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(Note) In the revision of this Ordinance the sections have been renumbered but there has not been any change of their sequence.

The following table shows the former and the present numbering of the sections—

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CHAPTER 273.

INCOME TAX.

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

[1ST APRIL, 1944.]

1 of 1943.
 1 of 1944.
 21 of 1946.
 1 of 1947.
 22 of 1947.
 38 of 1947.
 6 of 1948.
 18 of 1950.
 15 of 1952.
 12 of 1954.
 3 of 1956.
 16 of 1956.
 25 of 1957.
 13 of 1959.

PART I.—PRELIMINARY.

Short title
 commence-
 ment and
 application.

1. This Ordinance may be cited as the Income Tax Ordinance; it shall have force and effect as from such date as the Governor may declare by Proclamation and shall apply to income tax charged for the year of assessment commencing on the day from which the Ordinance takes effect, and each succeeding year of assessment and shall apply and shall always be deemed to have applied to the Colony and Protectorate.

21 of 1946.

Interpreta-
 tion.

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

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

21 of 1946.

“British possession” means any of Her Majesty’s dominions or any territory under Her Majesty’s protection or any territory in respect of which a mandate is being exercised by Her Majesty’s Government in the United Kingdom or in any of Her dominions or any territory the administration of which is entrusted to Her Majesty’s Government in the United Kingdom or in any of Her dominions under any international agreement, but does not include the United Kingdom or Sierra Leone;

“Commissioner” means the Commissioner charged with the administration of this Ordinance, and includes a Deputy Commissioner or an Assistant Commissioner for all purposes of this Ordinance except the exercise of the powers conferred upon the Commissioner by section 76, section 77, and section 81 of this Ordinance;

“company” means any company incorporated or registered under any law in force in Sierra Leone or elsewhere;

“earned income” means—

18 of 1950.

(i) any income which is liable to charge under paragraph (a) of section 7 and is immediately derived by an individual or by his wife from the carrying on or exercise by him or by his wife of a trade, business, profession or vocation either as an individual, or, in the case of a partnership, as a partner personally acting therein; and

(ii) any income arising in respect of any gains or profits, including any allowance, from any employment held by an individual or by his wife, or in respect of any pension, superannuation or other allowance or deferred pay given in respect of the past services of such individual or of the husband or wife or parent of such individual in any employment or given to such individual or his wife in respect of the past services of any deceased person, whether such individual or husband or wife or parent of such individual shall have contributed to such pension, superannuation allowance or deferred pay or not;

“executor” includes any executor, administrator or other person administering the estate of a deceased person, and a trustee under a trust created by a will;

18 of 1950.

“incapacitated person” means any infant, married woman, lunatic, idiot, or insane person;

“loss” in relation to a trade, business, profession or vocation means loss computed in like manner as profits;

“married woman” and “wife” include a wife married according to native law and custom;

18 of 1950.

“mills, factories or other similar premises” means any building which forms part of premises, being either—

(i) a building which contains, and is used wholly or mainly for the purpose of operating machinery worked by steam, electricity, water or other mechanical power; or

(ii) a building the depreciation of which is substantially increased by the operation of machinery so worked on the premises in any such building as is mentioned in paragraph (i) of this definition;

“person” includes a company or body of persons;

“resident in Sierra Leone,” when applied to an individual means an individual who resides in Sierra Leone except for such temporary absences as to the Commissioner may seem reasonable and not inconsistent with the claim of such individual to be resident in Sierra Leone; when applied to a company or a body of persons means a company or a body of

persons the control and management of whose business are exercised in Sierra Leone;

21 of 1946.

“tax” means the income tax imposed by this Ordinance;
 “written down value,” when used with regard to any asset at any date, means the remainder at that date of the capital cost of the asset ultimately borne by the owner thereof after deducting from such cost the total diminution in value (ascertained in accordance with the provisions of paragraphs (e) or (m) of sub-section (1) of section 10 of this Ordinance) which has occurred by reason of wear and tear from the date such capital cost was incurred up to the date first mentioned in this definition;

“year of assessment” means the period of twelve months commencing on the day from which the Ordinance takes effect, and each subsequent period of twelve months.

PART II.—ADMINISTRATION.

Administra-
tive
authority.

3. (1) For the due administration of this Ordinance the Governor may by notice in the *Gazette* appoint a Commissioner, Deputy Commissioner, Assistant Commissioners and such other officers and persons as may be necessary. The Commissioner shall be responsible for the assessment and collection of the tax and shall pay all amounts collected in respect thereof into the Treasury to the credit of the general revenue of Sierra Leone.

(2) The Commissioner may by notice in the *Gazette* or in writing authorise any person to perform or to assist the performance of any specific duty imposed upon the Commissioner by this Ordinance.

(3) Subject to such conditions as the Commissioner may specify the Commissioner may by notice in the *Gazette* direct that any information, return or document required to be supplied, forwarded or given to the Commissioner may be supplied to such other person as the Commissioner may direct.

(4) Any person within or without Sierra Leone may be appointed as authorised under the provisions of this section.

Official
secrecy.

4. (1) Every person having any official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential.

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

(a) other than a person to whom he is authorised by the Governor to communicate it; or

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

(3) Any proceedings for an offence against this section may be taken by or in the name of the Commissioner but not by any other person except with the consent of the Attorney General.

(4) No person appointed under or employed in carrying out the provisions of this Ordinance shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Ordinance except as may be necessary for the purpose of carrying into effect the provisions of this Ordinance, or in order to institute a prosecution, or in the course of, a prosecution for any offence committed in relation to income tax.

(5) Where under any law in force in any British possession, provision is made for the allowance of relief from income tax in respect of the payment of income tax in Sierra Leone, the obligation as to secrecy imposed by this section of this Ordinance shall not prevent the disclosure to the authorised officers of the Government in that British possession 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 Sierra Leone or from income tax in that possession. ^{1 of 1947.}

(6) Notwithstanding anything contained in this section the Commissioner may permit the Director of Audit of the Colony or any officer duly authorised in that behalf by him to have such access to any records or documents as may be necessary for the performance of his official duties. The Director of Audit or any such officer shall be deemed to be a person employed in carrying out the provisions of this Ordinance for the purpose of this section.

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

(a) for the registration of the wives and children of individual taxpayers;

(b) for such other matters as are authorised by this Ordinance to be prescribed.

Forms.

(2) The Commissioner may from time to time specify the form of returns, claims, statements and notices under this Ordinance.

Service and
signature of
notices.

6. (1) Except where it is provided by this Ordinance that service shall be effected either personally or by registered post a notice may be served on a person either personally or by being sent through the post.

13 of 1959.

(2) Every notice except a notice to make a return of income to be given by the Commissioner under this Ordinance shall be signed by the Commissioner or by some person or persons from time to time authorised by him for that purpose under section 3, and every such notice shall be valid if the signature of the Commissioner or of such person or persons is duly printed or written thereon:

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

(3) Where a person has applied for and been granted permission to make payment of the tax in the United Kingdom the signature of the agent appointed under section 61 on any assessment notice shall be deemed to be equivalent to that of the Commissioner.

PART III.—IMPOSITION OF INCOME TAX AND INCOME CHARGEABLE.

Charge of
Income Tax.
1 of 1947.

7. The tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereinafter for each year of assessment, upon the income of any person accruing in, or derived from, brought into, or received in Sierra Leone in respect of—

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, or profession, or vocation may have been carried on or exercised;

18 of 1950.

(b) gains or profits from any employment, including any allowances paid or payable in money to or on behalf of such person other than allowances in respect of any medical or dental costs or of any passage from or to Sierra Leone, but excluding the value of any residence provided for his personal use by his employer;

(c) dividends, interest or discounts;

(d) any pension, charge or annuity;

(e) rents, royalties, premiums and any other profits arising from property.

8. (1) Where a non-resident person carries on a trade or business of which only part of the operations is carried out in Sierra Leone the gains or profits of the trade or business shall be deemed to be derived from Sierra Leone to the extent to which such gains or profits are not attributable to that part of the operations carried on outside Sierra Leone.

Income deemed to accrue in, or be derived from Sierra Leone.
1 of 1947.

(2) Subject to the provisions of paragraph (s) of sub-section (1) of section 9, where a non-resident person carries on—

Profits of shipping and air-transport.

either (a) the business of shipowner or charterer;

or (b) the business of air-transport;

and any ship or aircraft owned or chartered by him calls at a port, aerodrome or airport in Sierra Leone, his full profits arising from the carriage of passengers, mails, livestock or goods shipped or loaded into an aircraft in Sierra Leone shall be deemed to accrue in Sierra Leone:

Provided that this sub-section shall not apply to passengers, mails, livestock or goods which are brought to Sierra Leone solely for transshipment or for transfer from one aircraft to another or in either direction between an aircraft and a ship.

18 of 1950.

(3) Where a non-resident person carries on the business of transmitting messages by cable or by any form of wireless apparatus his full profits arising from the transmission of any such messages to places outside Sierra Leone shall be deemed to accrue in Sierra Leone.

Profits of Cable or wireless undertakings.

(4) The gains or profits from any employment exercised in Sierra Leone shall be deemed to be derived from Sierra Leone whether the gains or profits from such employment are received in Sierra Leone or not.

Gains or profits of employments.

Profits on sale of plant, machinery or fixtures sold or discarded.

(5) Where the sum to be deducted from the cost of any plant, machinery or fixtures under the provisions of paragraph (c) of sub-section (1) of section 10 exceeds such cost, the excess shall be deemed to be a profit of the trade, business, profession, vocation or employment for the purpose of this Ordinance:

Provided that where such plant, machinery or fixtures were only partly used or employed in such trade, business, profession, vocation or employment such profit shall be proportionately reduced.

Profits on sale of premises, buildings, etc. 21 of 1946.

(6) Where the sum to be deducted from the cost of any premises, buildings, structures or works of a permanent nature under the provisions of paragraph (1) of sub-section (1) of section 10 of this Ordinance exceeds such cost, the excess shall be deemed to be a profit of the trade or business for the purpose of this Ordinance:

Provided that where such premises were only partly used or employed in such trade or business such profit shall be proportionately reduced:

Provided further that this sub-section shall not apply to premises used for the purposes of mining operations:

Provided further that the amount to be deemed to be a profit shall not exceed the amount by which the cost of the premises, buildings, structures or works of a permanent nature ultimately borne by the owner thereof exceeds the written down value.

