the purposes of paragraph (i) (a), the Cabinet shall issue to the Commissioner a certificate stating the fact of such approval and the dates fixed by the Cabinet as the dates on which the erection or extension, as the case may be, of the hotel was commenced and completed.
- (vii) Any person authorised by the Cabinet in writing so to do, may at any reasonable time enter upon the premises on which a hotel or any extension of a hotel is to be, or is being, erected, for the purpose of obtaining such information as will enable the Cabinet to

report to the Commissioner in accordance with the requirements of paragraph (vi).

(viii) The Cabinet may by regulations make any provision which in the opinion of the Cabinet is necessary or expedient for the better carrying into effect of the provisions of this subsection.

(ix) In this subsection—

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

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

(b) the purchase of building materials for the construction of the hotel and on effecting such construction;

(c) the purchase of any existing hotel where—

(i) an existing hotel has been purchased;

(ii) there has been a *bona fide* change of ownership; and

(iii) the purchaser qualifies for relief under the Hotels Aid Act, in respect of the buildings comprising the hotel: Cap. 204.

Provided that no account shall be taken of any sum paid in respect of the purchase price of the land on which such hotel stands or in respect of goodwill;

(d) the purchase of articles of hotel equipment and on the installation of such articles of hotel equipment;

and for the purposes of this definition “articles of hotel equipment”, “building materials”, “construct”, and “hotel” have the same meanings as are respectively assigned to the said expressions in the Hotels Aid Act. Cap. 204.

(3) The Cabinet may by rules provide for the method of calculating or estimating the deductions allowed under this section.

Deductions not to be allowed.

11. 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 disbursement or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;
- (c) any capital withdrawn on any sum employed or intended to be employed in improvement;
- (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 surtax or Commonwealth income tax.

Initial allowances.

12. (1) Notwithstanding anything contained in section 11 and subject to the provisions of this section, where—

- (a) such a person as is mentioned in subsection (2) has incurred capital expenditure on the erection, alteration or acquisition of a building or structure which is or is intended to be an industrial building or structure; or
- (b) a person carrying on a trade or undertaking (as hereinafter defined) has incurred capital expenditure on the provision, alteration or improvement of plant or machinery for the purposes of that trade or undertaking, and in consequence the plant or machinery belongs to him at some time during the basis period for the year of assessment,

there shall be allowed in respect of his income for the year in which such capital expenditure was incurred an allowance

(in this section referred to as an "initial allowance") of a sum equal to one-fifth of such capital expenditure.

(2) The persons referred to in paragraph (a) of subsection (1) are persons who come within either of the following categories, that is to say—

(a) a person who, at the time when he incurs capital expenditure on the erection, alteration or acquisition of a building or structure which is or is intended to be an industrial building or structure, occupies, or intends to occupy such building or structure for the purposes of a trade or undertaking carried on by him;

(b) a person, who, at the time when he incurs such expenditure, is entitled to an interest in such building or structure which is reversionary to a lease held by a person occupying or intended to occupy the building or structure for the purposes of a trade or undertaking carried on by the lessee.

(3) Notwithstanding anything in this section, no initial allowance shall be made in respect of capital expenditure incurred on the erection, alteration or acquisition of a building or structure if, when the building or structure comes to be used it is not an industrial building or structure; and where the initial allowance has been granted in respect of capital expenditure incurred as aforesaid in respect of a building or structure which when it comes to be used is not an industrial building or structure, all such additional assessments shall be made as are necessary to secure that effect is given to the provisions of this section.

(4) The provisions of this section shall not apply in relation to capital expenditure incurred by a person who is entitled to set off a proportion thereof against income by virtue of the provisions of section 10 (2) or of the Aid to Pioneer Industries Act, (hereinafter referred to as "the related provisions" ^{Cap. 14.}):

Provided that if a person by whom such capital expenditure has been incurred shall, before the expiration of three months before the beginning of the relevant period, by instrument in writing addressed to the Commissioner, elect that the provisions of this section shall apply in relation to

such capital expenditure in lieu of the related provision, the provisions of this section shall so apply and the related provision shall not apply in relation to such capital expenditure.

In this subsection "the relevant period" means the period in which the person in relation to whom the term is used is entitled under the related provisions to set off against his income a proportion of capital expenditure incurred by him.

Balancing Allowances and charges.

(5) Where under the provisions of this section or of section 14 an allowance has been made for any year of assessment in ascertaining the chargeable income of a person engaged in a trade, business, profession or vocation and during the basis period for that year of assessment the asset in respect of which an allowance has been made as aforesaid, is sold, destroyed, or put out of use as being worn out, obsolete or otherwise useless or no longer required whether by reason of the discontinuance of the trade, business, profession or vocation carried on by such person or for any other reason an allowance or charge (in this Act referred to as "a balancing allowance" or "a balancing charge") shall be made to, or as the case may be, on that person for the year of assessment and such allowance or charge shall be ascertained respectively as follows—

- (i) Where there are no sale, insurance, salvage or compensation moneys or where the written down value of the asset immediately prior to the event giving rise to such allowance exceeds those moneys the balancing allowance shall be a sum equal to that written down value or the excess of that written down value over those moneys as the case may be;
- (ii) Where the sale, insurance, salvage or compensation moneys exceed the written down value of the assets immediately prior to the event giving rise to such charge the balancing charge shall be a sum equal to the amount of such excess:

Provided that the balancing charge shall not exceed the aggregate of all allowances made in respect of that asset under this section and under section 14.

(6) Where it appears to the Commissioner with respect to any transaction resulting in the acquisition or disposal of an asset that such transaction was not an ordinary commercial transaction then for the purposes of this section the expenditure incurred in acquiring and the sale moneys obtained on disposal of the asset shall be deemed to be respectively the amount which the asset would have cost if bought in the open market at the time it was acquired and the amount which the asset would have realised if sold in the open market at the time it was disposed of.

(7) (i) In this section—

"basis period" of any year of assessment means the period on the profits or gains of which the assessment for that year falls to be finally computed;

"industrial building or structure" has the meaning assigned to it in section 13;

"trade or undertaking" means any trade or undertaking specified in paragraphs (a) to (f) inclusive of subsection (1) of section 13;

"written down value" means the amount of the expenditure unallowed after deducting from the capital expenditure incurred on the asset the total of all allowances made under this section and under section 14 in respect of the asset to the person who incurred the expenditure.

(ii) For the purpose of this section capital expenditure shall not be regarded as having been incurred by any person in so far as it is met directly or indirectly from any grant, subsidy or other payment from any other person on account thereof.

13. (1) Subject to the provisions of this section, in section 12 the expression "industrial building or structure" means a building or structure in use for the purposes of—

Meaning of "industrial building or structure".

(a) a trade carried on in a mill, factory, or other similar premises; or

(b) a transport, dock, water, refrigeration or electricity undertaking; or

(c) a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or

(d) a trade which consists in the storage of goods or materials which are to be used in the manufacture of other goods or materials or to be subjected in the course of a trade to any process; or

(e) a trade which consists in the storage of goods or materials on their arrival by sea or air in any part of Antigua and Barbuda from any other part of Antigua and Barbuda or from outside Antigua and Barbuda; or

(f) a trade consisting in all or any of the following activities, that is to say, ploughing or cultivating land, or doing any other agricultural operation on land, rearing of livestock, or other form of husbandry,

and in particular the said expression includes any building or structure provided by the person carrying on such a trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose.

