

A N N E X U R E

THE INCOME TAX ORDINANCE

CHAPTER 33. No. 1.

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

22nd December, 1938

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

2. In this Ordinance - Interpreta-
tion.

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

 "incapacitated person" means any infant, married woman, person of unsound mind, idiot, or insane person;

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

20 "year of assessment" means the period of twelve months commencing on the 1st of January in each year.

IMPOSITION OF INCOME TAX

5. Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereafter for each year of assessment upon income of any person accruing in or derived from the Colony or elsewhere, and whether received in the Colony or not in respect of - Charge of
income tax.
Ord.21. 1947
S. 2(1)(c)

30 (a) gains or profits from any trade,
 business, profession, or
 vocation, Ord.30. 1948
S. 2(a)

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(b) gains or profits from any employment
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(c) the annual value of land and improve-
ments thereon used by or on behalf of the
owner or used rent free by the occupier, for
the purpose of residence or enjoyment, and
not for the purpose of gain or profit,
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Ord. 30-1948
s.2 (b)

(g) any annual gains or profits not falling 10
under any of the foregoing heads:

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BASIS OF ASSESSMENT

Basis of
Assessment.
(Record p.10)

6. Subject to the provisions of this Ordinance
tax shall be charged, levied, and collected for each
year of assessment upon the chargeable income of
any person for the year immediately preceding the
year of assessment.

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ASCERTAINMENT OF CHARGEABLE INCOME

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Deductions
allowed.

10. (1) For the purpose of ascertaining the
chargeable income of any person, there shall be
deducted all outgoings and expenses wholly and
exclusively incurred during the year preceding the
year of assessment by such person in the production
of the income, including -

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

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Ord. 30-1948
s. 3(a)

Provided the income of the person who
receives or is entitled to receive the
interest is exempt from the tax by virtue of
section 8, or under arrangements having effect
by virtue of section 50 of this Ordinance or
by virtue of any other Ordinance or, his income
not being so exempt, the interest is chargeable
to tax under this Ordinance as part of his
income;

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

10 (c) where any person engaged in any trade, business, profession, or vocation has expended any sum in replacing any plant or machinery which was used or employed in such trade, business, profession, or vocation, and which has become obsolete, an amount equivalent to the cost of the machinery replaced, after deducting from that cost such sum as shall represent the total depreciation which has occurred by reason of exhaustion or wear and tear since the date of purchase of such plant and machinery and any sum realised by the sale thereof;

20 (d) any sum expended for repair of premises, plant, and machinery employed in acquiring the income or for the renewal, repair, or alteration of any implement, utensil, or article so employed;

30 (e) bad debts incurred in any trade, business, profession or vocation, proved to the satisfaction of the Commissioner to have become bad during the year immediately preceding the year of assessment, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Commissioner to have become bad during the said year notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of the said year:

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

40 (f) annuities or other annual payments whether payable within or out of the Colony, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract;

Provided that no voluntary allowances or payment of any description shall be deducted;

(g) rates and taxes on real estate (but not including income tax);

Ord.26-1955
S.5

(h) premiums paid on any fire insurance entered into with an insurance company, the agents or managing directors of which are liable to pay a contribution under Section 13 of the Fire Brigades Ordinance, on property used in acquiring the income upon which the tax is payable;

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(i) any annual sums paid by such person (being an employer) in respect of an employee by way of the employer's contribution to any approved fund or scheme referred to in paragraph (c) of Sub-section (1) of Section 16 of this Ordinance;

(j) such other deductions as may be prescribed by resolution of the Legislative Council;

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(k) in case of a lump sum payment made by such person (being an employee) in respect of an employee's past services by way of the employer's contribution to any approved fund or scheme referred to in paragraph (c) of Sub-section (1) of Section 16 of this Ordinance, one-tenth of the said lump sum payment in each of ten successive years, commencing in the year in which payment is made: Provided that the said lump sum is irrevocably charged for the benefit of the said approved fund or scheme;

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

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12. (1) For the purpose of ascertaining the chargeable income of any person, no deduction shall be allowed in respect of -

Deductions not to be allowed.