Income exempted.

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

(a) the official emoluments received by the Officer Administering the Government;

(b) 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 and any income derived by them from sources outside Sierra Leone;

(c) the emoluments payable from Imperial Funds to members of Her Majesty's Forces and to persons in the permanent service of the Imperial Government in Sierra Leone in respect of their offices under the Imperial Government;

(d) the emoluments payable otherwise than from Imperial Funds to members of the armed forces of any Power or Body stationed in Sierra Leone;

(e) the income of the City Council of Freetown and of any local authority, tribal authority or Government institution;

(f) the income of any statutory or registered building society or statutory or registered friendly society in so far as such income is not derived from a trade or business carried on by such society;

(g) the income and profits of any co-operative society registered under the Co-operative Societies Ordinance;

Cap. 253.

(h) 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;

(i) the income of any body of persons formed for the purpose of promoting social or sporting amenities not involving the acquisition of gain by the body of persons or by its individual members, subject to such conditions as the Commissioner may prescribe;

(j) capital sums received by way of retiring or death gratuities or as consolidated compensation for death or injuries;

(k) capital sums withdrawn by individuals on retirement from any provident society or fund approved by the Commissioner under section 10 (1) (h);

(l) wound and disability pensions granted to members of Her Majesty's Forces or of any recognised national defence organisation or to persons injured as the result of action by the Queen's enemies;

(m) the income of any trade union registered under the Trade Unions Ordinance, in so far as such income is not derived from a trade or business carried on by such trade union;

Cap. 221.

(n) interest paid or credited to any person by the Sierra Leone Post Office Savings Bank;

(o) pensions granted to any person under the provisions of the Pensions (Widows and Orphans) Ordinance, the Widows and Orphans (Overseas Officers) Pensions Ordinance, or the Widows and Orphans (African Officers) Pensions Ordinance;

13 of 1959.
Cap. 168 of
1946 Edition;
Cap. 175;
Cap. 174.

(p) the income of the Sierra Leone Selection Trust, Limited, derived from operations under the licence set out in the Schedule to the First Schedule to the Diamond Agreements and Licence (Ratification) Ordinance;

Cap. 207.

Cap. 202.

(q) the income of the Sierra Leone Development Company, Limited, derived from or in respect of the exercise of any of the rights conferred by the agreement set out in the schedule to the Tonkolili Agreement Ordinance, or from any mining rights or leases issued in pursuance of the aforesaid agreement;

Cap. 121.

(r) the income derived from or in respect of the exercise of the rights conferred by any concession within the meaning assigned to that term by section 2 of the Concessions Ordinance;

18 of 1950.

(s) gains or profits from the business of operating ships or aircraft carried on by a person not resident in Sierra Leone in so far as in the case of ships the business is not carried on in inland waters only and by means of ships engaged solely in carrying passengers and cargo between places in Sierra Leone:

Provided that—

(a) the Commissioner is satisfied that an equivalent exemption from tax is granted by the country in which such person is resident to persons resident in Sierra Leone, and, if that country is a country other than the United Kingdom, to persons resident in the United Kingdom;

(b) a person shall be deemed to be resident in that country only in which the management and control of his business are exercised;

(t) the investment income of any pension or provident society or fund which is approved by the Commissioner under paragraph (h) of sub-section (1) of section 10;

3 of 1956.

(u) the income of the holder of an alluvial diamond dealer's licence or of an alluvial diamond mining licence, derived from the sale of diamonds in respect of which alluvial diamonds tax has been paid in accordance with the provisions of the Alluvial Diamond Mining Ordinance:

Cap. 198.

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.

Government
loans.

(2) The Governor may by notice in the *Gazette* provide that the interest payable on any loan charged on the public revenue of Sierra Leone shall be exempted from the tax, either generally or in respect of interest payable to persons not resident in Sierra Leone, and such interest shall as from the date and to the extent specified by such notice be exempt accordingly.

(3) There shall be exempt from the tax any income arising out of Sierra Leone and received therein by any person who is in Sierra Leone for some temporary purpose only and not with any intent to establish his residence therein and who has not actually resided in Sierra Leone at one or more times for a period equal in the whole to six months in the year of assessment.

Temporary residents.

(4) The Governor in Council may exempt any person or class of persons from all or any of the provisions of this Ordinance on any ground which to him may seem sufficient.

Power of Governor in Council to exempt.

(5) The exemptions contained in sub-sections (1) (q) and (1) (r) of this section shall cease to have effect in respect of any year of assessment beginning on or after the first day of April, 1946.

Exemptions (q) and (r) to cease. 38 of 1947.

(6) The exemption contained in sub-section (1) (p) of this section shall cease to have effect in respect of any year of assessment beginning on or after the first day of April, 1949.

Exemption (p) to cease. 15 of 1952.

PART IV.—ASCERTAINMENT OF INCOME.

10. (1) For the purpose of ascertaining the income of any person for any period from any source chargeable with tax under this Ordinance there shall be deducted all outgoings and expenses wholly and exclusively incurred during that period by such person in the production of the income, including—

Deductions allowed.

(a) except as hereinafter provided, sums payable by way of interest upon any money borrowed by him, where the Commissioner is satisfied that the interest was payable on capital employed in acquiring the income;

(b) rent payable by any person in respect of land or buildings occupied by him for the purpose of acquiring the income;

(c) where any person who carries on or exercises any trade, business, profession, vocation or employment has sold or discarded any plant, machinery or fixtures used or employed in such trade, business, profession, vocation or employment, any loss attributable to the cost of the plant, machinery or fixtures sold or discarded after deducting from that cost such sum as shall represent the total diminution in value, ascertained in accordance with the provisions of paragraph (e) of this sub-section which has occurred by reason of wear and tear since the date of purchase of such plant, machinery or fixtures and any sum realised or likely to be realised by the sale thereof:

Provided that where such plant, machinery or fixtures were only partly used or employed in such trade, business, profession, vocation or employment, the deduction under this paragraph shall be proportionately reduced;

(d) any expense incurred for repair of premises, plant, machinery or fixtures employed in acquiring the income, or for the renewal, repair or alteration of any implement, utensil or article so employed:

Provided that no deduction shall be made for—

(i) the cost of reconstruction or rebuilding of any premises, buildings, structures or works of a permanent nature which has been the subject of a deduction under paragraph (m) of this sub-section; or

(ii) the cost of renewal of any plant, machinery or fixtures which has been the subject of a deduction under paragraph (e) of this sub-section;

16 of 1956.

(e) where any person who carries on or exercises any trade, business, profession, vocation or employment has purchased any plant, machinery or fixtures for use or employment in a trade, business, profession, vocation or employment, an allowance called an initial allowance equal to forty per centum of the net cost incurred in the period the profits or losses of which form the basis of assessment for that year, and annually thereafter an allowance called an annual allowance of such sum as the Commissioner may think just and reasonable as representing the amount by which the value of any plant machinery or fixtures has been diminished by reason of wear and tear arising out of their use or employment in the trade, business, profession, vocation or employment:

Provided that, in the case of the initial allowance, where the period in which the net cost is incurred forms the basis for more than one year of assessment the allowance shall be given for the first year of assessment only.

(f) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the period for which the income is being ascertained, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during that said period notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said period:

Provided that—

(i) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any previous period been allowed in respect of the same debt the appropriate reduction shall be made in the deduction to be made in the period in question;

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

(iii) it is proved to the satisfaction of the Commissioner that the debts in respect of which a deduction is claimed were either—

(a) included as a receipt of the trade, business, profession or vocation in the income of the year within which they were incurred or,

(b) advances made in the normal course of the trade, business, professional or vocational operations, not falling within the provisions of paragraph (c) of section 11;

(g) any contribution or abatement deducted from the salary or pension of a public officer under the Pensions (Widows and Orphans) Ordinance, the Widows and Orphans (Overseas Officers) Pensions Ordinance, or the Widows and Orphans (African Officers) Pensions Ordinance, or any approved scheme within the meaning of any of those Ordinances;

Cap. 168 of
1946 Edition;
Cap. 175.
Cap. 174.

(h) any contribution to a pension, provident or other society or fund which may be approved by the Commissioner subject to such conditions as he may prescribe:

21 of 1946.
1 of 1947.

Provided that—

(i) where the aggregate of the contributions of the employer and employee to any such society or fund, other than a pension society or fund, for any year of assessment exceeds 25 per centum of the remuneration paid by the employer to the employee for that year, the aggregate of the deductions to be allowed shall be 25 per centum of such remuneration, and in every such case the Commissioner shall determine the amounts of the deductions to be allowed to the employer and the employee respectively, and

(ii) where any such society or fund is first established and a special contribution is made thereto by the employer whereby persons in his employment whose employment

12 of 1954.

commenced prior to the establishment of the society or fund may qualify for benefits thereunder in respect of such prior employment, the Commissioner may, when approving the society or fund, authorise such deductions in respect of such special contributions as he may deem fit.

18 of 1950.

(iii) in the case of an employee, the aggregate amount of the deductions allowed under the provisions of this paragraph, of paragraph (g) of this sub-section and paragraph (g) of sub-section (2) of section 24 shall not exceed £1,000;

The relief to be granted under this paragraph shall be deemed to have applied from the first day of April, 1944;

18 of 1950.

(i) such sum as may be prescribed in respect of expenditure incurred by an individual on behalf of himself or his dependants on transport to or from any place outside or within Sierra Leone;

(j) where the income is derived from mining operations such deductions in respect of capital expenditure as may be prescribed by any rule made under this Ordinance;

(k) such other deductions as may be prescribed by any rule made under this Ordinance;

21 of 1946.
1 of 1947.

(l) Where any person who carries on or exercises a trade or business of a commercial or industrial nature or the business of banking has sold, demolished or permanently abandoned any premises, buildings, structures or works of a permanent nature employed in such trade or business and has been allowed a deduction under the provisions of paragraph (m) of this sub-section in respect of such premises, buildings, structures or works of a permanent nature any loss attributable to the cost to him of such premises, buildings, structures or works of a permanent nature after deducting from that cost such sum as shall represent the total diminution in value ascertained in accordance with the provisions of paragraph (m) of this sub-section which has occurred by reason of wear and tear since the date of purchase or erection of such premises, buildings, structures or works of a permanent nature by him, and any sum realised or likely to be realised by the sale thereof, including any sum recoverable under any policy of insurance:

Provided that where such premises, buildings, structures or works of a permanent nature were only partly used or employed in such trade or business the deduction under this paragraph shall be proportionately reduced;

21 of 1946.
1 of 1947.