(2) For the purposes of subsection (1) a building or structure shall not be deemed, by reason only of its falling or having fallen into temporary disuse, to have thereby ceased altogether to be used for one of the purposes specified in that subsection if, immediately prior to falling into such temporary disuse, it was in use for such a purpose and if, during the period of such temporary disuse, it is constantly maintained in readiness to be brought back into use for such a purpose; but if, in such circumstances, the building or structure at any time during disuse ceases to be ready for use for any of the said purposes, or if at any time, for any reason, the disuse of the building or structure can no longer be reasonably regarded as temporary, then the building or structure shall be deemed to have ceased, on the commencement of the period of disuse, to be used for any of the said purposes.

(3) The provisions of subsection (1) shall apply in relation to a part of a trade or undertaking as they apply to a trade or undertaking:

Provided that where part only of a trade or undertaking complies with the conditions set out in the said provisions, a building or structure shall not, by virtue of this subsection, be an industrial building or structure unless it is in use for the purposes of that part of that trade or undertaking.

(4) Notwithstanding anything in subsection (1) or subsection (3), but subject to the provisions of subsection (5) the expression "industrial building or structure" does not include any building or structure in use as, or as part of, a dwelling house, retail shop, showroom, or office or for any purpose ancillary to the purpose of a dwelling house, retail shop, showroom or office:

Provided that the provisions of this subsection shall not apply in respect of a building or structure in use primarily for the purposes of a trade which consists in the carrying on of a hotel.

(5) Where part of the whole of a building or structure is, and part thereof is not, an industrial building or structure, and the capital expenditure which has been incurred on the construction of the second mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the whole building or structure, the whole building or structure and every part thereof shall be treated as an industrial building or structure.

14. 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 by 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:

Allowance for wear and tear.

Provided that the allowance shall be made under or by virtue of the provisions of this section in respect of any pro-

perty, plant or machinery if, in accordance with the provisions of section 12, a balancing allowance is or can be made in respect of the said property, plant or machinery.

Allowances for losses.

15. (1) Where any person incurs a loss in the basis period for any year of assessment in any trade, business, profession or vocation carried on or exercised by him either solely or in partnership the amount of such loss shall as far as possible be set-off against his income from other sources for that year of assessment.

(2) Where owing to an insufficiency of income from other sources the loss allowable to any person under the preceding subsection cannot be allowed or cannot be wholly allowed as aforesaid the excess shall be carried forward and shall, subject to the provisions of this subsection, be set-off against the income of that person for the six years of assessment next following:

Provided that in no case shall such set-off be made so as to reduce the chargeable income of that person for any year of assessment to less than one half of the amount which would have been his chargeable income had the set-off not been made.

(3) No allowance shall be made under this section unless it is shown to the satisfaction of the Commissioner, that the trade, business, profession or vocation was, for the whole of the basis period, carried on or exercised on a commercial basis and with a view to the realisation of gains or profits.

(4) For the purposes of this section any allowance which falls to be made to any person for any year of assessment under section 12 or section 14 but which, owing to any insufficiency of gains or profits from any trade, business, profession or vocation cannot be made or cannot wholly be made, then the amount by which such allowance exceeds the said gains or profits shall be regarded as a loss incurred in that trade, business, profession or vocation.

(5) The amount of any loss to be allowed under this section for any year of assessment shall not be allowed for any other year of assessment under this or any other section.

(6) In this section, "basis period" has the meaning assigned to it in subsection (7) of section 12.

INSURANCE AND SHIPPING COMPANIES ETC

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

Special provisions as to certain companies, &c.

(a) in the case of an insurance company (other than a life insurance company) where the gains or profits accrue in part outside Antigua and Barbuda, 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 Antigua and Barbuda (less any premiums returned to the insured and premiums paid or re-insurances), and deducting from the balances 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 Antigua and Barbuda and a fair proportion of the expenses of the head office of the company;

Insurance companies other than life insurance companies.

(b) in the case of a life insurance company, whether actual or proprietary, the gains or profits on which tax is payable shall be the investment income less the management expenses (including commission):

Life Insurance Companies.

Provided that where such a company received premiums outside Antigua and Barbuda, the gains or profits shall be the same proportion of the total investment income of the company as the premiums received or annuities paid in Antigua and Barbuda bore to the total premiums received or annuities paid after deducting from the amount so arrived at the agency expenses in Antigua and Barbuda and a fair proportion of the expenses of the head office of the company;

(c) (i) in the case of a shipowner, the gains or profits of his business as shipowner shall,

Shipping Companies.

if he produces or causes to be produced to the Commissioner the certificate mentioned in paragraph (ii), to be taken to be a sum bearing the same ratio to the sums payable in respect of fares or freight for passengers, goods, or mails shipped in Antigua and Barbuda at his total profits for the relevant accounting period shown by the certificate bear to the gross earnings for that period;

- (ii) the certificate shall be a certificate by the Taxing Authority of the place in which the principal place of business of the shipowner is situated and shall state—

(a) that the shipowner has furnished to the satisfaction of that Authority account of the whole of his business; and

(b) the ratio of the gains or profits for the relevant accounting period as computed according to the Income Tax law of that place (after deducting interest on any money borrowed and employed in acquiring the gains and profits) to the gross earnings of the shipowner's fleet or vessel for that period;

- (iii) if the gains or profits of a shipowner have for the purpose of assessment in Antigua and Barbuda under this Act been computed on any basis other than the ratio of the gains or profits shown by a certificate as aforesaid, and an assessment has been made accordingly, the shipowner shall, upon production of such certificate at any time within two years from the end of the year of assessment be entitled to such adjustment as may be necessary to give effect to the said certificate and to have any tax paid in excess refunded;

- (iv) in this subsection the expression "shipowner" means an owner or charterer of ships whose principal place of business is situated outside Antigua and Barbuda, but in a part of the Commonwealth.

17. (1) Where it appears to the Commissioner that, with a view to the avoidance or reduction of tax, a company controlled by not more than five persons has not distributed to its shareholders, as dividend, profits made in any period ending after the 1st day of January, 1957, which could be distributed without detriment to the company's existing business, the Commissioner, by notice in writing to the company, may direct that, for the purpose of assessment to tax, such profits shall for the period specified in the notice be deemed to be the income of the members, and the amount thereof shall be apportioned among the members, and tax shall be assessed and charged in respect of the sum so apportioned.

Apportionment of profits of company among members.

(2) In this section—

"company controlled by not more than five persons" means a company in which—

(a) the number of shareholders is not more than fifty; and

(b) more than half of the total shares issued are held by not more than five persons, their wives, or minor children either directly or through nominees.

PARTNERSHIPS

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

Partnerships.

(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 Act) and shall be included in the return of income to be made by such partner under the provisions of this Act;

(2) (a) the precedent partner, that is to say, the partner who of the partners resident in Antigua and Barbuda—

-
- (i) is first named in the agreement of partnership, or
 - (ii) if there is no agreement, is named singly or with precedence to the other partners in the usual name of the firm, or
 - (iii) is the precedent acting partner, if the partner named 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 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;

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

(3) Any person who refuses, fails or neglects to deliver any return required under the provisions of this section shall be guilty of an offence against this Act.

PART VI

PERSONS CHARGEABLE

MARRIED WOMEN

Married Women.

19. (1) The income of a married woman living with her husband shall, for the purposes of this Act, be the income of her husband and shall be assessed on and charged in the name of her husband as his income and not her income:

Provided 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 income of the wife bears 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.

(2) When a married woman is not living with her husband each spouse shall for all purposes of this Act be treated as if he or she were unmarried.

(3) For the purposes of this Act a married woman shall be treated as living with her husband unless—

(a) they are separated under an order of a court of competent jurisdiction or by deed of separation; or

(b) they are in fact separated in such circumstances that the separation is likely to be permanent; or

(c) she is resident in Antigua and Barbuda and her husband is not resident in Antigua and Barbuda.