(a) domestic or private expenses;

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

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(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 acquiring the income;

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(g) any amounts paid or payable in respect of the United Kingdom income tax or surtax or Empire income tax as defined by this Ordinance:

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14. In ascertaining the chargeable income of an individual there shall be allowed a deduction of one thousand two hundred dollars.

Deduction for individuals

15. (1) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the

Deduction for wife.

year immediately preceding the year of assessment, his wife living with him or wholly maintained by him and that he is not entitled in computing the amount of his income for that year for the purposes of this Ordinance to make any deduction in respect of the sums paid for the maintenance of his wife under paragraph (a) of subsection (2) hereof there shall be allowed a deduction of four hundred and eighty dollars.

Maintenance and alimony.

(2) In ascertaining the chargeable income of an individual who proves to the satisfaction of the Commissioner that he had, during the year immediately preceding the year of assessment, paid -

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(a) a maintenance or separation allowance to his wife in accordance with the terms of a registered deed of separation or an order of any court of competent jurisdiction, or

(b) alimony to a previous wife whose marriage with him has been dissolved by any court of competent jurisdiction,

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there shall be allowed a deduction of such maintenance or separation allowance or such alimony.

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Wife's income.

18. The income of a married woman living with her husband shall, for the purpose of this Ordinance, be deemed to be the income of the husband, and shall be charged in the name of the husband and not in her name nor in that of her trustee:

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

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*Inserted by Income Tax (Amendment) Ordinance, 1955, S.8. Deduction in respect of wife's earned income

*18A. (1) In ascertaining the chargeable income of any individual, in which is included any earned income of his wife, there shall be allowed a deduction equal to the amount of such earned income but not exceeding in any case two hundred and forty dollars.

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(2) A deduction shall not be allowed under sub-section (1) of this section unless the individual proves to the satisfaction of the Commissioner that his wife has devoted substantially the whole of her time to the conduct of the trade, business, profession or vocation or to the performance of the duties of the employment from which such income is derived.

10 (3) For the purposes of this section any earned income of an individual's wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office given otherwise than in respect of her past services in any office or employment of profit shall be deemed not to be earned income of his wife.

RATE OF TAX

22. There shall be levied and paid upon the chargeable income of every person tax at the rates set forth in the Schedule hereto.

Rates as per Schedule.

20 27. 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 the payment of the tax chargeable thereon.

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

MISCELLANEOUS PROVISIONS AS TO ASSESSMENT OF TAX

34. (1)

Income Tax (Amendment) Ordinance 1951-1953 S.5.

30 (2) Where, under or by virtue of a disposition made directly or indirectly by any disponent, the whole or any part of what would otherwise have been the income of that disponent is payable to or for the benefit, whether present or future and whether on the fulfilment of a condition or the happening of a contingency, or as the result of the exercise of a power or discretion conferred on any person, or otherwise, of a minor, or is deemed under the provisions of Section 35 of this Ordinance to have been received by or for the benefit, whether

present or future, and whether on the fulfilment of a condition or the happening of a contingency, or as a result of the exercise of a power or discretion conferred on any person, or otherwise, of a minor, such disponent shall, nevertheless, during the period of the minority of such minor, be liable to be taxed in respect of the sums so payable as if the disposition had not been made, and subsequent to such period of minority, such disponent shall continue to be liable to be taxed in respect of the sums so payable as if such disposition had not been made unless the Commissioner is satisfied that the disposition was not made for the purpose of avoiding tax.

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Ord. 26-1955
S.10

(7) In this Section, "disposition" includes any settlement, trust, grant, covenant, agreement, arrangement or transfer of assets.

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ASSESSMENTS

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Commissioner to make assessments.

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

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APPEALS

Appeals against assessments.

Notice of appeal and delay for appealing.
Ch.33.No.1
1940.S.41.

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

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Provided that, notwithstanding the lapse of such period of fifteen days, any person may appeal against such assessment if he shows to the satisfaction of a Judge in Chambers that, owing to

absence from the Colony, sickness, or other reasonable cause, he was prevented from giving notice of appeal within such period, and that there has been no unreasonable delay on his part.

(2) Such appeal shall be by summons, and evidence shall be received at the hearing if tendered.

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