
CHAPTER 73**INCOME TAX****ARRANGEMENT OF SECTIONS**

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CHAPTER 73
INCOME TAX

<i>An Act respecting Income Taxes.</i>	1968-51.	1977-16.	1984-9.	1993-22.	2005-22.
	1969-51.	1977-62.	1984-19.	1996-5.	2007-6.
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	1974-11.	1982-15.	1988-19.	1998-43.	
	1974-31.	1982-37.	1990-2.	1999-22.	
	1974-35.	1982-47.	1990-27.	2002-17.	
	1975-8.	1982-54.	1991-9.	2003-11.	
	1975-21.	1983-21.	1992-28 ¹ .	2003-17. ²	
	1976-10.	1983-33.	1993-8.	2004-22.	

[2nd January, 1969] Commence-
ment.

PART I

Preliminary

1. This Act may be cited as the *Income Tax Act*. Short title.
2. This Act is divided into the following Parts and Divisions, that is to say Parts and Divisions of Act.

PART II

Imposition and Extent of Tax

- DIVISION A *Charge to Tax.*
- DIVISION B *Persons Exempt from Tax.*
- DIVISION C *Calculation of Assessable Income: General.*

¹ The amendments made by Act 1992-28 have effect from 1st July, 1992 except amendments to sections 38(1)(a) to (g) and 38(2)(3)(5) to (8), 38A and 40(4), which have effect from 31st December, 1992 and sections 52(2)(d) and 52(2)(e) which have effect from 1st January, 1993.

² Act 2003-17 has not been proclaimed.

DIVISION D	<i>Calculation of Assessable Income: Amounts Included.</i>
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DIVISION I	<i>Calculation of Assessable Income: Miscellaneous Rules: Special Persons.</i>
DIVISION J	<i>Calculation of Assessable Income: Miscellaneous Rules: Special Businesses.</i>
DIVISION K	<i>Calculation of Assessable Income: Miscellaneous Rules: Special Cases.</i>
DIVISION L	<i>Calculation of Assessable Income: Postponed Benefit Deduction.</i>
DIVISION M	<i>Calculation of Taxable Income: New Shares Purchased in Public or Private Company.</i>
DIVISION N	<i>Repealed by 1992-28.</i>
DIVISION NA	<i>Repealed by 1992-28.</i>
DIVISION NB	<i>Calculation of Taxable Income: Associations.</i>
DIVISION O	<i>Calculation of Taxable Income: Amounts Deductible in Respect of Owner Occupied Property.</i>
DIVISION OA	<i>Calculation of Taxable Income: New Shares Purchased in Public Company.</i>
DIVISION OAA	<i>Repealed by 1992-28.</i>
DIVISION OB	<i>Calculation of Taxable Income: Investment in Mutual Funds and Contributions to Venture Capital Funds.</i>
DIVISION OC	<i>Calculation of Taxable Income: Rental of Residential Property.</i>
DIVISION P	<i>Repealed by 1992-28.</i>

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- DIVISION PA *Calculation of Taxable Income: Basic Deduction.*
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DIVISION R *Miscellaneous Rules.*
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Double Taxation Relief

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PART II

Imposition and Extent of Tax

DIVISION A

Charge to Tax

3. (1) Except as provided by subsection (2), every person who has a taxable income for an income year shall pay in accordance with this Act an income tax calculated in accordance with this Act on his taxable income for that income year. Charge to tax.
1975-8.

(2) A company that has a taxable income in any income year shall, instead of paying income tax under subsection (1), pay a corporation tax on that income in respect of that year calculated in accordance with this Act. 1977-16.
1977-62.

(3) Notwithstanding subsection (2) 1978-44.

- (a) in respect of the income year 1976 and every subsequent income year, a company deemed to be a separate person carrying on the life insurance business of an insurance company shall, in every year it carries on such business, pay, in addition to a corporation tax under subsection (2), a tax on its premium income as calculated in accordance with this Act;
- (b) in respect of the income year 1977 and every subsequent income year, a company that has a taxable income shall, in addition to the taxes specified in subsections (2) and (3), pay such other tax as may be imposed on it under this Act; and
- (c) as from 1st January 1978, and in every subsequent income year, a company that carries on general insurance business shall, in every year it carries on such business, pay, in addition to a corporation tax under subsection (2), a tax on its premium income as calculated in accordance with this Act.