(m) (i) Such sum as the Commissioner may think just and reasonable as representing the amount by which the value

of any premises, buildings, structures or works of a permanent nature has been diminished by reason of wear and tear arising out of their use or employment by the owner thereof for commercial, industrial or banking purposes:

Provided that—

(i) where any such premises, buildings, structures or works of a permanent nature are owned by a person and are let on terms whereby the full burden of the wear and tear thereof falls upon him and the premises, buildings, structures or works of a permanent nature are employed for commercial, industrial or banking purposes, he shall be deemed, for the period during which they are so let and employed, to be employing them for such purposes;

(ii) where capital costs are incurred by a person in the acquisition or erection of buildings for his own use for commercial, industrial or banking purposes upon land over which he holds a lease, he shall for the purposes of this paragraph be deemed to be the owner of the buildings for the period during which he continues to occupy them for such purposes; 16 of 1956.

(iii) any premises owned by a person engaged in a commercial, industrial or banking undertaking and occupied rent free by the employees of that person in such undertaking and any premises so owned and used wholly or mainly for the welfare of such employees shall be deemed to be employed for the purposes of such undertaking; 18 of 1950.

(iv) the amounts to be deducted under the provisions of this paragraph shall consist of an allowance called an initial allowance equal to twenty per centum of the capital costs of erection of such premises, buildings, structures or works of a permanent nature ultimately borne by the owner, which shall be granted for the period within which such costs are incurred, and annually thereafter of an allowance called an annual allowance equal to ten per centum of the written down value; 16 of 1956.

Provided that, in the case of the initial allowance, where the period in which the costs are incurred forms the basis for more than one year of assessment the allowance shall be given for the first year of assessment only;

(v) no such deduction shall be allowed for the diminution in value of any premises, buildings, structures or works of a permanent nature used for the purposes of mining operations.

(ii) Any premises, buildings, structures or works of a permanent nature owned by a company, the activities of which are wholly or mainly restricted by its Memorandum of Association to the holding or letting of or dealing in property, shall be deemed for the purposes of this paragraph to be occupied by the company for commercial purposes.

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

Deductions
not allowed.
21 of 1946.

11. Subject to the express provisions of this Ordinance, for the purpose of ascertaining the income of any person no deduction shall be allowed in respect of—

(a) domestic or private expenses;

(b) any disbursements or expenses not being money wholly and exclusively laid out or expended for the purpose of acquiring the income;

(c) any capital withdrawn or any sum employed or intended to be employed as capital;

(d) any capital employed in improvements;

(e) any sum recoverable under an insurance or contract of indemnity;

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

18 of 1950.

(g) any amounts paid or payable in respect of the United Kingdom income tax or surtax or Empire income tax as defined by section 34; or in respect of any Profits Tax charged in the United Kingdom or the Commonwealth;

(h) any payment to any provident, savings, widows' and orphans' or other society or fund, except such payments as are allowed under section 10 (1) (g) and (h);

(i) any sum payable by way of interest by any person out of Sierra Leone to another person out of Sierra Leone except where tax has been deducted and accounted for under the provisions of section 31 of this Ordinance;

21 of 1946.

(j) the depreciation of any premises, buildings, structures or works of a permanent nature, save as is prescribed under paragraph (j) of sub-section (1) of section 10 of this Ordinance.

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

Insurance companies other than life insurance companies.

(1) In the case of an insurance company whether mutual or proprietary (other than a life insurance company) where the gains or profits accrue in part outside Sierra Leone, 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 Sierra Leone (less any premiums returned to the insured and premiums paid on re-insurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the gains or profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period, 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 Sierra Leone and a fair proportion of the expenses of the head office of the company.

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

Life insurance companies.

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

Provided further that in the case of an insurance company having its head office outside Sierra Leone, the Commissioner may substitute some other basis other than that herein prescribed for the purpose of ascertaining the portion of the income from investments to be so charged as being gains or profits on which tax is payable.

13. (1) Where for any period a non-resident person who carries on the business of shipowner or charterer produces the certificate mentioned in sub-section (2) of this section, the profits accruing in Sierra Leone from the business for such period,

Profits of non-resident shipowner and charterer.

before deducting any allowance for wear and tear, shall be a sum bearing the same ratio to the sums receivable in respect of the carriage of passengers, mails, livestock, and goods shipped in Sierra Leone as the ratio for the said period shown by that certificate of the total profits to the total sum receivable by him in respect of the carriage of passengers, mails, livestock and goods.

(2) The certificate shall be one issued by or on behalf of any income tax authority with regard to which the Commissioner is satisfied that it computes and assesses the full profits of the non-resident person from his shipping business on a basis not materially different from that prescribed by this Ordinance, and shall certify for any accounting period as regards such business—

(a) the ratio of the profits or, where there are no profits, of the loss, as computed for the purposes of income tax by that authority, without making any allowance by way of depreciation, to the total sums receivable in respect of carriage of passengers, mails, livestock or goods; and

(b) the ratio of the allowance for wear and tear as computed by that authority to the said total sums receivable in respect of the carriage of passengers, mails, livestock and goods.

(3) Where at the time of assessment the provisions of sub-section (1) of this section cannot for any reason be satisfactorily applied, the profits accruing in Sierra Leone may be computed on a fair percentage of the full sum receivable on account of the carriage of passengers, mails, livestock and goods shipped in Sierra Leone:

Provided that where any person has been assessed for any year of assessment by reference to such percentage, he shall be entitled to claim at any time within six years after the end of such year of assessment that his liability to tax for that year be re-computed on the basis provided by sub-section (1) of this section.

(4) Where the Commissioner decides that the call of a ship belonging to a particular non-resident shipowner or charterer at a port in the Colony is casual and that further calls by that ship or others in the same ownership are improbable, the provisions of this section shall not apply to the profits of such ship and no tax shall be chargeable thereon.

14. Where a non-resident person carries on the business of air transport or the business of the transmission of messages by cable or by any form of wireless apparatus he shall be assessable to tax as if he were a non-resident shipowner and the provisions of the preceding section shall apply *mutatis mutandis* to the computation of the gains or profits of such business.

Profits of non-resident's air transport, cable, etc. undertakings.

15. Notwithstanding anything to the contrary contained in this Ordinance (other than in section 16), the income of the Sierra Leone Selection Trust, Limited (hereinafter in this section referred to as "the Company"), derived for any year of assessment from operations under the licence set out in the Schedule to the First Schedule to the Diamond Agreements and Licence (Ratification) Ordinance, shall be assessed to tax on an amount equal to the total of—

Taxation of income of the Sierra Leone Selection Trust, Limited. 15 of 1952. 12 of 1954.

Cap. 207.

(a) the income of that year derived by the Company from operations under the said licence as assessed to income tax in the United Kingdom; and

(b) the deduction, if any, made in respect of any national defence contributions or any profit taxes or excess profit tax imposed in the United Kingdom in computing such income, but after deducting

(c) the amount of any loss incurred in any other trade or business carried on by the Company in Sierra Leone which the Company may be entitled to deduct or set off in computing its profits for the purpose of income tax in the United Kingdom or in computing its total income from all sources under section 22 of this Ordinance or any Ordinance amending or replacing the same:

Provided that the aggregate amount of such deduction for losses under paragraph (c) hereof shall not exceed the amount of such loss.

16. (1) For so long and so long only as the Agreement set out in the Schedule to the Diamond Supplementary Agreement (1954) Ratification Ordinance remains in force, the provisions of section 15 hereof shall be of no effect and in place thereof the provisions in the sub-sections following shall have effect:

Suspension of the operation of section 15. 12 of 1954. Cap. 209.

Provided that on the termination of the said Agreement the provisions of the said section 15 shall be restored to full force and effect, but without prejudice to the validity of anything done or suffered hereunder, or to any rights or liabilities that may have accrued hereunder.

(2) Notwithstanding anything to the contrary contained in this Ordinance, the income of the Sierra Leone Selection Trust, Limited (hereinafter in this section referred to as "the Company") for any accounting year from operations under the Licence set out in the Schedule to the First Schedule to the Diamond Agreements and Licence (Ratification) Ordinance shall be assessed in accordance with the provisions of this Ordinance after deducting the following—

Cap. 207.

Cap. 200.

(a) the amount of tax payable under section 3 of the Diamond Industry Profit Tax Ordinance (hereinafter in this Ordinance referred to as "diamond industry profit tax") on profits of that accounting year; and

(b) at the option of the Company, all or any part of capital expenditure incurred during that accounting year but not exceeding £200,000:

Provided—

(i) that the assets, the cost of which has been allowed as a charge against profits hereunder, shall not be the subject of allowances under paragraphs (c), (e), (j), (l) or (m) of sub-section (1) of section 10 (which relate to capital allowances and other deductions in respect of capital expenditure);

(ii) that in the event of the sale by the Company of such assets, so much of the proceeds as do not exceed the amount which has been so allowed as a deduction shall be included in computing profits of the Company for the year in which the sale is made.

(c) in respect of capital expenditure not deducted under paragraph (b) above, the capital allowances (namely, initial allowances, annual allowances and balancing allowances or balancing charges) at the rates and on the basis applicable and from time to time in force in relation to such capital expenditure under United Kingdom income tax law.

(3) In this section, the expression "accounting year" shall mean, unless and until otherwise agreed between the Government and the Company, the period commencing on the first day of July in every year and ending on the thirtieth day of June in the next succeeding year; and such period shall be deemed to be the year of which the amount of the gains and profits of the Company shall be computed by direction of the Commissioner under sub-section (2) of section 20.

17. The income of a person from a dividend paid by a company liable to tax under this Ordinance, United Kingdom Income Tax, or Empire Income Tax within the meaning of sub-section (3) of section 34 of this Ordinance, shall, where any such tax has been deducted therefrom, be the gross amount before making such deduction; where no such deduction has been made, the income arising shall be the amount of the dividend increased by an amount on account of such taxes corresponding to the extent to which the profits out of which the said dividend has been paid have been charged with such taxes.

Income from certain dividends to include tax thereon.

18. 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 day from which the Ordinance takes effect, which could be distributed without detriment to the company's existing business, he may treat any such undistributed profits as distributed and the persons concerned shall be assessable accordingly.

Certain undistributed profits may be treated as distributed.