(4) This section shall be deemed to have been in force since the 1st day of January, 1964.

TEMPORARY RESIDENTS

20. Tax shall not be payable in respect of any income arising out of Antigua and Barbuda and accruing to any person who is in Antigua and Barbuda for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Antigua and Barbuda at one or more times for a period equal in the whole to six months in the year preceding the year of assessment.

Temporary residents.

TRUSTEES, AGENTS, ETC

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

Chargeability of trustees, etc.

Provided that nothing in this section shall affect the liability of any person represented by any such receiver,

trustee, guardian, curator or committee to be himself charged to tax in his own name.

Chargeability of agent of person residing out of Antigua and Barbuda.

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

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

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

(3) Where it appears to the Commissioner by whom the assessment is made, or to the Appeal Board 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 Appeal Board or Judge may, if he, or they, as the case may be, think 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 through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provisions of this Act relating to the delivery of returns 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 persons acting for non-resident persons:

Provided that the amount of the percentage shall in such case be determined having regard to the nature of the business, and shall, when determined by the Commissioner, be subject to an appeal to the Appeal Board and to a Judge as provided by sections 59 and 61.

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

(5) The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of subsections (2) and (3) in the name of a resident person shall not 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 Antigua and Barbuda 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 Appeal Board and 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 Appeal Board 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 to tax under sections 21 and 22 shall be answerable for all matters required to be done by virtue of this Act for the assessment of the income of any person for whom he acts and for the payment of the tax chargeable thereon.

Income derived from property transferred to minors.

24. Where a person transfers property to a minor, either directly or indirectly, or through the intervention of a trust or by any other means whatsoever, such person shall, nevertheless, during the period of the minority of the 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 substituted therefor, as if such transfer had not been made, unless the Commissioner is satisfied that such transfer was not made for the purpose of evading the taxes imposed by this Act.

Income of property transferred in trust to be income of transferor in certain cases.

25. Where a person transfers property in trust and provides that the corpus of the trust shall revert either to the transferor or to such person as he may determine at a future date, or where a trust provides that during the lifetime of the transferor no disposition or other dealing with the trust property shall be made without the consent, written or otherwise, of the transferor, 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.

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

26. (1) Every person, who in whatever capacity, is in receipt of any money or value being income arising from any of the sources mentioned in this Act of or belonging to any other person who is chargeable in respect thereof, or would be so chargeable if he were resident in Antigua and Barbuda, 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 a form approved by the Commissioner, signed by him, containing—

List to be prepared by representative or agent.

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

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

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

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

Manager of corporate bodies of persons.

28. Any resident agent, trustee, mortgagor, or other person who transmits rent, interest, or income derived from any other source within Antigua and Barbuda to a non-resident person shall be deemed to be the agent of such non-resident person and shall be assessed and shall pay the tax accordingly.

Agents, etc. of non-residents to be assessed.

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

Indemnification of representative.

30. Where 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 assess-

Deceased persons.

ment 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 Act:

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.

PART VII

RATES OF TAX, RIGHTS OF DEDUCTION,
ALLOWANCES FOR TAX CHARGED AND RELIEF
IN CASES OF DOUBLE TAXATION

Rates of tax
upon individuals.

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

On every dollar of the first \$500 of chargeable income	2½ cents on the \$
On every dollar of the next \$500 viz \$501 to \$1,000	5 cents on the \$
On every dollar of the next \$500 viz \$1,001 to \$1,500	7½ cents on the \$
On every dollar of the next \$500 viz \$1,501 to \$2,000	10 cents on the \$
On every dollar of the next \$500 viz \$2,001 to \$2,500	12½ cents on the \$
On every dollar of the next \$500 viz \$2,501 to \$3,000	15 cents on the \$
On every dollar of the next \$1,000 viz \$3,001 to \$4,000	20 cents on the \$

On every dollar of the next \$1,000 viz \$4,001 to \$5,000	25 cents on the \$
On every dollar of the next \$2,500 viz \$5,001 to \$7,500	30 cents on the \$
On every dollar of the next \$2,500 viz \$7,501 to \$10,000	35 cents on the \$
On every dollar of the next \$5,000 viz \$10,001 to \$15,000	40 cents on the \$
On every dollar of the next \$5,000 viz \$15,001 to \$20,000	45 cents on the \$
On every dollar of the next \$10,000 viz \$20,001 to \$30,000	50 cents on the \$
On every dollar beyond \$30,000	55 cents on the \$

32. The tax upon the chargeable income of a company shall be charged at the rate of the forty per centum on every dollar of the chargeable income. **Rate of tax upon companies.**

33. (1) Every company which is registered in Antigua and Barbuda 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 (double taxation relief being left out of account) on the income out of which such dividend is paid: **Deduction of tax from dividends of companies.**

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 the shareholder and the amount of tax which the company has deducted or is entitled to deduct in respect of that dividend, and also, where the tax paid or payable by the company is affected by double taxation relief rate, the rate (hereinafter in this Act referred to as "the net Colonial rate") of the tax paid or payable by the company after taking double taxation relief into account.

(3) In this section the expression "double taxation relief" means any credit for foreign tax which is allowable against income tax chargeable under this Act by virtue of arrangements having effect under section 43, and any relief allowable under section 41 or 42 including any credit or relief which has been taken into account in determining the net Colonial rate applicable to any dividends received by the company.

Setting off tax so deducted.

34. Any tax which a company has deducted or is entitled to deduct under section 33 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 Act, shall, when such dividend or share is included in the chargeable income of such shareholder or person, be set off for the purposes of collection against the tax charged on that chargeable income.

Rate of tax for development loans.

35. Notwithstanding section 31 or 32, the tax upon the chargeable income of a non-resident person that is deemed by section 36 to be a person carrying on a separate business shall be charged at the rate of ten per centum of every dollar of chargeable income.

Business of lending money for development.

36. (1) The business carried on by a non-resident person of lending money upon transactions between—

(a) independent persons dealing at arm's length; or

(b) persons one of whom exercises control over the other, being transactions which the Commissioner is satisfied were entered into on the basis of the commercial principles that would have been applied by independent persons dealing at arm's length,

for the purpose of promoting industrial, commercial, scientific, housing or other development in Antigua and Barbuda shall be deemed to be a separate person for the purposes of this Act.

(2) For the purposes of this section in determining whether a person exercises control over another person, a relationship of control shall be deemed to exist where—

(a) that person is a company and that first person holds a majority of the shares of the company or other-

wise possesses by himself, his relative, a relative of his wife, or his nominee sufficient voting power to ensure that the affairs of the company are conducted in accordance with his wishes; or

(b) that other person is a member of a partnership and that first person has a right to more than one-half of the assets or income of the partnership.

37. Where a person is deemed by section 36 to be a separate person carrying on a separate business for the purposes of this Act with the result that such person is thereby deemed to be two or more separate persons carrying on two or more separate business for the purpose of this Act, in ascertaining the chargeable income, of the two deemed separate persons, the amounts deducted or allowed shall be apportioned between those deemed separate persons in accordance with the determination of the Commissioner.

Deductions and allowances for separate business.

38. For the purposes of section 35 a person shall be deemed to be a non-resident person. if in any year immediately preceding the year of assessment such person—

Non-resident persons.

(a) did not spend in the aggregate 180 days in Antigua and Barbuda in that preceding year;

(b) was not domiciled in Antigua and Barbuda at any time in that preceding year;

(c) gives notice in writing to the Commissioner within the time prescribed for delivering his return under section 46 that he wishes to be treated as a non-resident person in respect of that preceding year.