DIVISION B

Persons Exempt from Tax

Persons
exempt
from tax.

Cap. 379.

2002-17.
2003-17.¹

- 4. (1)** No tax is payable under this Act by a person in respect of a period when that person was
- (a) a friendly society registered under the *Friendly Societies Act*;
 - (b) a registered benevolent organisation;
 - (c) a separate trust established for the purpose of administering the funds of a retirement plan or a registered retirement savings plan and exclusively engaged in administering those funds;
 - (d) a person deemed to be a separate person carrying on as a life insurance company a separate business classified as a registered retirement plan business under section 19; or
 - (e) a person exempted from paying income tax by any other enactment in force in Barbados.

¹Act 2003-17 has not been proclaimed.

(2) Notwithstanding section 3(2), no tax is payable pursuant to that section by a company operating in Barbados where an agreement is entered into between that company and the Government of Barbados for non-payment of such tax. 1976-10.

(3) No tax is payable under this Act by the Hotel Equity Investment Fund Inc. 1998-43.
1999-22.

4A. *Repealed by 1992-28.*

DIVISION C

Calculation of Assessable Income: General

5. Subject to this Act, the assessable income of a person is his income from all sources, whether within or outside Barbados, and, without restricting the generality of the foregoing, includes income from all Income from all sources.

- (a) businesses;
- (b) property;
- (c) offices; and
- (d) employments.

6. Subject to this Act, income for an income year from a business or property is the profit derived from that business or property for that income year. Income from business or property.

7. Subject to this Act, income for an income year from an office or employment is the remuneration, including bonuses and commissions plus the value of all other benefits, whether in money or otherwise, including quarters, board or residence, received or enjoyed in that income year in respect of that office or employment. Income from office or employment.

7A. (1) Where an individual enjoys in respect of his office or employment the benefit of a rent-free residence, whether furnished or unfurnished and whether owned or rented by his employer, then in calculating the assessable income of that individual for the income Rent-free accommodation and accommodation paid for in part. 1983-21.

s.7A

2002-17. year 2002 and every subsequent income year, the value of the benefit so
2002-17. enjoyed shall be limited to an amount not exceeding \$48 000 calculated
at such rate as the Minister may by order prescribe in relation to the
improved value of that residence.

(2) Where an employer owns a residence and rents that residence
whether furnished or unfurnished to an employee at a rental that is less
than the amount derived after applying the rate prescribed by an order
under section 7A(1), then in calculating the assessable income of the
2002-17. employee for the income year 2002 and every subsequent income year
the Commissioner shall assess the benefit enjoyed by the employee in
respect of that residence calculated on the difference between the
amount so derived and the rent paid by the employee; but the value of
the benefit as assessed shall not exceed the limit prescribed by this
section.

(3) Where an employer rents a residence whether furnished or
unfurnished and lets that residence to an employee at a rental that is less
than the rental which the employer pays in respect of that residence, then
in calculating the assessable income of the employee for the income
2002-17. year 2002 and every subsequent income year, the Commissioner shall
assess the benefit enjoyed by the employee in respect of that residence
calculated on the difference between the rent paid by the employer and
that paid by the employee; but the value of the benefit as assessed shall
not exceed the limit prescribed by this section.

(4) Where an employer undertakes to pay the tax on the benefit
enjoyed by an individual under subsection (1), then in calculating the
assessable income of that individual no account shall be taken of the
benefit represented by the tax paid thereon by the employer.

(5) Subsection (1) shall not apply to an individual who is granted a
rent allowance in respect of his office or employment in lieu of a rent-
free residence.

(6) The Minister may by order exempt such categories of individuals
as he determines from the rate prescribed under subsection (1), and may
delegate to the Commissioner the power to fix the taxable benefit of any

rent-free residence enjoyed by any such individual at such amount as the Commissioner considers reasonable in the circumstances.