19. (1) Where the Commissioner is of the opinion that any transaction which reduces or would reduce the amount of tax payable by any person is artificial or fictitious or that any disposition is not in fact given effect to, he may disregard any such transaction or disposition and the persons concerned shall be assessable accordingly.

Commissioner may disregard certain transactions and dispositions.

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

(2) Nothing in this section or in section 18 contained shall prevent the decision of the Commissioner in the exercise of any discretion given to him by either such section from being questioned in an appeal against the assessment in accordance with Part XII of this Ordinance.

(3) For the purposes of this section, the following transactions *inter alia* shall be deemed to be artificial or fictitious—

18 of 1950.

(a) transactions of which the main purpose or one of the main purposes or of which the main benefit or one of the main benefits which might have been expected to accrue therefrom is the avoidance or reduction of liability to tax;

(b) transactions between persons one of whom either has control over the other or, in the case of an individual, is related to the other, which have not been made on the terms

which might fairly have been expected to have been made by persons engaged in the same or similar activities dealing with one another at arm's length.

PART V.—ASCERTAINMENT OF ASSESSABLE INCOME.

Basis for
computing
assessable
income.
18 of 1950.

20. (1) Save as provided in this section, the income of any person for each year of assessment from each source of his income (hereinafter referred to as "assessable income") shall be the full amount of the income of the year immediately preceding the year of assessment from each such source notwithstanding that he may have ceased to possess any such source or that any such source may have ceased to produce income.

(2) Where the Commissioner is satisfied that any person usually makes up the accounts of a trade, business, profession, vocation, or employment carried on or exercised by him to some day other than the thirty-first day of March, he may direct that the assessable income from that source be computed on the amount of the gains or profits of the year ending on that day in the year preceding the year of assessment. Where, however, the assessable income of any person from a trade, business, profession, vocation, or employment has been computed by reference to an account made up to a certain day, and such person fails to make up an account to the corresponding day in the year following, the assessable income from that source both for the year of assessment in which such failure occurs and for the two years of assessment following shall be computed on such basis as the Commissioner in his discretion thinks fit.

New trades,
businesses,
etc.

(3) The assessable income of any person from any trade, business, profession, vocation, or employment for the year of assessment in which he commenced to carry on or exercise such trade, business, profession, vocation, or employment and for the two following years of assessment (which years are in this sub-section respectively referred to as "the first year," "the second year," and "the third year") shall be ascertained in accordance with the following provisions—

(a) for the first year the assessable income shall be the amount of the income of that year;

(b) for the second year the assessable income shall, unless such notice as hereinafter mentioned is given, be the amount of income of one year from the date of the commencement of the trade, business, profession, vocation or employment;

(c) for the third year the assessable income shall, unless such notice as is hereinafter mentioned be given, be computed in accordance with the provisions of sub-section (1) of this section;

(d) the person carrying on or exercising the trade, business, profession, vocation or employment shall be entitled, on giving notice in writing to the Commissioner within two years after the end of the second year, to require that the assessable income both for the second year and the third year (but not for one or other only of those years) shall be the income of the respective years of assessment:

Provided that he may, by notice in writing given to the Commissioner within twelve months after the end of the third year, revoke the notice, and in such case the assessable income both for the second year and the third year shall be computed as if the first notice had never been given;

(e) where such a notice as aforesaid has been given or revoked such additional assessments, or, on a claim being made for the purpose, such reductions of assessments or repayments of tax, shall be made as may be necessary to give effect to the last foregoing paragraph.

(4) Where a person permanently ceases to carry on or exercise a trade, business, profession, vocation, or employment his assessable income therefrom shall be—

Cessation of
trades,
businesses,
etc.

(a) as regards the year of assessment in which the cessation occurs, the amount of the income of that year;

(b) as regards the year of assessment preceding that in which the cessation occurs, the amount of the income as computed in accordance with the foregoing sub-sections, or the amount of the income of such year, whichever is the greater, and he shall not be deemed to derive assessable income from such trade, business, profession, vocation, or employment for the year of assessment following that in which the cessation occurs:

Provided that where any such person becomes entitled to receive after the date on which such cessation occurs a pension, such person shall be deemed to have commenced a new employment on the date next succeeding the date of such cessation and such pension shall be deemed to be income arising from such new employment and the provisions of this section shall apply accordingly.

Pensions.

(5) For the purposes of this section, any employment carried on or exercised by any person shall not be deemed to cease by

reason only of the grant of leave to that person, whether such leave is granted preparatory to retirement or otherwise.

(6) The assessable income of the executor of any deceased person shall be the income of the estate for the year preceding the year of assessment:

Provided that—

(i) any income of the estate proved to have been received by, distributed to, or applied to the benefit of any beneficiary of the estate during the year preceding the year of assessment shall be deducted;

(ii) the provisions of sub-sections (3) and (4) of this section shall not apply to any executor as regards any trade or business forming part of the estate.

Estates of
deceased
persons.

(7) The assessable income for any year of assessment of any beneficiary of the estate of a deceased person administered by an executor shall be the amount of the income received by or distributed to him or applied to his benefit out of the estate during the year preceding that year of assessment (otherwise than as the capital amount or any part of the capital amount of his interest in the estate).

Apportion-
ment of
income.

(8) Where in the case of any trade, business, profession, vocation, or employment it is necessary in order to arrive at the income of any year of assessment or other period to divide and apportion to specific periods the income of any period for which accounts have been made up, or to aggregate any such income or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days, in the respective periods, unless the Commissioner, having regard to any special circumstances, otherwise directs.

(9) For the purpose of this section, income accruing or derived from Sierra Leone shall be deemed to be income of the year for which it arises whether the income is received or receivable in that year or not:

Provided that in the case of dividends, interest and discounts, and premiums or profits from property, other than rents or royalties, the income shall be deemed to be income of the year within which the amount payable becomes due.

Partnership.

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

(1) the income of any partner from the partnership for any period shall be deemed to be the share to which he was entitled during that period in the income of the partnership, such income being ascertained in accordance with the provisions of this Ordinance;

(2) the assessable income of any partner from the partnership shall be computed in accordance with the provision of section 20 by treating his share of the divisible income of the partnership as though it were income of a trade, business, profession or vocation carried on or exercised by him.

PART VI.—ASCERTAINMENT OF TOTAL INCOME.

22. (1) The total income of any person from all sources chargeable with tax under this Ordinance for any year of assessment shall be his assessable income for that year subject to the deductions allowed in this Part of this Ordinance.

Total income
from all
sources.

(2) There shall be deducted—

(a) the amount of a loss incurred by him during the year of assessment in any trade, business, profession or vocation, which, if it had been a profit, would have been assessable under this Ordinance:

Loss in trade,
business, etc.

Provided that no such deduction shall be made unless it is claimed in writing within twelve months after the end of the year of assessment;

(b) the amount of a loss similarly incurred by him in any such trade, business, profession or vocation during any of the six years preceding the year of assessment which has not been allowed against his assessable income of a prior year:

Provided that—

(i) in no circumstances shall the aggregate deduction from assessable income in respect of any such loss exceed the amount of such loss;

(ii) a deduction under this paragraph shall be made as far as possible from the assessable income of the first year of assessment after that in which the loss was incurred, and, so far as it cannot be so made, then from the assessable income of the next year of assessment, and so on; and

(iii) no deduction under this paragraph shall be made in respect of a loss incurred prior to the first day of April, 1943.

(3) For the purpose of sub-section (2) of this section the loss incurred during any year of assessment shall be computed, where the Commissioner so decides, by reference to the year

ending on a day in such year of assessment which would have been adopted under sub-section (2) of section 20 for the computation of assessable income of the following year of assessment if a profit had arisen.

PART VII.—ASCERTAINMENT OF CHARGEABLE INCOME AND PERSONAL RELIEFS.

Chargeable
income.

23. The chargeable income of any person for any year of assessment shall be his total income for that year subject to the deductions allowed in this Part of this Ordinance.

Deduction
for British
subject or
resident
individual.
15 of 1952.

24. (1) In the case of an individual resident in Sierra Leone in the year of assessment—

(a) there shall be allowed a deduction of £300;

(b) where the total income of the individual includes income of his wife which is deemed under the provisions of sub-section (1) of section 40 to be his income, there shall be allowed a deduction of the amount of the earned income so deemed to be his, but not exceeding £200.

Resident
individual.
13 of 1959.
*

(2) In the case of an individual resident in Sierra Leone in the year of assessment who proves to the satisfaction of the Commissioner that in the year immediately preceding the year of assessment—

Deduction
for wife.

(a) he had a wife living with or maintained by him there shall be allowed a deduction of £100;

Wife
separated
by deed.

(b) he made payment in accordance with an Order of Court or a deed of separation to a wife from whom he was separated by such Order or deed, there shall be allowed a deduction of the amount of such payment of £100 whichever is the less;

Deduction
for alimony.

(c) he paid alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction, there shall be allowed a deduction of the amount of such alimony or £100 whichever is the less:

15 of 1952.

Provided that the total deductions allowed to any individual under paragraphs (a), (b) and (c) of this sub-section shall not exceed £100;

Children.

(d) he maintained an unmarried child who was either under the age of sixteen years at any time within that year or who

* The figures £100, in (a), (b), (c) and the proviso of sub-section (2) were put in by 13 of 1959 and apply to income tax charged for the year of assessment commencing on the 1st April, 1960, and thereafter. In the previous years assessment they had been £200.

was receiving full time instruction at any university, college, school or other educational establishment, or was serving under articles or indentures with a view to qualifying in a trade or profession there shall be allowed a deduction of £25 in respect of each child such:

Provided that—

(i) where such individual satisfies the Commissioner that a sum exceeding £25 was, during the year preceding the year of assessment, expended directly by him on the maintenance and education of such child elsewhere than in Sierra Leone there shall be allowed a deduction equal to the total amount so expended but not exceeding £50 in respect of each such child;

(ii) no deduction shall be allowed in respect of any child whose total income for the year preceding the year of assessment exceeded the amount of the deduction which would otherwise be allowed under this section;

(iii) in calculating the total income of the child for the purpose of the foregoing proviso no account shall be taken of any income to which the child is entitled as the holder of a scholarship, bursary or other similar educational endowment;

(iv) the total deductions allowed to any individual under this paragraph shall not exceed £200.