39. (1) Where any person pays to any other person not resident in Antigua and Barbuda mortgage or debenture interest or any rent, annuity or any other annual payment which the payor is entitled to deduct under section 10 (1) in arriving at his chargeable income, the payor shall upon paying such interest, rent, annuity or other annual payment deduct therefrom tax at the rate of twenty per centum on every dollar of such interest payable to such person and at the rate set out in section 32 in the case of a payment as aforesaid to a company and the payor shall forthwith render an account to the Commissioner of the amount so deducted

Deduction of and accounting for tax on mortgage and debenture interest.

and every such amount shall be recoverable in the like manner as is provided in section 69.

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

(3) In the case of a non-resident person chargeable with tax at the rate specified in section 35, the payor shall on the Commissioner's directions in writing deduct tax at the rate of ten per centum on every dollar of such interest payable instead of at the rate of twenty per centum or forty per centum as the case may be.

(4) Any person who neglects to render an account under this section shall be guilty of an offence against this Act.

Payment of tax
by non-residents.

40. (1) Where any person makes to any other person not resident in Antigua and Barbuda or his agent, factor or trustee, a payment of a nature not referred to in the preceding section-but which under the provisions of section 5 of this Act would be in the hands of such non-resident person fall to be regarded as income chargeable to tax in Antigua and Barbuda such person shall on making such payment deduct therefrom tax at the rate of twenty-five cents on every dollar and shall render an account in respect of same and shall remit the tax so deducted to the Commissioner within seven days:

Provided that the provisions of this section shall not apply to payments made by way of pension or by way of remuneration from a company representing a distribution of profits.

(2) In this section payment shall be deemed to have been made at the time the non-resident person, or his agent, factor or trustee, is entitled to receive same and shall include any sum credited to an account in the name of such non-resident person, or his agent, factor or trustee held in Antigua and Barbuda or elsewhere.

(3) The person to whom the payment is made shall allow the deduction of tax on receipt of the residue of the payment and the person making the deduction of tax shall be acquit-

ted and discharged of so much money as is represented by that deduction at the time the tax is paid to the Commissioner.

(4) The Commissioner shall allow the tax remitted under this section as a credit against the non-resident person's ultimate liability to tax under this Act.

(5) Any person who neglects or refuses to render an account or to remit the tax as provided by this section shall be guilty of an offence against this Act and shall be liable on summary conviction to the payment of the tax and to a penalty not exceeding three times the amount of tax due.

(6) It shall be lawful for the Chief Immigration Officer to prevent any person who has not complied with the provisions of this section from leaving Antigua and Barbuda until such tax shall be paid.

(7) In this section person includes body of persons.

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

Relief in respect of United Kingdom income 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 Act, 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 income in respect of which the tax paid or payable under this Act has been charged for that year, except that where the income which is the subject of a claim to relief under this Section is computed by reference to the provisions of section 22 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 Commonwealth
Income tax.

42. (1) Subject to the provisions of subsection (3) if any person resident in Antigua and Barbuda who has paid, by deduction or otherwise, or is liable to pay tax, under this Act for any year of assessment on any part of his income, proves to the satisfaction of the Commissioner that he has paid, by deduction or otherwise or is liable to pay, Commonwealth income tax for that year in respect of the same part of his income, he shall be entitled to relief from tax in Antigua and Barbuda paid or payable by him on that part of his income at a rate thereon to be determined as follows—

(a) if the rate of Commonwealth income tax does not exceed one-half of the rate of tax appropriate to his case under this Act in Antigua and Barbuda, the rate at which relief is to be given shall be the rate of Commonwealth income 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 Act.

(2) Subject to the provisions of subsection (3), if any person not resident in Antigua and Barbuda who has paid by deduction or otherwise, or is liable to pay, tax under this Act for any year of assessment on any part of his income, he shall be entitled to relief from tax paid or payable by him under this Act on that part of his income at a rate thereon to be determined as follows—

(a) if the rate of Commonwealth income tax appropriate to his case does not exceed the rate of tax

appropriate to his case under this Act, the rate at which relief is to be given shall be one-half of the rate of Commonwealth income tax;

(b) if the rate of Commonwealth income tax appropriate to his case exceeds the rate of tax appropriate to his case under this Act, the rate at which relief is to be given shall be equal to the amount by which the rate of tax appropriate to his case under this Act exceeds one-half of the rate of Commonwealth income tax.

(3) No relief shall be granted in accordance with the provisions of subsection (1) or subsection (2) in respect of Commonwealth income tax charged in any part of the Commonwealth unless the Legislature of that part has provided for relief in respect of tax charged on income both in that part and in Antigua and Barbuda in a similar manner to that provided for in this section.

(4) For the purposes of this section, the rate of tax under this Act shall be computed in the manner provided by subsection (3) of section 41 and the rate of Commonwealth income tax shall be computed in a similar manner.

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

43. (1) If the Cabinet by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Antigua and Barbuda with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything to the contrary contained in any enactment.

Double taxation arrangements.

(2) On the making of an Order under this section with respect to arrangements relating to the United Kingdom,

section 41 shall cease to have effect except in so far as the arrangements otherwise provide.

(3) On the making of any Order under this section with respect to arrangements relating to any territory forming part of the Commonwealth (other than the United Kingdom) section 42 shall cease to have effect as respects that territory except in so far as the arrangements otherwise provide.

(4) For the purpose of this section the rate of tax under this Act shall be computed in the manner provided by subsection (3) of the last preceding section and the rate of Commonwealth income tax shall be computed in a similar manner.

(5) Any order made under this section may be revoked by a subsequent Order.

(6) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 4 shall not prevent the disclosure to any authorised officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(7) The Cabinet may make rules for carrying out the provisions of any arrangements having effect under this section.

Tax credits.

44. (1) The provisions of this section shall have effect where, under arrangements having effect under section 43 tax payable in respect of any income in the territory with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Antigua and Barbuda; and in this section and in section 33 the expression "foreign tax" means any tax payable in that territory which under the arrangements is to be so allowed, and the expression "income tax" means tax chargeable under this Act.

(2) The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit:

Provided that credit shall not be allowed against income tax for any year of assessment unless the person entitled to the income is resident in Antigua and Barbuda for that year.

(3) The credit shall not exceed the amount which would be produced by computing the amount of the income in accordance with the provisions of this Act and then charging it to income tax at a rate ascertained by dividing the income tax chargeable (before allowance of credit under any arrangements having effect under section 43) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of the preceding subsection: the total credit to be allowed to a person for any year of assessment for foreign tax under all arrangements having effect under section 43 shall not exceed the total income tax payable by him for that year of assessment, less any tax payable by him under the provisions of section 39.

(5) In computing the amount of income—

(a) no reduction 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 Antigua and Barbuda, 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 the income tax in respect of the dividend the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit; but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Paragraphs (a) and (b) of subsection (5) (but not the remainder thereof) shall apply to the computation of the total income for the purposes of determining the rate mentioned in subsection (3), and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the same time being in force under section 43.

(7) Where—

(a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against income tax chargeable in respect of the income of any person for any year of assessment if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than two years after the end of the year of assessment; and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Antigua and Barbuda or elsewhere, nothing in this Act limiting the time for making of assessment or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later

than two years from the time when all such assessments, adjustments and other determinations have been made, whether in Antigua and Barbuda or elsewhere, as are material in determining whether any, and if so what credit falls to be given.

45. (1) Where tax paid or payable by a company is affected by double taxation relief the amount to be set off under section 34, or to be repaid under section 75, in respect of the tax deductible from any dividend paid by the company shall be reduced as follows—

Deductions of set-off under section 34 and refund under section 75.