(7) An order made under this section is subject to negative resolution.

DIVISION D

Calculation of Assessable Income: Amounts Included

8. (1) Without restricting the generality of Division C in calculating the assessable income of a person for an income year, the following amounts shall be included, namely:

- Amounts
included in
assessable
income
1986-25.
1993-8
1996-5.
- (a) amounts received in the year as, on account of, *in lieu* of, or in satisfaction of,
 - (i) interest;
 - (ii) dividends;
 - (iii) annuities or other annual payments;
 - (iv) director's or other fees;
 - (v) retirement plan benefits; and
 - (vi) retiring allowances;
 - (b) amounts received in the income year by the person as royalties; 1985-6.
 - (c) amounts received in the income year by the person as returns on shares, units or other form of equity interests in a mutual fund; 1998-42.
 - (d) amounts that are income of that person from a partnership or syndicate for the income year, whether or not they have been withdrawn during the income year;
 - (e) amounts that have been credited on account, re-invested, accumulated, capitalised, carried to any reserve, sinking or insurance fund or otherwise dealt with in the interest of that person or on his behalf, whether or not those amounts have been paid to or received by him in the income year or have become due or receivable by him in the income year;

s.8

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- 1985-6.
1992-25.
1992-28.
- (f) amounts received in the income year by the person as benefits, other than an invalidity benefit, a funeral grant, old age contributory or non-contributory grant, survivor's benefit, disablement benefit or death benefit under the *National Insurance and Social Security Act*;
- 1971-42.
Cap. 47.
- 2003-17.¹
- (g) amounts received in the income year as a return of contributions from a retirement plan or a registered retirement savings plan but not including such amounts as are
- (i) transferred to a pension plan pursuant to a reciprocal transfer agreement within the meaning of the *Occupational Pension Benefits Act, 2003*;
- 2003-17.
- (ii) transferred to a registered retirement savings plan; or
- (iii) invested for a period of 5 years in such bonds as the Minister approves, within 4 months of the date on which the amounts were received;
- 2003-17.¹
- (gg) amounts received in the income year from a pension plan other than the amounts specified in paragraph (g);
- (h) amounts received in the income year by a person carrying on business in the income year on account of debts in respect of which a deduction for bad debts has been made in calculating the assessable income of that person for a previous income year, whether or not the person was carrying on the same business in the income year;
- (i) an amount equal to the amount by which interest at the current prime bank lending rate in Barbados exceeds the interest paid on a loan made by a company to a director or shareholder for the period in the income year when the loan is outstanding;
- (j) an amount recoverable under an insurance or contract of indemnity on stock-in-trade;
- (k) an amount payable to a beneficiary from a trust or estate whether or not that amount is paid in that income year;
- 1980-12.
1981-15.
1996-30.
- (l) amounts
- (i) represented by the issue of shares described in paragraph (p);
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¹Act 2003-17 has not been proclaimed.

- (ii) in the form of bonus payments converted into bonds, debentures or stock of the Government of Barbados or in mutual funds as described in paragraph (p.1);
- (iii) in the form of dividends re-invested in shares as described in paragraph (p.2); and
- (iv) represented by the issue of shares in accordance with paragraph (s) to serving employees
- of section 9(1), that are disposed of within 5 years of the date of issue;
- (m) the benefit described in paragraph (ss) of section 9(1) in respect of shares disposed of within 5 years of the date of purchase; 1986-2.
- (n) with effect from income year 1995, amounts claimed under section 10(d) as a deduction which have not been paid 1996-5.
- (i) in the case of an individual in respect of a transaction that does not take place at arm's length within the meaning of section 29, or an associated or related company, within one year after the income year in which the amount was deducted; or
- (ii) in the case of an individual in respect of a transaction that takes place at arm's length, or a non-associated or non-related company, within 2 consecutive years after the income year in which the amount was deducted;
- (o) amounts in the year in which a person ceases to carry on the business of self-insurance, being the balance in a self-insurance fund in respect of which a deduction has been made in calculating the assessable income of that person for a previous year; 1998-8. 2007-6.
- (p) amounts in the form of interest credited in accordance with paragraph (z) of section 9(1) but which have not been used for the purpose. 2007-6.

s.9

- 1996-5. (2) For the purposes of this section and section 10 "associated" or "related company" means a company which has control of another company or where 2 companies are under the control of the same person or persons.