The expression "child" in this sub-section includes a child legitimate according to native law and custom, a stepchild and a child proved to be adopted to the satisfaction of the Commissioner who was during the year preceding the year of assessment maintained by the individual but does not include an illegitimate child unless so adopted and maintained;

(e) he was a widower and that a female person was resident with him in the capacity of a house-keeper and for the purpose of having the charge and care of any child of his in respect of which child an allowance is due to him for the same year under this Part of the Ordinance he shall be allowed a deduction of £40:

Widower with
house-keeper.

Provided that where any other individual is entitled to claim an allowance under the provisions of this Part of the Ordinance for the same female person, the relief shall only

* The figures £25 in (d) and £25 and £50 in proviso (i) and £200 in proviso (iv) were inserted by 13 of 1959 and apply to income tax charged for the year of assessment commencing on the 1st April, 1960, and thereafter. In the previous year the figures were £50, £50, £100 and £400, respectively.

Dependent
relative.
13 of 1959.
*

be granted for any year of assessment for which that other individual forgoes his claim for such allowance;

(f) he at his own expense maintained or contributed to the maintenance of a person being a relative of the individual or of the individual's spouse who was either incapacitated by old age or infirmity from maintaining himself or is the widowed mother (whether so incapacitated or not) of the individual or of the individual's spouse there shall be allowed a deduction of a sum not exceeding fifty pounds expended as such maintenance:

Provided that—

(i) the income (whether accrued in, derived from or received in, Sierra Leone or not) of the person maintained did not in the year preceding the year of assessment exceed one hundred and fifty pounds;

(ii) where two or more individuals jointly maintained any such person as aforesaid, the deduction to be made under this sub-section shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person;

Deduction
for life
insurance.
18 of 1950.

(g) he has made insurance on his life or on the life of his wife, or has contracted for any deferred annuity on his own life or on the life of his wife, with any insurance company, there shall be allowed a deduction of the amount of the premium paid by him in that year for such insurance or contract as aforesaid:

Provided that—

(i) no such deduction shall as regards insurances be allowed except in respect of premiums or other payments payable on policies for securing a capital sum on death whether in conjunction with any other benefit or not;

(ii) no such deduction shall as regards insurances exceed ten per centum of the capital sum secured on death, exclusive of any additional benefit;

(iii) no such deduction shall be allowed in respect of the total amount of such premiums in excess of an amount equal to one-fifth of the total income of such person for the year of assessment;

(iv) the aggregate amount of the deductions allowed under the provisions of this paragraph, of paragraph (g) of

* The words "fifty pounds" in (f) were inserted by 13 of 1959 and apply to income tax charged for the year of assessment commencing the 1st April, 1960, and thereafter. In the previous years they had been "one hundred pounds".

sub-section (1) of section 10, and, in the case of an employee, of paragraph (h) of sub-section (1) of section 10, shall not exceed £1,000.

25. In the case of an individual who is not resident in Sierra Leone in the year of assessment and who proves to the satisfaction of the Commissioner that he is a British subject or a British protected person there shall be allowed the deductions to which he would be entitled under section 24 if he were resident in Sierra Leone during the year of assessment:

Non-resident
British
subjects, etc.
Deductions.
18 of 1950.

Provided that in the case of an individual who is not in receipt of a pension accruing in or derived from Sierra Leone no such deductions as aforesaid shall be allowed so as to reduce the amount of tax payable by that individual below an amount which bears the same proportion to the amount of tax which would be payable by him if the tax were charged on his aggregate income as the amount of his total income bears to the amount of his aggregate income.

For the purpose of this proviso the expression "aggregate income" shall mean the total income whether accruing in, derived from, or received in, Sierra Leone or elsewhere computed in accordance with the provisions of this Ordinance.

26. Every individual who claims a deduction under this Part of this Ordinance shall make his claim on the proper form. Such deduction shall be granted if the claim contains such particulars and is supported by such proof as the Commissioner may require.

Proof of
claims.

PART VIII.—RATES OF TAX, RIGHTS OF DEDUCTION, AND ALLOWANCES FOR TAX CHARGED.

A.—Rates of Tax.

27. There shall be levied and paid for each year of assessment upon the income of every person, other than a company, tax on the chargeable income at the rate set forth in the First Schedule:

Rate of tax
upon
individuals.

Provided that—

(a) the amount by which the allowances under section 24, other than the dependent relative's allowance, have been reduced by the provisions of the Income Tax (Amendment) Ordinance, 1959, shall in the first place be charged at the rate of sixpence for every pound;

* The reductions made by the 1959 Ordinance (13 of 1959) apply to income tax charged for the year of assessment commencing the 1st April, 1960, and thereafter.

(b) there shall be an abatement of the one shilling rate in respect of an amount equal to the amount charged under paragraph (a) of this proviso, and this amount shall be charged at the rate of sixpence for every pound.

Rate of tax
upon
companies.
15 of 1952.

28. Subject to the provisions of the immediately succeeding section, there shall be levied and paid upon the chargeable income of every company tax at the rate of nine shillings on every pound of the chargeable income thereof:

Provided that where any company proves to the satisfaction of the Commissioner that any dividends have been paid out of such chargeable income an amount equal to such dividends may be charged at a lower rate or not charged with any tax, as the Commissioner shall determine.

Relief from
company tax
in certain
cases.
22 of 1947.
18 of 1950.
16 of 1956.
13 of 1959.

29. (1) All companies incorporated and controlled in Sierra Leone on or after the first day of April, 1944, shall, in respect of profits assessed for the year of assessment commencing on the first day of April, 1948, and for subsequent years of assessment, be entitled to relief from tax charged upon companies in the manner and to the extent hereinafter set out.

(2) Relief from tax charged upon companies shall be given—

(a) for the year of assessment in which the company first commences trading and the next following year of assessment at a rate equal to the full rate of tax imposed upon companies;

(b) for the two years of assessment next following at a rate equal to two-thirds of the rate of tax imposed upon companies;

(c) for the two years of assessment next following at a rate equal to one-third of the rate of tax imposed upon companies.

16 of 1956.

(3) No relief shall be granted where the amounts of the income assessed for the appropriate years are £3,000 or more. Relief at the rates specified in sub-section (2) of this section shall be granted in full where the amounts of the income do not exceed £1,000. Where the amounts of the income exceed £1,000 the relief shall be granted on an amount of £1,000 reduced by half the excess of the income over £1000.

13 of 1959.

(4) No relief shall be granted under the preceding sub-sections of this section to any company formed to acquire the whole or any part of a business previously carried on by another company, body of persons or individual.

B.—Rights of Deduction of Tax.

30. (1) Every company which is resident in Sierra Leone shall be entitled to deduct from the amount of any dividend paid to any shareholder tax at the rate paid or payable by the company (as reduced by any relief granted under sections 33 and 34 of this Ordinance) on the chargeable income of the year of assessment within which the dividend is declared payable:

Deduction of
tax from
dividends of
companies.

Provided that—

(i) 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;

(ii) the Commissioner may give notice in writing for any year of assessment to a company resident in Sierra Leone requiring it to deduct tax from dividends payable to a particular shareholder at a rate greater than the rate paid or payable by the company and the company shall thereupon deduct tax from all dividends paid during that year of assessment to that shareholder at the rate mentioned in the notice and the excess tax so deductible shall be a debt due from the company to the Government and shall be recoverable forthwith as such or may be assessed and charged upon the company in addition to any other tax otherwise payable by it;

(iii) where a company declares a dividend within a year of assessment in respect of which relief has been granted under the provisions of section 29 or within a period of twelve months after such a year the rate at which the company shall be entitled to deduct tax from such dividend shall be the rate paid or payable by the company, as reduced by any relief granted under section 29, on the income out of which such dividend is paid.

18 of 1950.

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

31. (1) Where any person pays mortgage or debenture interest to a person not resident in Sierra Leone and is entitled to deduct such interest under section 10 (1) (a) he shall upon paying the interest deduct therefrom tax at the rate of nine shillings on every pound of such interest, and shall forthwith render an

Deduction of
and account-
ing for tax on
mortgage and
debenture
interest.

15 of 1952.

account to the Commissioner of the amount so deducted and every such amount shall be a debt from him to the Government and shall be recoverable as such:

Provided that the Commissioner may give notice in writing to the person who pays such mortgage or debenture interest requiring that person to deduct and account for tax at a higher or lower rate than nine shillings on every pound of such interest or to pay such interest without deduction of tax.

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

C.—Allowances for Tax Charged.

Tax deducted
from
dividends,
debenture
or mortgage
interest.

32. Any tax—

(a) which a person has deducted or is entitled to deduct from any dividend under the provisions of section 30 or has deducted from any mortgage or debenture interest under the provisions of section 31 of this Ordinance;

(b) applicable to the share to which any person is entitled in the income of a body of persons or in the income of the estate of a deceased person;

12 of 1954.

shall, when such dividend, mortgage interest, debenture interest or share is included in the chargeable income of any person, be set off for the purposes of collection against the tax charged on that chargeable income.

D.—Relief in Cases of Double Taxation.

Relief in
respect of
United
Kingdom
income tax.

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

(2) For the purpose 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 income tax in any particular case.

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

Interpretation of "rate of tax".

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

Relief in respect of Empire income tax.

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

(b) in any other case the rate at which relief is to be given shall be half the rate of tax appropriate to his case under this Ordinance.

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

(a) if the Empire rate of tax appropriate to his case does not exceed the rate of tax appropriate to his case under this

Ordinance, the rate at which relief is to be given shall be one-half of the Empire rate of tax;

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

Interpretation of
" Empire
income tax ".
21 of 1946.

(3) For the purposes of this section the expression " Empire income tax " means any income tax charged under any law in force in any British possession, the legislature of which has provided for relief in respect of tax charged on income in both such possession and Sierra Leone in a manner which appears to the Commissioner to correspond to the relief granted by this section.

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

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

Double
taxation ar-
rangements.
1 of 1947.
6 of 1948.

35. (1) If the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from double taxation in relation to 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 tax notwithstanding anything in any enactment.

(2) On the making of an Order under this section with respect to arrangements relating to the United Kingdom, section 33 of this Ordinance shall cease to have effect and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) On the making of an Order under this section with respect to arrangements relating to any British possession, section 34 of this Ordinance shall cease to have effect as respects that possession and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for

which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

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

(5) Where any arrangements have effect by virtue of this section, the obligation as to secrecy imposed by section 4 of this Ordinance 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.