(a) if no tax is chargeable on the recipient in respect of the dividend, the reduction shall be an amount equal to tax on the gross dividend at the rate of double taxation relief applicable thereto;

(b) if the rate of tax chargeable on the recipient in respect of the dividend is less than the rate of double taxation relief applicable to the dividend, the reduction shall be an amount equal to tax on the gross dividend at the difference between those two rates.

(2) For the purposes of this section—

(a) if the income of the person chargeable includes one dividend such as is mentioned in subsection (1), that dividend shall be deemed to be the highest part of his income;

(b) if his income includes more than one such dividend, a dividend shall be deemed to be a higher part of his income than another dividend if the net Colonial rate applicable to the former dividend is lower than that applicable to the latter dividend;

(c) where tax is chargeable at different rates in respect of different parts of any such dividend, or where tax is chargeable in respect of some part of any such dividend and is not chargeable in respect of some other part thereof, each part shall be deemed to be a separate dividend;

(d) the expression "double taxation relief" has the same meaning as in section 33, and the expression "the rate of double taxation relief" means the rate which represents the excess of the rate of tax deductible from

the dividend over the net Colonial rate applicable thereto.

PART VIII

RETURNS, BY WHOM TO BE MADE

Returns of
personal incomes.

46. (1) It shall be the duty of every person chargeable with tax to deliver to the Commissioner on or before the prescribed date in each year, a true and correct return of the whole of his income from every source whatever for the year immediately preceding the year of assessment and if absent from Antigua and Barbuda to give the name and address of an agent residing in Antigua and Barbuda.

(2) Any person who wilfully fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Official
information and
official secrecy.

47. (1) The Commissioner may require an 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 Act 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.

(2) The Commissioner may by notice in writing require any employer to furnish him within reasonable time with a return for any year 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 five hundred and forty dollars.

The expression "remuneration" in this subsection shall be deemed to include not only moneys paid as salary, wages, over-time, or bonus, but also the annual value of any

residence, quarters, board and lodging, or other allowances in kind received by an employee in respect of his services.

(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 persons engaged in the management of a company, shall be deemed to be a person employed.

(4) Returns required under the provisions of this section shall be in the form approved by the Commissioner.

(5) Any person who refuses or neglects to deliver any return required under the provisions of this section shall be guilty of an offence against this Act.

48. (1) The Commissioner may, by notice, require any person, or the attorney of any person, or the secretary, attorney, manager, agent or other principal officer of a company residing in Antigua and Barbuda, to make returns under this Act within the time specified in such notice.

**Power of
Commissioner to
require returns.**

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

49. (1) The Commissioner may, by notice in writing, require any person to furnish him within a specified time with a return and such particulars as he may require for the purposes of this Act with respect to the income of such person.

**Power of
Commissioner to
require returns
and particulars
and production
of documentary
evidence.**

(2) Any person who neglects duly to furnish such returns or particulars shall be guilty of an offence against this Act.

(3) The Commissioner may, by notice in writing, require any person to attend before him and give evidence with respect to his income, and to produce all books or other documents in his custody or under his control relating to such income.

(4) Any person who, without lawful excuse, refuses or neglects to attend or give evidence in pursuance of such notice

or to produce such books or other documents or who refuses to answer any lawful question touching the matters under consideration or knowingly or wilfully gives any false evidence under this section, shall be guilty of an offence against this Act.

NOTICES

Signatures of notices.

50. (1) Every notice to be given by the Commissioner under this Act shall be signed by the Commissioner or by some person or persons from time to time appointed by him for that purpose, and every such notice shall be valid if the signature of the Commissioner or of such other person or persons is duly printed or written thereon:

Provided that any notice in writing under this Act to any person requiring him to furnish particulars to the Commissioner or any notice under this Act requiring the attendance of any person or witness before the Commissioner, shall be personally signed by the Commissioner or by any person duly authorised by him.

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

(3) Every notice required to be given by the Appeal Board shall be valid if signed by the Chairman or the Secretary.

Services of notices.

51. 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 Antigua and Barbuda not later than two days succeeding the day when posted, and in the case of persons not so resident, one month succeeding the day on which the notice would have been received in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

52. (1) Where the person to whom there has been addressed a letter containing any notice which may be given under the provisions of this Act refuses to accept delivery of such letter, or is informed of the fact that there is a letter awaiting him at a Post Office and such person refuses or neglects to take delivery of such letter, such notice shall be deemed to have been served upon him on the date on which he was informed that there was a letter awaiting him at the Post Office.

Refusal or neglect to accept letters.

(2) Every person who refuses or neglects to take delivery of a letter addressed to him shall be guilty of an offence against this Act.

PART IX

ASSESSMENT AND ASSESSMENT LISTS

53. (1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the date prescribed for delivering the returns.

Commissioner to make assessments.

(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 any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious, or where effect has not, in fact, been given to any disposition, the Commissioner may disregard any such transaction or disposition, and the persons concerned shall be assessable accordingly.

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

(4) Where a person has not delivered a return and the Commissioner is of the opinion that such a person is liable to pay tax, he may, according to the best of his judgment,

Estimated assessment.

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.

Appointment of agent in the United Kingdom.

54. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom, the Governor-General may appoint an agent in the United Kingdom, who shall make enquiries on behalf of the Commissioner in respect of any such persons as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Act, and shall forward to the Commissioner the accounts and computation upon which this 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 an error has occurred in the accounts or computation he may refer the report back for further consideration:

Provided also that nothing in this section shall affect the right of appeal to the Appeal Board and to a Judge in Antigua and Barbuda conferred by sections 59 and 61.

Lists of persons assessed.

55. (1) After completing his assessments the Commissioner shall prepare or cause to be prepared a register of persons liable to pay tax and shall certify the same.

(2) Such register (hereinafter 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 the tax payable by him, and such other particulars as may be prescribed.

Notices to be served on persons assessed.

56. (1) The Commissioner shall cause to be served personally on 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 subsection.

(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 Antigua and Barbuda, sickness or other reasonable cause, the person disputing the assessment was prevented from making 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 subsection (2), 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 amount so agreed shall be the amount at which such person shall stand assessed, and the assessment shall be confirmed or amended accordingly:

Provided always, that in the event of any person who under subsection (2), 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 the Appeal Board and to a judge under the provisions of this Act, against the assessment made upon him, shall remain unimpaired.

ADDITIONAL ASSESSMENTS

57. Where it appears to the Commissioner that any person liable to tax has not been assessed, or has been assessed

Omissions and undercharges may be rectified.

at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within six years after the expiration thereof assess such person at such amount or additional amount 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 under this Act shall apply to such assessment or additional assessment and to the tax charged thereunder:

Provided that where any form of fraud or wilful default has been committed by or on behalf of any person in connection with or in relation to tax, assessments and additional assessments on that person to tax for that year may, for the purpose of making good to the Crown any loss of tax attributable to the fraud or wilful default, be amended or made as aforesaid at any time.

ERRORS IN ASSESSMENTS AND NOTICES

Assessments and other proceedings not void by reason of errors therein in names and description.

58. (1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act, shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect, or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or any Act amending the same, and if the person assessed 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.

PART X

APPEALS

59. (1) A person aggrieved by an assessment made upon him may appeal against the assessment to an Appeal Board (hereinafter called the Board) constituted as provided in Section 60. **Appeals to the Appeal Board against assessments.**

(2) The provisions of subsections (2), (5) and (8) of section 61 shall apply to appeals to the Board under this section in the same way as they apply to appeals under section 61 as if references to a Judge in the said subsections were references to the Board.

(3) If the Board is satisfied that the appellant is overcharged it may reduce the amount of assessment by the amount of the overcharge, and if it is satisfied that the appellant is undercharged it may increase the amount of the assessment by the amount of the undercharge.