DIVISION E

Calculation of Assessable Income: Amounts not Included

- Amounts not included in assessable income. 1980-12.
9. (1) In calculating the assessable income of a person for an income year, the following amounts shall not be included, namely
- (a) the salary, emoluments and other benefits of the Governor-General or the person performing the functions of the office of Governor-General, that are defrayed from the Consolidated Fund, in respect of the period of exercise of the functions of the office of Governor-General;
- 1993-22.
- (aa) notwithstanding anything in this Act, the pension payable to the Governor-General that is defrayed from the Consolidated Fund in respect of the period during which he exercised the functions of the office of Governor-General;
 - (b) the salary, emoluments and other benefits of diplomatic, consular or technical assistance officers or employees and their families who are designated either generally or specifically by regulation as being persons to whom this paragraph applies, to the extent specified in the relevant regulation;
 - (c) wound and disability pensions granted to members of Her Majesty's Forces in right of Her government of Barbados or of the United Kingdom;
- 1984-31.
- (c.1) the value of the residences provided for members of the Barbados Defence Force;
- 1984-31.
- (c.2) emoluments paid to members of the Barbados Defence Force Reserve for participating in

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- (i) evening training parade, annual camp or week-end training; or
 - (ii) while performing duty on call-out or other emergency for a period not exceeding 90 days in any one year;
- (d) allowances for
- (i) travelling expenses; or
 - (ii) maintaining and operating a vehicle, to the extent that the allowances may reasonably be regarded as representing the cost to the person of travelling in the performance of the duties of an office or employment;
- (e) interest on bonds, debentures or stock of the Government of Barbados, beneficially owned by a non-resident person, to the extent specified by regulation; 1987-26.
- (f) income of a government agency not carried on mainly for the purpose of profit and established for the purpose of promoting the development of the agricultural, manufacturing, tourism and industrial sectors of the economy; 2007-47.
- (ff) interest on tax reserve and tax refund certificates; 1987-26.
- (g) income of a co-operative society registered under the *Co-operative Societies Act*, other than income arising in respect of the sale of an article that is neither sold to a member of the society nor produced nor obtained by the industry of a member of the society; Cap. 378A.
- (h) amounts received in the year as a return of contributions under a retirement plan, other than a registered retirement plan, if the contributions were included in calculating the assessable income of that person for the income year in which they were made;
- (i) *Repealed by 1992-28;*

s.9

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- (j) interest on holdings of
- 1982-47.
1983-21. (i) National Development Bonds,
(ii) National Housing Bonds,
(iii) Savings Bonds
- 1985-6. up to a limit per issue in respect of each person and in respect
of each class of bond, of \$50 000; and
- 1982-37. (iv) Sugar Industry Bonds that under the terms of the issue
are within the class of non-taxable bonds;
- 1975-8. (k) emoluments paid by the East Caribbean Currency Authority to
its officers;
- (l) (i) in respect of the income year 1974, amounts received by
a resident company registered in Barbados as dividends
from another such company,
- 1978-44. (ii) in respect of the income year 1975 and subsequent
income years, amounts received by a resident company
registered in Barbados as dividends, other than
preference dividends, from another such company;
- 2007-47. (iii) in respect of income year 2007 and subsequent income
years, amounts received by a resident company registered
in Barbados as dividends, other than preference dividends,
from a non-resident company when the Barbados
resident is a shareholder representing at least 10 per cent
of the capital of the non-resident company and such
shareholding is not held solely for the purpose of port-
folio investments;
- 2007-47. (iv) in respect of income year 2007 and subsequent income
years, amounts paid by a resident company as dividends,
other than preference dividends, to a non-resident share-
holder when the amounts of dividends paid are derived
from income earned from sources outside of Barbados;