(6) The Governor in Council may make rules for carrying out the provisions of any arrangements having effect under this section:

Provided that any rules made under this section, or any arrangement declared under sub-section (1) of this section to have been made, shall be laid before the first meeting of House of Representatives after the making or declaring thereof, for approval, amendment or revocation, but without prejudice to anything previously done under any rule or arrangement so amended or revoked.

36. (1) The provisions of this section shall have effect where, under arrangements having effect under section 35 of this Ordinance, foreign 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 Sierra Leone; and in this section the expression "foreign tax" means any tax payable in that territory which under the arrangement is to be so allowed.

Tax credits.
1 of 1947.

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

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

(3) The credit shall not exceed the amount which would be produced by computing the amount of the total income which is liable to both tax and foreign tax, in accordance with the provisions of this Ordinance and then charging it to tax at a rate ascertained by dividing the tax chargeable (before allowance of credit under any arrangements having effect under section 35 of this Ordinance) 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 sub-section, the total credit to be allowed to a person for any year of assessment for foreign tax under all arrangements having effect under section 35 of this Ordinance shall not exceed the total tax payable by him for that year of assessment, less any tax payable by him under the provisions of section 31 of this Ordinance.

(5) In computing the amount of the income—

(a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other income);

(b) where the tax chargeable depends on the amount received in Sierra Leone, 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 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 sub-section 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 the preceding sub-section (but not the remainder thereof) shall apply to the computation of total income for the purposes of determining the rate mentioned in sub-section (3) of this section, and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 35 of this Ordinance.

(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 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 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 Sierra Leone or elsewhere, nothing in this Ordinance limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in Sierra Leone or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

37. Notwithstanding any other provisions of this Ordinance, income tax shall be payable by the Sierra Leone Development Company, Limited, in respect of income derived from or in respect of the Marampa Concession and the Tonkolili Concession in accordance with the terms of the Agreement set out in the Schedule to the Tonkolili and Marampa Supplementary Agreement (1956) Ratification Ordinance.

Tax payable
by the Sierra
Leone
Development
Company
Limited.
6 of 1956.
12 of 1956.
Cap. 205.

38. Subject to the provisions of section 39, the income tax payable under this Ordinance by the Sierra Leone Selection Trust, Limited (hereinafter in this section referred to as "the Company"), in respect of the income derived from operations under the licence set out in the Schedule to the First Schedule to the Diamond Agreements and Licence (Ratification) Ordinance, shall be reduced by the amount of tax payable under section 3 of the Diamond Industry Profit Tax Ordinance (hereinafter referred to as "diamond industry profit tax"):

Relief from
tax payable
by the Sierra
Leone
Selection
Trust
Limited.
15 of 1952.
12 of 1954.
Cap. 207.
Cap. 200.

Provided that relief from the amount of income tax payable by the Company under this Ordinance shall be allowed to the extent if any by which the aggregate amount of such income tax and diamond industry profit tax exceeds the amount of credit given to the Company in respect of such aggregate amount against the amount of United Kingdom tax payable by the Company or if no credit in respect of such aggregate amount is given against United Kingdom tax or if there shall be no liability on the Company to pay United Kingdom tax the relief shall extend to the whole amount of the income tax payable under this Ordinance but not, in any event, to the diamond industry profit tax.

Suspension of
the operation
of section 38.
12 of 1954.
Cap. 209.

39. (1) For so long and so long only as the Agreement set out in the Schedule to the Diamond Supplementary Agreement (1954) Ratification Ordinance remains in force, the provisions of section 38 hereof shall be of no effect and in place thereof the provisions in the sub-sections following shall have effect:

Provided that on the termination of the said Agreement the provisions of the said section 38 shall be restored to full force and effect, but without prejudice to the validity of anything done or suffered hereunder, or to any rights or liabilities that may have accrued hereunder.

(2) The aggregate amount payable by the Sierra Leone Selection Trust, Limited (hereinafter in this section referred to as "the Company") in respect of income tax under this Ordinance and diamond industry profit tax, calculated by reference to the profits of any accounting year shall not exceed sixty *per centum* of the Company's profits of that accounting year. Such profits shall be calculated in accordance with the provisions of this Ordinance, provided that the deductions to be made in respect of capital allowances (namely, initial allowances, annual allowances and balancing allowances or balancing charges) shall be at the rates and on the basis used in the computation of the Company's assessment to income tax in the United Kingdom on the profits of that accounting year but without deducting the diamond industry profit tax chargeable thereon or the amount to be deducted for capital expenditure under paragraph (b) of sub-section (2) of section 16. Any reduction in the aggregate amount of tax required to give effect to this sub-section shall be effected primarily by a reduction of income tax payable under this Ordinance.

(3) The expression "accounting year" in this section shall have the same meaning as in section 16.

PART IX.—PERSONS CHARGEABLE, ETC.

A.—Husband and Wife.

40. (1) The income of a married woman living with her husband shall, for the purposes of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee: Wife's income.

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the total income of the wife bore to the amount of the total income of the husband and wife may, if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

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

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

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

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

(iii) she is resident in Sierra Leone and her husband is not resident in Sierra Leone.

B.—Trustees, Agents, etc.

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

Provided that this section shall not be construed to make any person chargeable to tax in respect of an incapacitated person, liable in such respect, for a greater amount of tax than that for which the incapacitated person would have been liable had no receiver, trustee, guardian, curator or committee been appointed.

42. (1) (a) A person not resident in Sierra Leone (hereinafter in this section referred to as a non-resident person) shall be assessable and chargeable to tax either directly or in the name of his trustee, guardian, 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 Chargeability of agent of person residing out of Sierra Leone.
18 of 1950.

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 Sierra Leone and in the actual receipt of such income:

Provided that in the case of any individual, who is not resident in Sierra Leone, and who is not a British subject or British protected person, no deduction shall be allowed under the provisions of sub-section (2) of section 24:

And provided further that in the case of an individual, who is not resident in Sierra Leone and who is a British subject or British protected person, the deductions which shall be allowed under the provisions of sub-section (2) of section 24 shall be subject to the limitation specified in section 25.

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

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

(3) Where it appears to the Commissioner by whom the assessment is made, or to the judge by whom an appeal is heard, that the true amount of the gains or profits of any non-resident person chargeable with tax in the name of a resident person cannot in any case be readily ascertained, the Commissioner or judge may, if he thinks fit, assess and charge the non-resident person on a fair and reasonable percentage of the turnover of the business done by the non-resident person through or with the resident person in whose name he is chargeable as aforesaid, and in such case the provision of this Ordinance relating to the delivery of returns or particulars by persons acting on behalf of others shall extend so as to require returns or particulars to be

furnished by the resident person of the business so done by the non-resident person through or with the resident person, in the same manner as returns or particulars are to be delivered by persons acting for incapacitated or non-resident persons of income to be charged:

Provided that the amount of the percentage shall in each case be determined, having regard to the nature of the business and shall, when determined by the Commissioner, be subject to an appeal to the Supreme Court as provided by Part XII of this Ordinance.

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

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

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

(7) The master of any ship or captain of any aircraft owned or chartered by a non-resident person who is chargeable under the provisions of section 8 (2) shall (though not to the exclusion

18 of 1950.

of any other agent) be deemed the agent of such non-resident person for all the purposes of this Ordinance.

(8) The income of any non-resident partner or partners from a partnership shall be assessable in the name of the partnership or of any resident partner or of any agent of the partnership in Sierra Leone, and the tax charged thereon shall be recoverable by all means provided in this Ordinance out of the assets of the partnership or from any partner or from any such agent.

Acts to be done by trustees and certain others.

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

Manager of corporate bodies of persons.

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

Indemnification of representative.

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

Power to appoint agent.

46. (1) The Commissioner may by notice in writing, if he thinks it necessary, declare any person to be the agent of any other person, and the person so declared the agent shall be the agent of such other person for the purposes of this Ordinance, and may be required to pay any tax due from any moneys, including pensions, salary, wages, or any other remuneration, which may be held by him for, or due by him to, the person whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him in the manner provided by section 72.

Power to require information.

(2) For the purposes of this section the Commissioner may require any person to give him information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any other person.

(3) The provisions of sections 64 and 65 shall apply *mutatis mutandis* where any person declared by the Commissioner to be the agent of any other person under the provisions of sub-section (1) of this section is aggrieved by such declaration. Appeal.

47. Where an individual dies, then as respects income arising before his death, all rights and duties which would have attached to him, and any liability to be charged with or to pay tax to which he would have been subject under this Ordinance if he had not died, shall pass to his executor, and the amount of any tax payable by the executor under this section shall be a debt due from and payable out of the estate of the deceased: Deceased persons.

Provided that—

(a) any assessment or additional assessment on any such income shall not be made later than the end of the third year of assessment following that in which the individual died;

(b) where, by reason of the death of the individual, a trade, business, profession, vocation or employment ceases to be carried on or exercised by him and the provisions of section 20 (4) apply the executor of the individual shall be liable for the tax for which the individual would have been liable if he had not died but a cessation had taken place at the date of his death;

(c) in the case of an individual dying during the year preceding the year of assessment, if his executor distributes the estate before the commencement of the year of assessment such executor shall pay any tax for that year of assessment at the rate or rates in force at the date of distribution of the estate, if the rate of tax for that year of assessment has not been varied at that date.

48. Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to the shareholders thereof unless he has made provision for the payment in full of any tax which may be found payable by the company. Company wound up.

49. Where two or more persons act in the capacity of trustees of a trust they may be charged jointly or severally with the tax with which they are chargeable in that capacity and shall be jointly and severally liable for payment of the same. Joint trustees.

PART X.—RETURNS.

Notice of
chargeability
and returns.

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

(2) Every person chargeable with tax for any year of assessment who has not been required within three months after the commencement of such year of assessment to make a return of his income for that year as provided in sub-section (1) of this section shall within fourteen days after the expiration of that period give notice to the Commissioner that he is so chargeable:

Provided that any individual who arrives in Sierra Leone during any year of assessment shall give such notice within one month of the date of his arrival.

Commis-
sioner may
call for
further
returns.

51. The Commissioner may give notice in writing to any person when and as often as he thinks necessary requiring him to furnish within a reasonable time limited by such notice fuller or further returns respecting any matter as to which a return is required or prescribed by this Ordinance.

Power to call
for returns,
books, etc.