(4) Notwithstanding anything contained in subsection (2) of section 62, if the Board is satisfied that tax in accordance with its decision upon the appeal may not be recovered, the Board may require the appellant forthwith to furnish such security for payment 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 forthwith by suit by the Commissioner in his official name as well as in manner provided by section 65.

(5) Notice of an appeal under this section shall be given 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 the Board that, owing to absence from Antigua and Barbuda, 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.

(6) Any person who is aggrieved by a decision of the Board may appeal to a Judge under the provisions of this Act.

Constitution of Board.

60. (1) The Board shall consist of such persons as shall be appointed by the Governor-General and such persons shall hold office for such period as the Governor-General may think fit.

(2) The Board shall meet as often as circumstances may require. Three members shall form a quorum.

(3) The Board shall appoint one of the members to be chairman and every decision of the Board shall be signified under the hand of the chairman.

(4) The Governor-General shall appoint some person to be secretary to the Board and all notices and documents other than decisions of the Board may be signified under the hand of the secretary.

(5) The Cabinet may make rules prescribing the proceedings to be followed in the conduct of appeals before the Board.

Appeals to Judge against assessments.

61. (1) Any person who is aggrieved by, a decision of the Board may appeal to a Judge upon giving notice in writing to the respondent within fifteen days from the date of the decision of the Board:

Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against such assessment if he shows to the satisfaction of a Judge that owing to absence from Antigua and Barbuda, 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 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 Antigua and Barbuda, 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) Either party to an appeal may be represented by counsel or solicitor at the hearing of such appeal.

(4) Seven clear days' notice shall, unless rules made hereunder otherwise provide, be given to the respondent 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 appellant.

(6) If the Judge is satisfied that the assessment is excessive he may reduce the amount of the assessment by the amount of the overcharge, and if he is satisfied that the assessment is undercharged he may increase the amount of the assessment by the amount of the undercharge.

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

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

(9) The cost 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 hearing the appeal shall be final:

Provided that the Judge hearing such appeal may, if he so desires, and shall, on the application of either party to the appeal, state a case on a question of law for the opinion of the Court of Appeal.

(11) 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:

5/1924. Provided that rules governing such appeals made by virtue of the Income Tax Ordinance, 1924, shall be deemed to have been made under this Act and shall continue in force, so far as the same may not be rendered inapplicable by this Act, until other provisions shall be made under or by virtue of this Act.

(12) Notwithstanding anything contained in subsection (2) of section 62, if the Judge is satisfied that tax in accordance with his decision upon the appeal may not be recovered, the Judge may require the person liable to pay such tax forthwith to furnish such security for payment of the tax, if any, which may become payable by such person as may seem to the Judge to be proper. If such security is not given the tax assessed shall become payable forthwith and shall be recoverable forthwith by suit by the Commissioner in his official name as well as in the manner provided by section 65.

PART XI

COLLECTION, RECOVERY AND REPAYMENT OF TAX

Collection of tax.

62. (1) The tax appearing in the list referred to in section 55 shall be payable on or before the prescribed date.

(2) The 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 Commissioner may in such case enforce payment of that portion of the tax (if any) which is not in dispute.

(3) 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 day on which the objection or appeal was determined, and if such tax is not paid within such period, payment thereof may be enforced under the provisions of this Act.

(4) Where after assessment has been made in accordance with the provisions of this Act any amount collected pursuant to the provisions of section 65 is found to be in excess of the tax shown to be payable in the assessment, the excess shall be refunded as soon as practicable thereafter and, in any case, not later than three months after the assessment has been made.

63. (1) Notwithstanding any other provisions of this Act or any rule made thereunder the provisions of this section shall apply to the collection of tax from any company and from any person carrying on on his own behalf or exercising any trade, business, profession or vocation either solely or in partnership.

Payments of tax
by instalments
by certain
persons.

(2) Where any person has been assessed to tax for any year of assessment and the amount of such tax has been finally determined then, for the purposes of this section, that year of assessment shall be regarded as "the standard year" and that amount as "the standard amount".

(3) Not later than the thirty-first day of March in any year of assessment, or at such other time in that year as may by this section be provided, the Commissioner may by notice in writing to any person to whom this section applies require such person to pay an amount equal to the standard amount, as computed for the latest standard year, in twelve equal monthly instalments commencing during the month of April in the year of assessment in which such notice as aforesaid is issued and terminating during the month of March in the year (in this section referred to as "the relevant year") of assessment next following.

(4) Where any person to whom this section applies is assessed to tax for any year of assessment which is a relevant year the Commissioner shall allow as a credit against the tax due under that assessment the aggregate amount of the instalments paid in respect of such relevant year by virtue of the foregoing subsection and where on making such allowance it is found that an excess of tax has been paid such excess shall be refunded or credited as appropriate.

(5) In computing the monthly instalments of the standard amount payable as provided by subsections (3) any frac-

tional part of a dollar shall be ignored and furthermore where such standard amount is less than one hundred and twenty dollars the provisions of this section shall not apply.

(6) In any case in which the standard amount cannot be ascertained owing to the fact that the assessment for the standard year has not been finalised or for any other reason or where no tax was payable for the standard year the Commissioner, acting in his discretion, shall determine the standard amount for the purposes of this section having due regard to the circumstances of the case.

(7) Where in any case the standard amount has been determined in accordance with sub-section (6) and subsequent to such determination the Commissioner is satisfied that the determination is excessive or insufficient he may re-determine the standard amount and on such re-determination shall issue a notice stating the standard amount as amended and the monthly instalments payable in consequence of that re-determination, provided that such notice shall not come into effect until the month immediately following the month in which it was issued and provided furthermore that such notice shall not be issued later than the thirty-first day of December in the year immediately preceding the relevant year.

(8) Any notice which is to be issued in accordance with the provisions of this section may be served on a person either personally or posted to his last known business or private address and in relation to such service the provisions of section 51 shall apply.

(9) Where any person to whom a notice is issued under this section fails to pay during any month the instalment due for that month and such default continues throughout the following month there shall be added to that instalment a penalty of ten per centum of the amount due for the first month and such penalty shall thereafter be deemed to be part of that instalment and the total amount shall be recoverable as unpaid tax as provided under this Act.

1977, cease to apply to any person referred to in section 5(2) of this Act.

65. (1) Notwithstanding anything in this Act contained, on the making of any payment after the 29th day of February, 1960 of or on account of any emoluments accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not during the income year 1960 or any income year thereafter tax shall, subject to and in accordance with any rules made under section 83 be deducted or withheld by 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 income year during which the payment is made:

**Deduction on
payment of
emoluments.**

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 the provisions of this section, such question shall be determined by the Commissioner subject to any provisions as to appeal against such determination as may be provided by the rules made under section 83, and to the provisions of this Act relating to appeals.

(2) The tax deducted or withheld pursuant to the provisions of subsection (1) shall be paid to the Commissioner by the person deducting or withholding the same at such time or times and by such date or dates as may be prescribed in the rules made under section 83, and on the payment thereof the Commissioner shall send to the payer a receipt which shall to the extent of the amount referred to therein be a good and sufficient discharge of the liability of the payer for any amount deducted or withheld pursuant to the provisions of this section.

(3) If any person shall fail to remit to the Commissioner any amount deducted or withheld pursuant to the provisions of subsection (1) by such date or dates as may be prescribed in the rules made under section 83, he shall be liable to a penalty of ten per centum of the amount or part thereof not remitted or one hundred dollars whichever is the greater in

addition to the amount itself together with interest on the amount at the rate of five per centum per annum.