- (m) emoluments and other benefits and income of any person which are declared to be exempt from tax by any other enactment in force in Barbados;
- (n) 50 per cent of any amount payable as gratuity to a person by virtue of a contract of employment between himself and the Crown or between himself and any statutory board or government agency approved by the Minister; 1978-44.
- (o) bonus payments on amounts deposited with the Barbados National Bank of not less than \$10 nor more than \$100 per month in respect of each depositor, over a period of 2 years or more; 1980-12.
1981-15.
- (p) subject to section 8(1), annual bonus payments of an employing company converted into shares issued to employees and that are equal to not more than 75 per cent of the value of the bonus payable to each employee up to a limit in respect of each employee of \$7 500; 1980-12.
1981-15.
1990-27.
1990-27.
1996-30.
- (p.1) subject to section 8(1), annual bonus payments payable to employees by a company that is not offering shares to those employees, that are converted into bonds, debentures or stock of the Government of Barbados or in mutual funds within a period of 4 months from the date on which payment of the annual bonus becomes due and that are equal to not more than 75 per cent of the value of the bonus payable to each employee up to a limit in respect of each employee of \$7 500; and 1996-30.
- (p.2) subject to section 8(1), dividends received by an individual resulting from a re-investment of shares issued *in lieu* of dividends and that are equal to not more than 75 per cent of the value of the dividends up to an annual limit of \$7 500; 1996-30.
- (p.3) amounts designated for a distribution by a mutual fund as a return on income on investments made in accordance with section 37E; 1998-42.

s.9

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- 1980-12.
1981-15. (q) without prejudice to section 27, the profits of a company that are converted into bonus shares issued to existing shareholders of the company;
- 1980-12.
1981-15. (r) with effect from such date, whether retrospective or not, as may be prescribed in the order, amounts paid in an income year by such international organisations as the Minister by order prescribes, that relate and are equal to the tax liability of its employees for that year;
- 1981-15. (s) shares at their nominal value issued by an employing company to its employees by way of a gift on retirement or to employees with at least 20 years service with the company, up to a limit of \$5 000, in respect of each employee;
- 1986-2. (ss) the difference between the market value at the time of purchase and the purchase price, being less than the market value, of shares purchased by an employee from an employing company, up to a limit of 10 per cent of the assessable income of that employee for the income year;
- 1981-15.
Cap. 361. (t) interest earned on the investment by a trade union registered under the *Trade Unions Act*, of the subscriptions of its members;
- 1986-2.
1986-25.
Cap. 300. (u) without affecting paragraph (b) of section 8, half of the amounts received in Barbados as royalties by an author within the meaning of sections 2 and 7 of the *Copyright Act*;
- 1986-2.
1986-25.
1992-28.
Cap. 47. (v) an invalidity grant, a funeral grant, old age contributory or non-contributory grant, survivor's benefit, disablement benefit, or death benefit under the *National Insurance and Social Security Act*;
- 1996-5. (w) with effect from 1st May, 1995, interest received by or credited to a pensioner aged 60 years or over;
- 1998-8. (x) the amount of
- (i) \$2,500,000 for income year 1993; and

- (ii) \$4,000,000 for each of the income years 1994, 1995 and 1996 respectively,
received as income by the self-insurance fund of the Barbados Light and Power Company Limited; and
- (y) income received in respect of self-insurance funds regulated in the manner prescribed under section 154 of the *Insurance Act*; 1998-8. Cap. 310.
- (z) with effect from income year 2006, interest received by or credited to a special savings account designated by the account holder as an "Education Savings Plan Account" that is used specifically to offset the cost of a student acquiring tertiary education. 2007-6.
- (2) For the purposes of subsection (1) 1980-12. 1981-15.
- (a) "employee" means a person employed in Barbados; and
- (b) "employing company" includes a subsidiary or its holding company; 1980-2. 1981-15.
- (c) "Education Savings Plan Account" means a single account, 2007-6.
- (i) the balance of which does not exceed \$100,000; and
- (ii) the holder of which satisfies the Commissioner that the account is used specifically to offset the cost of providing tertiary education for no more than 4 students.
- (3) A company is the holding company of a subsidiary if it owns at least 51 per cent of the share capital of the subsidiary. 1980-12.