52. For the purpose of obtaining full information in respect of any person's income the Commissioner may give notice to such person requiring him within the time limited by such notice, which time shall not be less than thirty days from the date of service of such notice, to complete and deliver to the Commissioner any return specified in such notice and/or to attend personally before him and to produce for examination any books, documents, accounts and returns which the Commissioner may deem necessary.

Returns to be
deemed to be
furnished
by due
authority.

53. A return, statement or form purporting to be furnished under this Ordinance by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognisant of all matters therein.

Books of
account.
18 of 1950.

54. If a person chargeable with tax fails or refuses to keep books or accounts which, in the opinion of the Commissioner, are adequate for the purposes of income tax, the Commissioner may by notice in writing require him to keep such records, books and accounts as the Commissioner considers to be



adequate and in such form and in such language as he may in the said notice direct.

55. (1) The Commissioner may require any officer in the employment of the Government or any local authority or other public body to supply such particulars as may be required for the purposes of this Ordinance and which may be in the possession of such officer:

Official
information
and official
secrecy.

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

Returns to
be made by
employer.

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

(b) the full amount of remuneration, whether in cash or otherwise paid or payable to or on behalf of those persons in respect of that employment:

Provided that it shall be a defence to any charge brought against any employer for failing to comply with the provisions of this sub-section for him to prove that such failure was in respect of a person employed by him whose remuneration and allowances paid by the employer were not at a rate exceeding £150 per annum.

(3) Where the employer is a company or a body of persons the manager or other principal officer shall be deemed to be the employer for the purposes of this section, and any director of a company, or person engaged in the management of a company, shall be deemed to be a person employed.

(4) Every person, other than a company engaged in the business of banking or a person who is under a statutory obligation of secrecy, who may be so required by the Commissioner shall give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to make an assessment or to collect the tax.

21 of 1946.

56. Every person who in whatever capacity is in receipt of any money or value being income arising from any of the sources mentioned in this Ordinance or belonging to any other person who is chargeable in respect thereof, or who would be so chargeable if he were resident in Sierra Leone and not an

Lists to be
prepared by
representa-
tive or agent.

incapacitated person shall, whenever required to do so by any notice from the Commissioner, prepare and deliver within the period mentioned in such notice a return signed by him, containing—

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

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

Return to be made by a partnership.

57. (1) Where a trade, business, profession or vocation is carried on by two or more persons jointly the precedent partner, that is to say the partner who of the partners resident in Sierra Leone—

(a) is first named in the agreement of partnership; or

(b) if there be no agreement is named singly or with precedence to the other partners in the usual name of the firm; or

(c) is the precedent acting partner if the partner named with precedence is not an acting partner;

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

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

PART XI.—ASSESSMENTS.

Commissioner to make assessments.

58. (1) The Commissioner shall proceed to assess every person chargeable with the tax as soon as may be after the expiration of the time allowed to such person for the delivery of the return provided for in section 50.

(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 make an assessment accordingly.

(3) Where a person has not delivered a return and the Commissioner is of the opinion that such person is liable to pay tax he may, according to the best of his judgment, determine the amount of the chargeable income of such person and make an assessment 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.

59. (1) If the Commissioner discovers or is of opinion at any time that any person liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Commissioner may, within the year of assessment or within six years after the expiration thereof and as often as may be necessary, assess such person at such amount or additional amount, as according to his judgment ought to have been charged, and the provisions of this Ordinance as to notice of assessment, appeal and other proceedings under this Ordinance shall apply to such assessment or additional assessment and to the tax charged thereunder.

Additional
assessments
18 of 1950.

(2) For the purpose of computing under sub-section (1) of this section the amount or the additional amount which ought to have been charged, all relevant facts shall be taken into account even though not known when any previous assessment or additional assessment on the same person for the same year was being made or could have been made:

18 of 1950.

Provided that no matter shall be reopened which has been determined on appeal for the year in question.

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

Lists of
persons
assessed and
notices of
assessment.

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

(3) Where complete copies of all notices of assessment and of all notices amending assessments are filed in the office of the Commissioner they shall constitute the assessment lists for the purpose of this Ordinance.

61. For the purpose of facilitating the assessment of the income of persons residing in the United Kingdom the Governor may appoint agents in the United Kingdom any one of whom shall make enquiries on behalf of the Commissioner in respect

Appointment
of agents in
the United
Kingdom.

of any such person as may apply to be dealt with through such agent, and shall ascertain and report to the Commissioner the amount of the chargeable income of such person in accordance with this Ordinance and shall forward to the Commissioner the accounts and computations upon which his report is based. The Commissioner on receipt of the report shall enter the amount reported in the assessment list:

Provided that—

(a) if it appears to the Commissioner that any error has occurred in the accounts or computation he may refer the report back for further consideration;

(b) nothing in this section shall affect the right of appeal conferred by sections 64 and 65.

Service of
notice of
assessment.

62. (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 stating the amount of his chargeable income, the tax payable by him, the place at which such payment should be made, and informing him of his rights under the next sub-section:

Provided that where a person has applied under section 61 to be dealt with through the agents in the United Kingdom and has applied for and been granted permission to make payment of the tax in the United Kingdom the Commissioner may direct that the notice of assessment shall be served by the agent in the manner above prescribed:

Provided further that nothing in the above proviso shall affect the responsibility of the manager of any corporate body under section 44 for the payment of tax.

Revision of
assessment
in case of
objection.

(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 forty-two days from the date of the service of the notice of assessment:

Provided that the Commissioner, upon being satisfied that owing to absence from Sierra Leone, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of the notice of objection referred to in sub-section (2), the Commissioner may require the person giving the

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

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

Provided 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 under the provisions of this Ordinance, against the assessment made upon him, shall remain unimpaired.

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

Errors, etc. in
assessment
and notice.

(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 XII.—APPEALS.

Appeals to
the Supreme
Court against
assessments.

64. (1) Any person, who, being aggrieved by an assessment made upon him, has failed to agree with the Commissioner in the manner provided in sub-section (4) of section 62, or, subject to the provisions of sub-section (7) of section 65, having appealed to the Board of Commissioners under the provisions of section 65 of this Ordinance, is aggrieved by the decision of such Board, may appeal against the assessment to the Supreme Court upon giving notice in writing to the Commissioner within fifteen days after the date of service upon him of notice of the refusal of the Commissioner to amend the assessment as desired or within fifteen days after the date of the decision of the Board as the case may be.

The Commissioner may, subject to the provisions of sub-section (7) of section 65 of this Ordinance, if he is dissatisfied with the decision of the Board of Commissioners, appeal against the decision to the Supreme Court upon giving notice in writing to the other party to the appeal under section 65 within fifteen days after the date of such decision and the provisions of this section so far as they are applicable shall apply to any such appeal by the Commissioner:

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 judge that owing to absence from Sierra Leone, 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 court in person on the day and at the time fixed for the hearing of his appeal:

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

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

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

(5) The judge may confirm, reduce, increase or annul the assessment or make such order thereon as to him may seem fit.

(6) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by the Commissioner either personally on, or by registered post to, the appellant.

(7) Notwithstanding anything contained in section 68 if in any particular case the judge, from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered he may on application being made by or on behalf of the Commissioner require the appellant to furnish within such time as may be specified security for payment of the tax and if such security is not given within the time specified the tax assessed shall become payable and recoverable forthwith.

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

(9) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(10) Rules of court providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure to be followed by a judge upon stating a case and the procedure upon the hearing of the case stated may be made in accordance with the provisions of section 24 of the Courts Ordinance. Cap. 7.

(11) An appeal shall lie to the West African Court of Appeal against any order made by the Supreme Court under this section—

(a) at the instance of the appellant where the order of the Court is to the effect that the correct assessment is in the sum of £1,250 or upwards, and 18 of 1950.

(b) at the instance of the Commissioner where the order of the Court is in respect of a matter in which the Commissioner claimed that the correct assessment was in the sum of £1,250 or upwards.

Notice of the intention to make any such appeal shall be filed in the West African Court of Appeal together with a memorandum of the grounds of the appeal within fifteen days of the date of the order against which it is desired to appeal and a copy of such notice and memorandum shall be served upon the Commissioner within the same period.

Appeals to
the Board of
Commis-
sioners
against
assessments,
and the
constitution
of the Board.
18 of 1950.

65. In lieu of an appeal to the court under the preceding section where the amount of tax chargeable on the disputed portion of the chargeable income does not exceed £50 a person aggrieved may appeal against the assessment to a Board of Commissioners who shall be appointed by the Governor for such period and at such remuneration as may be prescribed.

(2) The Board shall consist of three persons, none of whom shall be a public officer:

Provided that if during any period owing to absence or inability to act from illness or any other cause any of such persons shall be unable to exercise the powers or perform the duties of a member of the Board the Governor may appoint some other person, who is not a public officer, to exercise the said powers and perform the said duties for so long as he may consider necessary and such other person may receive the remuneration prescribed for a member of the Board during that period.

(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 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 provisions of sub-sections (2) (4) (5) (6) (7) and (8) of the preceding section shall apply to appeals to the Board under this sub-section in the same way that they apply to appeals under the preceding section as if references to a judge in the said sub-sections were references to the Board.

(6) Notice of an appeal 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 Sierra Leone, 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.

(7) In the case of a person who has been assessed to pay a total tax of an amount not exceeding ten pounds no appeal shall lie from the decision of the Board under the provisions of sub-section (1) of section 64 in respect of the whole or any part

of such tax, provided that such person has certified in writing on the notice under sub-section (6) of this section that he desires the decision of the Board to be final and conclusive.

(8) The Governor may make rules prescribing the procedure to be followed in the conduct of appeals before the Board.

66. Except as expressly provided in this Ordinance, where no valid objection or appeal has within the time allowed for the lodging of an appeal been lodged against an assessment as regards the amount of the chargeable income assessed thereby or against any order made by the Supreme Court or the West African Court of Appeal in respect of an assessment, or where the amount of the chargeable income has been agreed to under sub-section (4) of section 62, or where the amount of such chargeable income has been determined on objection or appeal, the assessment as made or agreed to or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Ordinance as regards the amount of such chargeable income:

Assessments
to be final
and
conclusive.

Provided that nothing in this Part shall prevent the Commissioner from making any refund under the provisions of section 74 or any assessment or additional assessment for any year of assessment which does not involve re-opening any matter which has been determined on appeal for the year.

PART XIII.—COLLECTION, RECOVERY AND REPAYMENT OF TAX.

67. 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:

Procedure in
cases where
objection or
appeal is
pending.