(4) All amounts deducted or withheld by any person pursuant to the provisions of subsection (1) shall be deemed to be held in trust by such person for Her Majesty, Her heirs and successors for the use of Antigua and Barbuda and shall be kept by such person separate and apart from his own moneys and shall not be subject to attachment in respect of any liquidation, assignment, or bankruptcy the said amounts shall remain apart and form no part of the estate in liquidation, assignment or bankruptcy.

(5) Every person who shall have deducted or withheld any tax pursuant to the provisions of subsection (1), shall deliver personally or send by post within such time or times as may be prescribed by rules made under section 83 to the person from whose emoluments the tax was deducted or withheld or to such other person as may be prescribed by rules made under the said section, such certificates of account relating to the amount of tax deducted by him as may be prescribed by the said rules.

(6) If any person shall fail to comply with the provisions of subsection (5) or shall fail to deliver or send to the Commissioner within such time or times as may be prescribed by rules made under the said section any return, account or certificate or any copy thereof which he may be required by the said rules to deliver or send to the Commissioner for the purpose of rendering him accountable to the Commissioner for any tax deducted or withheld by him pursuant to the provisions of this section, he shall be guilty of an offence against this Act and liable on summary conviction to a fine not exceeding one hundred 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 the wilful neglect or default of the defendant or of any person acting on his behalf.

(7) No action shall lie against any person for withholding or deducting any sum of money in compliance or intended compliance with the provisions of subsection (1).

(8) 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 to withhold or deduct such tax shall be void and of no force or effect whatsoever.

(9) Every person from whose emoluments any amount shall be deducted or withheld pursuant to the provisions of 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.

66. For the purposes of sections 64 and 65 the expression "emoluments" means all salary, wages, overtime, bonus, commission or other amounts for services, perquisites, directors' fees, retiring allowance or pension accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not and which are assessable to tax under section 5 but shall not include any salary or share of profits arising from a trade, profession or vocation carried on by any person either by himself or in partnership.

Definition of emoluments for purposes of sections 64 and 65.

67. The Commissioner 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 rules made under section 83) to deduct or withhold tax pursuant to the provisions of subsection (1) of section 65 for the purpose of enabling any such person to calculate, subject to and in accordance with any rules made under the said section 83, the amount of any tax to be deducted or withheld.

Commissioner to prepare tax tables.

68. If any tax is not paid on or before the prescribed date or in cases where notice of an objection or an appeal has been given, within thirty days from the day on which the objection or appeal was determined, a sum equal to five per centum of the amount of the tax payable shall be added thereto, together with simple interest calculated at the rate of five per centum per annum on any tax due and owing on or after the first day of January, 1960, and remaining unpaid after the expiration of twelve months from the prescribed date, and the provisions of this Act relating to

Penalty for payment of and enforcement of payment.

the collection and recovery of tax shall apply to the collection and recovery of such sum.

Recovery of tax.

69. (1) In the event of any tax or any portion thereof not being paid on or before the date fixed by the last preceding section it shall be lawful for the Commissioner in his official name to sue for and recover the tax or such portion thereof as a civil debt in a Court of competent jurisdiction or to issue a warrant under his hand directed to the Provost-Marshall of Antigua and Barbuda setting out in the same or in a schedule thereto the several sums due on account of the tax from the persons against whom the warrant is directed.

(2) For the purpose of this section any amount deducted or withheld pursuant to the provisions of subsection (1) of section 65 and not paid by the person deducting or withholding the amount by such date or dates as may be prescribed in rules made under section 83, and any penalty or interest annexed thereto by virtue of the provisions or subsection (3) of section 65 and not remitted, shall be deemed to be "unpaid tax" due from such person and may be recovered in the manner provided by subsection (1).

Provost-Marshall to levy on and sell goods, chattels and lands.

70. Immediately on receipt of the warrant the Provost-Marshall shall proceed to levy upon the goods, chattels and lands of the persons against whom the warrant is directed and to sell in the manner provided in section 71 so much of the same as may be required to satisfy the several sums due on account of the tax from the persons against whom the warrant is directed.

Sale to be by public auction.

71. Every sale under this Act shall be by public auction held at such time and place as the Provost-Marshall shall direct, and notice of such sale shall be given in the *Gazette* for two consecutive weeks before the day of the sale.

Application of proceeds of sale.

72. The proceeds of the sale shall be applied to the payment of the tax due and the expenses of levy and sale and the surplus, if any, shall be paid on application to the person entitled thereto.

Commission to Provost-Marshall.

73. (1) There shall be paid to the Provost-Marshall in respect of the duties performed by him under this Act a commission at the rate of two and a half per centum over

and above the other expenses of the levy and sale on the net proceeds of any sale under this Act.

(2) All sums of money received or recovered by the Provost-Marshall as commission shall be paid into the Treasury.

74. (1) If in any particular case the Commissioner has reason to believe that a person who has been assessed to tax may leave Antigua and Barbuda before such tax becomes payable without having paid such tax, he may by notice in writing to such person demand payment of such tax within the time to be limited to such notice. Such tax shall thereupon be payable at the expiration of the time so limited and shall, in default of payment, unless security for payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith in the manner provided by this Act.

Recovery of tax from and assessment of persons leaving Antigua and Barbuda.

(2) If in any particular case the Commissioner has reason to believe that tax upon any chargeable income may not be recovered, he may at any time and as the case may require—

(a) forthwith by notice in writing require any person to make a return and to furnish particulars of any such income within the time to be specified in such notice; and

(b) make an assessment upon such person in the amount of the income returned, or if default is made in making such return, or the Commissioner is dissatisfied with such return in such amount as the Commissioner may think reasonable,

and may by notice in writing to the person assessed require that the tax be paid forthwith or that security for the payment of the tax assessed be forthwith given to the satisfaction of the Commissioner.

(3) Notwithstanding any of the provisions of this Act if in any particular case the Commissioner has reason to believe that tax upon any income chargeable to such tax may not be recovered, he may at any time—

Charging tax before year of assessment.

(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;

(b) make an assessment upon such person in the amount of the income returned, or if default is made in making a return, or the Commissioner is dissatisfied with such return, in such amount as the Commissioner may think reasonable.

(4) Notice of assessment made in accordance with the provisions of subsections (2) and (3) shall be given to the person assessed and any tax so assessed (in accordance with the provisions of subsections (2) and (3)) shall be payable on demand made in writing under the hand of the Commissioner, and shall in default of payment, unless security for the payment thereof be given to the satisfaction of the Commissioner, be recoverable forthwith.

(5) Any person who has paid the tax in accordance with a demand made by the Commissioner or who had given security for such payment under subsections (2) and (3) shall have the rights of objection and appeal conferred by sections 56, 59 and 61, and the amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(6) The provisions of subsections (2) and (3) shall not affect the powers conferred upon the Commissioner by section 57.

**Relief for error
or mistake.**

75. (1) If any person who has paid tax charged under an assessment made for any year proves to the satisfaction of the Commissioner that the liability was excessive by reason of some error or mistake in that assessment or in the return or statement made by him for the purposes of the assessment, he may, at any time not later than six years from the end of the year of assessment to which the claim relates, make an application in writing to the Commissioner to have the amount so paid in excess refunded and, subject to the provisions of this section, the Commissioner shall certify the amount to be refunded and shall cause repayment to be made in conformity therewith.

(2) No repayment shall be made under this section in respect of any year of assessment as regards which the applicant has failed or neglected to deliver a true and correct return within the period by this Act prescribed or has been assessed in a sum in excess of the amount contained in his return:

Provided that in the case of failure or neglect to deliver a true and correct return this subsection shall not apply where such failure or neglect did not proceed from any form of fraud or wilful default on the part of the applicant.

(3) No repayment shall be made under this section in respect of an error or mistake in the computation of the liability to tax of the applicant where such computation was in fact made on the basis of or in accordance with the practice generally prevailing at the time the assessment was made.