DIVISION F

Calculation of Assessable Income: Amounts Deductible

Amounts
deductible
in
calculation
of assessable
income.
1977-62.
1986-2.
1986-25.

10. (1) In calculating the assessable income of a person for an income year, the following amounts shall be deducted, namely

- (a) subject to subsection (2), a disbursement or expense made or incurred by that person in that income year for the purpose of the production of assessable income from property or a business of that person other than expenditure in respect of which a deduction specified in section 12D or section 12E is made;
- (b) amounts expended by that person in that income year as trade tax or as rates or taxes on property used for the purpose of the production of assessable income;
- (c) premiums paid by that person in the income year on an insurance policy insuring that person against loss or damage to property used for the purpose of the production of assessable income;
- 1996-5. (d) amounts paid or payable by that person as interest on borrowed money, whether secured by mortgage or otherwise or unsecured, used for the purpose of the production of assessable income;
- (e) the total amount of debts owed to that person that are established by him to have become bad debts in that income year and that have been included in calculating his assessable income for that income year or a previous income year;
- (f) amounts expended by that person and not subsequently reimbursed for
 - (i) travelling expenses; or

- (ii) maintaining or operating a vehicle, to the extent that the amounts expended may reasonably be regarded as representing the cost to the person of travelling in the performance of the duties of an office or employment, or the cost of travelling for the purpose of the production of an assessable income from property or a business of that person;
- (g) *Spent*;
- (h) amounts paid by a resident company registered in Barbados as preference dividends; 1975-8.
- (i) *Repealed by 1986-25*;
- (j) in the case of general insurance business, amounts paid as tax on premium income by both resident and non-resident insurers; 1978-44.
- (k) *Repealed by 1986-25*;
- (l) *Repealed by 1986-25*;
- (m) the amount of 1998-8.
- (i) \$2,500,000 for income year 1993; and
- (ii) \$4,000,000 for each of the income years 1994, 1995 and 1996 respectively,
- paid over to the self-insurance fund of the Barbados Light and Power Company Limited;
- (n) amounts paid over to a self-insurance fund regulated in the manner prescribed under section 154 of the *Insurance Act*; 1998-8. Cap. 310.
- (o) amounts expended by that person in that income year for the purpose of obtaining a rating to issue commercial paper on the Securities Exchange of Barbados, where that commercial paper matures in not more than 365 days; 1998-43.

s.11

- 2002-17. (p) in the case of a lease of residential or commercial property
- (i) amounts expended by the lessor in respect of the lease; and
 - (ii) payments incurred by the lessee under paragraph (a) where
 - (A) the lease is recorded or registered in accordance with the *Land Registration Act*;
 - (B) the property transfer tax payable under the *Property Transfer Tax Act* is paid; and
 - (C) the stamp duty payable under the *Stamp Duty Act* is paid;
- Cap. 229.
- Cap. 84A.
- Cap. 91.
- 2003-11. (q) amounts paid to the Government or to Government agencies to acquire a licence to operate an activity for a specified time are to be deducted over the period of the licence.
- (2) *Repealed by 1988-19.*
- 2002-17. (3) Paragraph (p) of subsection (1) does not apply to leases to which section 149(2) of the *Property Act* relates unless there is sufficient evidence to show that the lease forms part of a series of leases for periods of one year or less.
- Cap. 236.

DIVISION G

Calculation of Assessable Income: Amounts not Deductible

- Amounts not deductible in calculation of assessable income. 1986-2.
11. (1) In calculating the assessable income of a person for an income year, the following amounts shall not be deducted, namely
- (a) a disbursement or expense except to the extent that it was made or incurred by that person in the income year for the purpose of the production of assessable income from property or a business of that person;
 - (b) a disbursement or expense, for the support of that person or his family or for any other domestic or private purpose;
- 1992-28.