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

68. Subject to the provisions of sections 67 and 73 tax for any year of assessment levied in accordance with sections 27 or 28 shall be payable at the place stated in the notice of assessment under section 62, within two months after the service of such notice:

Time within
which
payment is
to be made.

Provided that—

(a) if an instalment of one-half of the tax due from any person is paid by him within the prescribed period and that period ends before the thirty-first day of March within the

year of assessment, a second such instalment shall be payable not later than the said thirty-first day of March;

(b) the Commissioner in his discretion may extend the time within which payment is to be made.

Payment of
tax by
persons about
to leave
Sierra Leone.

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

(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;

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

(c) by notice in writing to the person assessed require that security for the payment of the tax assessed be forthwith given to the Commissioner's satisfaction.

(3) 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—

(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 if 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 sub-sections (2) and (3) shall be given to the person assessed, and any tax so charged 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 has given security for such payment under this section shall have the right of objection and appeal conferred by sections 62, 64 and 65 and any amount paid by him shall be adjusted in accordance with the result of any such objection or appeal.

(6) The provisions of this section shall not affect the powers conferred upon the Commissioner by section 59.

70. (1) Subject to the provisions of sub-section (3) of this section, if any tax is not paid within the periods prescribed in section 68—

Penalty for non-payment of tax; and enforcement of payment.

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

(b) the Commissioner shall serve a demand note upon the person assessed; and if payment is not made within one month from the date of the service of such demand note, the Commissioner may proceed to enforce payment as hereinafter provided;

(c) a penalty imposed under this sub-section shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Ordinance.

(2) Any person who without lawful justification or excuse, the proof whereof shall lie on the person charged, fails to pay the tax within the period of one month prescribed in sub-section (1) (b) shall be guilty of an offence against this Ordinance.

(3) The Commissioner may, for any good cause shown, remit the whole or any part of the penalty due under sub-section (1) of this section.

71. 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 one month from the date of service on the person assessed of the notification of the tax payable, and if such tax is not paid

Collection of tax after determination of objection or appeal.

within such period the provisions of the last preceding section shall apply.

Suit for tax
by Commis-
sioner.

72. (1) Tax may be sued for and recovered in a court of competent jurisdiction by the Commissioner in his official name with full costs of suit from the person charged therewith as a debt due to the Government of Sierra Leone.

(2) The Commissioner may appear personally in any suit instituted under this section.

(3) In any suit under sub-section (1) of this section the production of a certificate signed by the Commissioner giving the name and address of the defendant and the amount of tax due by him shall be sufficient evidence to the amount of due and sufficient authority for the court to give judgment for the said amount.

Refusal of
clearance
where tax is
in arrear.

(4) In addition to any other powers of collection and recovery provided in this Ordinance, the Commissioner may, where the tax charged on the income of any person who carries on the business of shipowner or charterer has been in default for more than three months (whether such person is assessed directly or in the name of some other person), issue to the Comptroller of Customs or other authority by whom clearance may be granted a certificate containing the name or names of the said person and particulars of the tax in default. On receipt of such certificate, the Comptroller of Customs or other authority shall be empowered and is hereby required to refuse clearance from any port in Sierra Leone to any ship owned wholly or partly or chartered by such person until the said tax has been paid.

(5) No civil or criminal proceedings shall be instituted or maintained against the Comptroller of Customs or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

Deduction of
tax from
official pay
or pension.

73. (1) Where any official pay or pension is payable to any individual deductions on account of tax which is or will be payable by him for any year of assessment may be made out of the pay or pension or any arrears thereof.

(2) Deductions authorised by this section shall be made at such times in each year as the payments on account of the pay or pension are made whether or not the tax has been assessed,

so however that if on the assessment becoming final and conclusive it appears that the deductions made exceed the tax payable, the amount overpaid by means of the previous deductions shall be repaid:

Provided that, where any such deduction has been made from the pay or pension of any individual, he shall have the same right of objection or appeal against the deduction as he has against an assessment made upon him.

(3) If and so far as any official pay or pension is paid without such deduction of tax as aforesaid, the tax may be collected and payment thereof enforced in accordance with the provisions of sections 67, 68, 69 and 70:

Provided that for the purpose of section 68 the Commissioner shall determine the period within which the tax shall be payable.

(4) For the purpose of this section "official pay or pension" means any emoluments or pensions which are payable out of the revenue of Sierra Leone, the Sierra Leone Railway or any Tribal Authority.

74. (1) The Commissioner may remit—

Remission of
tax.

(a) wholly or in part, the tax payable by any person, on the ground of poverty;

13 of 1959.

(b) the tax payable in any case where he is satisfied that it cannot effectively be collected, provided the amount so remitted does not exceed £100.

(2) The Governor in Council may remit, wholly or in part, the tax payable by any person if he is satisfied that it will be just and equitable to do so.

75. If it be proved to the satisfaction of the Commissioner that any person for any year of assessment has paid tax, by deduction or otherwise, in excess of the amount with which he is properly chargeable, such person shall be entitled to have the amount so paid in excess refunded. Every claim for repayment under this section shall be made within six years from the end of the year of assessment to which the claim relates. The Commissioner shall give a certificate of the amount to be repaid and upon the receipt of the certificate the Accountant General shall cause repayment to be made in conformity therewith.

Repayment
of tax.

PART XIV.—OFFENCES AND PENALTIES.

Penalty for
offences.

1 of 1947.

76. (1) Any person guilty of an offence against this Ordinance or any person who contravenes or fails to comply with any of the provisions of this Ordinance or of any rule made thereunder for which no other penalty is specifically provided shall be liable on summary conviction to a fine of £100 and where such offence is the failure, arising from the provisions of Part X of this Ordinance, to furnish a return, statement or information or to keep records required, a further sum of £5 per diem, for each and every day during which such failure continues and in default of payment to imprisonment for six months, the liability for such further sum to commence from the day following such conviction, or from such day thereafter as the Court may order.

(2) Any person who—

(a) fails to comply with the requirements of a notice served on him under this Ordinance; or

(b) without sufficient cause fails to attend in answer to a notice or summons served on him under this Ordinance or having attended fails to answer any question lawfully put to him,

shall be guilty of an offence against this Ordinance.

Penalty for
making
incorrect
return, etc.

77. (1) Every person who without reasonable excuse—

(a) makes an incorrect return by omitting or under-stating any income of which he is required by this Ordinance to make a return; or

(b) gives any incorrect information in relation to any matter or thing affecting his own liability to tax or the liability of any other person or of a partnership;

shall be guilty of an offence and shall be liable on conviction to a fine of one hundred pounds and double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within six years after expiration thereof.

(3) The Commissioner may compound any offence under this section, and may before judgment stay or compound any proceedings thereunder.

78. (1) Any person who—

False state-
ments and
returns.

(a) 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 representation, forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any receipt or token evidencing payment of the tax under this Ordinance, or

(b) aids, abets, assists, counsels, incites or induces another person—

(i) to make or deliver any false returns or statement under this Ordinance;

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

(iii) unlawfully to refuse or neglect to pay tax,

shall be guilty of an offence and shall be liable on conviction to a fine of two hundred pounds and treble the amount of tax for which he is liable under this Ordinance for the year of assessment in respect of or during which the offence was committed, or to imprisonment for six months, or to both such fine and imprisonment.

(2) The Commissioner may compound any offence under this section and may before judgment stay or compound any proceedings thereunder.

79. Any person who—

Penalties for
offences by
authorised
and
unauthorised
persons.

(1) being a person appointed for the due administration of this Ordinance or any assistant employed in connection with the assessment and collection of the tax—

(a) demands from any person an amount in excess of the authorised assessment of the tax;

(b) withholds for his own use or otherwise any portion of the amount of tax collected;

(c) renders a false return, whether verbal or in writing, of the amounts of tax collected or received by him;

(d) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Commissioner or any other individual; or

(2) not being authorised under this Ordinance to do so, shall collect or attempt to collect the tax under this Ordinance,

shall be guilty of an offence and liable on conviction to a fine of three hundred pounds or to imprisonment for three years or both.

Disclosure of statement in certificate.
21 of 1946.

80. Any person who, save with the written permission of the Chief Inspector of Mines first obtained, publishes or discloses any statement contained in a certificate issued by the Chief Inspector of Mines under any rules made by virtue of the provisions of this Ordinance shall be guilty of an offence and shall be liable on conviction to a fine of £500 or to imprisonment for three years, or to both such fine and imprisonment.

Tax to be payable notwithstanding any proceedings for penalties.

81. The institution of proceedings for, or the imposition of, a penalty fine or term of imprisonment under this Ordinance shall not relieve any person from liability to payment of any tax for which he is or may be liable.

Prosecution to be with the sanction of the Commissioner.

82. No prosecution in respect of an offence under sections 77, 78, 79 or 80 of this Ordinance may be commenced except at the instance of or with the sanction of the Commissioner.

Saving for criminal proceedings.

83. The provisions of this Ordinance shall not affect any criminal proceedings under any other Ordinance or law.

PART XV.—MISCELLANEOUS.

Power to alter rate of tax by resolution.

84. The House of Representatives, by resolution, may add to, vary or revoke the whole or any part of the First Schedule and substitute a new schedule therefor.

FIRST SCHEDULE.

13 of 1959.

*

Chargeable Income.				Rate of Tax.		
				£	s.	d.
Under the proviso (a) to section 27, up to £400	...	...	...	0	0	6
For every pound of the next, or first, £400	...	...	...	0	0	6
For every pound of the next £400, subject to proviso (b) to section 27	...	...	...	0	1	0
For every pound of the next £400	...	...	...	0	2	6
For every pound of the next £400	...	...	...	0	5	0
For every pound of the next £8,000	...	...	...	0	10	0
For every pound in excess of £9,600	...	...	...	0	15	0

* The First Schedule, as printed here, was inserted by 13 of 1959 and applies to income tax charged for the year of assessment commencing on the 1st April, 1960, and each succeeding year.

In the previous year (and since the 1st April, 1952) it was—

Chargeable Income				Rate of Tax		
				£	s.	d.
For every pound of the first £400	...	...	...	0	0	6
For every pound of the next £400	...	...	...	0	1	0
For every pound of the next £400	...	...	...	0	2	6
For every pound of the next £400	...	...	...	0	5	0
For every pound of the next £8,000	...	...	...	0	10	0
For every pound of the next £9,600	...	...	...	0	15	0