(4) Where any person who has made an application for repayment under this section is aggrieved by the determination of the Commissioner he may, by giving written notice to the Commissioner within fifteen days of such determination, appeal to the Appeal Board and the provisions of this Act relating to appeals against assessments shall apply accordingly with any necessary modifications.

PART XII

GENERAL

76. (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 knowing the same to be false shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment, with or without hard labour, for a term not exceeding six months.

**False statements
and returns.**

(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 Act, or

(b) to keep or prepare any false account or particulars concerning any income on which tax is payable under this Act,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment, with or without hard labour, for a term not exceeding six months.

Books of account to be kept.

77. Any person engaged in any business by way of trade carrying a stock in trade in excess of five hundred dollars or in any profession shall keep in the English language proper books of account sufficient to record all transactions necessary in order to ascertain the gains and profits made or the loss incurred in each such trade, business or profession, and any such person who fails to comply with the provisions of this section shall be guilty of an offence against this Act, and, in addition to any penalty incurred, he shall be liable to pay any tax to which he may be assessed under the provisions of this Act.

Failure to perform required duty.

78. Any person who refuses or neglects to perform any duty required to be performed under this Act shall be guilty of an offence against this Act.

Limitation-of time for prosecutions.

79. (1) Prosecutions for offences under this Act may be commenced at any time within two years next after the cause of complaint arose.

(2) The time limited by subsection (1) for commencement prosecution shall, where any form of fraud or wilful default has been committed by the offender or on his behalf in connection with or in relation to tax, be excluded so as to authorise the commencement of such prosecutions at any time within two years from the final determination of the amount of tax covered by the assessment. For the purposes of this subsection the amount of tax covered by any assessment shall not be deemed to be finally determined until that assessment can no longer be varied whether by the Commissioner, or on appeal by the Appeal Board or by the order of any court.

80. The Cabinet may, if satisfied that it is just and equitable to do so, remit— **Cabinet may remit tax.**

(a) the whole or any part of the tax payable by any person;

(b) any penalty, fee or charge imposed for or as the result of non-payment thereof, including any expenses of levy and sale of and of commission payable to the Provost-Marshal;

(c) any additional penalty or interest payable or paid under the provisions of subsection (3) of section 65.

81. The provisions of this Act shall not affect any criminal proceedings under any other Act or law. **Saving for criminal proceedings.**

82. Any person guilty of an offence against this Act shall, unless some other penalty is specifically provided for such offence, be liable on summary conviction to a penalty not exceeding five thousand dollars, and in default of payment to imprisonment with or without hard labour for a term not exceeding six months. **Penalties for offences.**

83. The Cabinet may make rules generally for carrying out the provisions of this Act, and may in particular by those rules provide— **Rules.**

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

(b) for requiring any person making any payment of, or on account of any emoluments, when he makes the payment, to make a deduction of tax calculated by reference to the tax table prepared by the Commissioner under section 67, and for rendering persons who are required to make such deduction accountable to the Commissioner;

(c) for the production to, and inspection by the Commissioner or any person authorised by him of wages sheets and other documents and records for the purpose of satisfying the Commissioner that tax has been paid and is being deducted and accounted for in accordance with the said rules;

(d) for appeals with respect to matters arising under the said rules which would not otherwise be the subject of appeals;

(e) for any such matters as are authorised by this Act to be prescribed; and

(f) for any other matter or thing, whether similar or not to those above-mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

(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 under this Act he shall be guilty of an offence against this Act.

Transitional
relief discharge
of tax.

84. (1) Notwithstanding anything contained in this Act, but subject to the provisions of this section, tax on all emoluments accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not during the year 1959 is hereby discharged.

(2) Tax shall not be discharged as aforesaid unless the person entitled to the emoluments accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not during the year 1959 is at some time during the year 1960 in receipt of emoluments accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not during the year 1960.

(3) If any person is in receipt for part only of the year 1960 of emoluments accruing in or derived from Antigua and Barbuda or elsewhere and whether received in Antigua and Barbuda or not during that year the amount of tax to be discharged shall not exceed the amount of tax chargeable in respect of the said emoluments of 1960.

(4) Where any person in the same employment during the years of 1958 and 1959 received during the year 1959

any emoluments in respect of that employment assessable to tax under the provisions of this Act in the year 1960 and such emoluments are in excess of the emoluments received by him in respect of that employment during the year 1958 by reason of—

(a) an additional amount being granted on or after the first day of January, 1959; or

(b) a change in the conditions of service attaching to that employment being affected on or after the first day of January, 1959;

tax on the amount of the excess shall not be discharged:

Provided that this subsection shall not apply to any increase of emoluments arising from—

(a) promotion in the ordinary course of events; or

(b) the ordinary application of an incremental scale of emoluments; or

(c) overtime paid at ordinary rates;

or from any other similar increase of an ordinary character.

(5) For the purposes of subsection (4), the tax on the amount of the excess shall be the difference of tax between the tax on emoluments received in the year 1959 assessable to tax pursuant to the provisions of this Act in the year 1960 and the amount of tax assessed in the year 1959 pursuant to the provisions of the said Act on the emoluments received in the year 1958.

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

(7) For the purposes of this section the expression "emolument" shall have the meaning assigned to it by section 66 and the expression "employment" means the position of an individual in the service of some other person

(including Her Majesty, the Government or a foreign state or Sovereign).

Special provisions relating to year of assessment 1975.

85. In the year of assessment 1975 the Commissioner may exercise the power and duties imposed upon him by section 63(3) at any time until the 31st May of that year and any person to whom section 63 applies shall be required to pay the amount equal to the standard amount in ten equal monthly instalments commencing during the month of June in that year and terminating during the month of March next following.

Special provisions relating to year of assessment 1977.

86. In the case of any person who is excepted from liability to tax under section 5(2) in respect of year of assessment 1978, where the income of such person for year of assessment 1977 would have been computed by reference to a basis period which ended on a date in 1976 earlier than 31st December then, notwithstanding sections 5(2) and 7, in respect of so much income as accrued to that person between the end of the basis period and 31st December, 1976, such income shall be deemed to have also accrued to that person for year of assessment 1977.

(2) In the case of any person who is excepted from liability to tax under section 5(2) in respect of year of assessment 1978, where the income of such person for year of assessment 1977 would have been computed on a cash received basis then notwithstanding section 5(2), in respect of so much income as had accrued to that person but had not been received as at 31st December, 1976, such income shall also be included in the chargeable income of that person for year of assessment 1977.

Saving of rules. 711945.

87. All rules made under the Income Tax Ordinance, 1945 and in force at the time of the coming into operation of this Act shall be deemed to have been made under this Act and shall continue in force until other provision shall be made by virtue of this Act.

Coming into operation and application of certain provisions.

88. The following provisions of this Act, that is to say, the definition of "resident in Antigua and Barbuda" in section 2; subsection (2) of section 5; section 64 and section 86 shall come into operation on 1st January 1977 and shall apply to—

(a) the assessment of income for the year of assessment 1978 and subsequent years of assessment; and

(b) the assessment of certain income accruing during the year ending 31st December, 1976, to the extent provided by section 86.

SCHEDULE

(SECTION 2)

Australia, the Bahamas, Bangladesh, Barbados, Belize, Botswana, Canada, Cyprus, Dominica, the Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kiribati, Kenya, Lesotho, Malawi, Malaysia, Malta, Mauritius, Nauru, New Zealand, Nigeria, Papua-New Guinea, Pakistan, St. Lucia, St. Vincent and the Grenadines, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Swaziland, Tanzania, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, West Samoa, Zambia, Zimbabwe.