-
- (c) the rent of any dwelling-house except such proportionate part thereof as may reasonably be regarded as attributable to the use of the dwelling-house for the purposes of a business; 1992-28.
- (d) in the case of a company, the amount of any dividend, other than a preference dividend, paid by the company in respect of any share; 1975-8.
- (e) an outlay, loss or replacement of capital, on improvements, alterations or otherwise, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this or any other enactment;
- (f) an amount paid or payable in respect of income tax in a country or territory other than Barbados where, under this Act, any other enactment of Barbados or an agreement between Barbados and that other country or territory, that amount is either Commonwealth Income Tax or is deductible as a credit against income tax under Part IV; 1998-30.
- (g) a disbursement or expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of producing exempt income or in connection with a business or property the income from which would be exempt; and 1998-30.
- (h) an amount repaid to a registered retirement savings plan in respect of contributions withdrawn for the purpose of acquiring a first dwelling-house for use as the residence of that person. 1998-30.
- (2) In calculating the assessable income of a person for an income year, no deduction shall be made in respect of a disbursement or expense, otherwise deductible, except to the extent that
- (a) the purpose for which the disbursement or expense was made; and
- (b) the amount disbursed or expended,
- were reasonable in all the circumstances.

s.12

(3) *Spent.*(4) *Spent.*

DIVISION H

Calculation of Assessable Income: Allowances

Investment
and initial
allowances
in calcula-
tion of
assessable
income.
1983-21.
1986-2.
1998-43.

12. (1) Where a person carrying on a business in an income year has made a capital expenditure in that year on machinery or plant, other than equipment for scientific research, to be used in that business or on an industrial building or structure used or to be used in that business for some purpose other than resale or new machinery or plant to be used in the manufacturing sector, then, in calculating the assessable income of that person for that income year,

First
Schedule.

(a) where that business is carried on in a basic industry or is a business entitled to the benefits described in the *First Schedule* and where that machinery or plant was new or was imported into Barbados for the first time by that person, an amount may, at the option of that person, be deducted as an investment allowance, equal

1981-15.
1982-15.
1986-2.

(i) in the case of the manufacture and refining of sugar and the manufacture of products from clay or limestone or in respect of a business entitled to the benefits described in the *First Schedule*, to 40 per cent;

First
Schedule.

(ii) in the case of any other basic industry to 20 per cent,
of such capital expenditure; and

(b) in any other case, an amount may, at the option of that person, be deducted as an initial allowance, equal to 20 per cent of such capital expenditure less the amount of any rehabilitation grant received by that person in respect of that machinery or plant;

(c) there shall be deducted as an initial allowance in respect of the income year 1982 and any subsequent income year, an amount equal to 40 per cent of the capital expenditure on an industrial building or structure. 1983-21.

(2) For the purposes of subsection (1), a capital expenditure made by a person on machinery or plant to be used in a business and made before that person started to carry on that business shall be deemed to have been made on the date when that person started to carry on that business.

(3) For the purposes of subsection (1), where a capital expenditure is made by a person on machinery or plant to be used in a business that is carried on in a basic industry then, if within 3 years after the income year in which the expenditure was made

(a) the machinery or plant is used in a business that is not carried on in a basic industry or in a business entitled to the benefits described in the *First Schedule*; or 1986-2.
1987-26.
First
Schedule.

(b) the machinery or plant is sold or transferred to a person other than a person acquiring the machinery or plant for use in a business that is carried on in a basic industry or in a business entitled to the benefits described in the *First Schedule*; or 1986-2.
First
Schedule.

(c) the machinery or plant is sold or transferred in such circumstances that the sole or main benefit obtained by the person who made the initial capital expenditure is the obtaining of an investment or other allowance in respect of that machinery or plant,

then no investment allowance shall be made in respect of that capital expenditure, or if an investment allowance has been made it shall be withdrawn, and *in lieu* of the investment allowance an initial allowance shall be made.

(4) Where an event described in paragraphs (a) to (c) of subsection (3) occurs within 3 years after the income year in which the expenditure was made, the person to whom any investment allowance

s.12A

has been made in respect of that expenditure shall give written notice to the Commissioner to that effect and if he fails to do so he shall pay to the Commissioner a penalty equal to \$100 plus 3 times the amount of the investment allowance made in respect of that expenditure.

(5) Notwithstanding any other provisions of this Act, any adjustment of an assessment that may be necessary in consequence of the withdrawal of an investment allowance may be made at any time and, to the extent of the adjustment, an assessment so adjusted shall be deemed to be an original assessment.

Entitlement
to cash
rebate.
1981-15.

12A. (1) Where a person carrying on a business in an income year has made a capital expenditure in that year on machinery or plant, to be used in an agricultural business, other than in the business of the refining or manufacturing of sugar, and the agricultural machinery or plant was new or was imported into Barbados for the first time by that person, that person is entitled to a rebate to be known as a "cash rebate" of such amount and in respect of such machinery or plant as the Minister prescribes.

(2) For the purposes of subsection (1), where a capital expenditure is made by a person on machinery or plant to be used in an agricultural business, other than in the business of manufacturing or refining of sugar, then if within 3 years after the income year in which the expenditure was made

- (a) the machinery or plant is used in a business that is not an agricultural business; or
- (b) the machinery or plant is sold or transferred to a person other than a person acquiring the machinery or plant for use in an agricultural business;
- (c) the machinery or plant is sold or transferred in such circumstances that the sole or main benefit obtained by the person who made the initial capital expenditure is the obtaining of a cash rebate in respect of that machinery or plant,

then no cash rebate shall be made in respect of that capital expenditure and if a cash rebate has been made, it shall be withdrawn.

(3) Where an event described in paragraphs (a) to (c) of subsection (2) occurs within 3 years after the income year in which the expenditure was made, the person to whom a cash rebate has been made in respect of that expenditure shall give written notice to the Commissioner to that effect and if he fails to do so he shall pay to the Commissioner a penalty equal to \$100 plus 3 times the amount of the cash rebate made in respect of that expenditure.

(4) Notwithstanding this Act, any adjustment of an assessment that may be necessary in consequence of the withdrawal of a cash rebate may be made at any time and, to the extent of the adjustment, an assessment so adjusted shall be deemed to be an original assessment.

12B. (1) Where a person has in an income year, in respect of a building that he owns, made a capital expenditure in the conversion of that building into units for rental as residences, then in calculating the assessable income of that person for an income year an amount as an initial allowance may at the option of the person be deducted as specified in subsection (2).

Initial allowance on conversion of residential property. 1985-6.

(2) The amount that is deductible as an initial allowance in respect of the conversion referred to in subsection (1) is an amount equal to 50 per cent of the capital expenditure on the conversion.

2007-6.

(3) Subsections (1) and (2) do not apply to a building used as a hotel in respect of which benefits are granted under the *Tourism Development Act*.

2007-47.
Cap. 341.

12B.1 (1) Where a person has in an income year made a capital expenditure in the construction or conversion of a building to be used as units for rental as residences under the home accommodation scheme, then, in calculating the assessable income of that person for an income year, an amount as an initial allowance may, at the option of the person, be deducted as specified in subsection (2).

Initial allowance on conversion or construction of residential property. 2007-6.

(2) The amount that is deductible as an initial allowance in respect of the construction or conversion referred to in subsection (1) is an amount equal to 50 per cent of the capital expenditure on the construction or conversion, as the case may be.

s.12C

Cap. 341. (3) Subsections (1) and (2) do not apply to a building used as a hotel for which benefits are granted under the *Tourism Development Act*.

(4) The benefits described under this section may only be granted on the certificate of the Executive Director of the Barbados Board of Tourism.

(5) In this section "home accommodation scheme" means the Home Accommodation Scheme for World Cup 2007 established by the Ministry of Tourism.

Building allowance
1986-2.
1986-25. **12C.** (1) Where a person has in an income year made a capital expenditure on any commercial building, then in calculating the assessable income of that person for an income year there shall be deducted as a building allowance an amount equal to

1987-26. (a) 1 per cent of the improved value of the property if it is not registered with the National Trust; and

1986-25. (b) 10 per cent of the improved value of the property if it is registered with the National Trust.

(2) In this section

1986-25. "commercial building" means a building, other than a building described in section 12B or 85(4) or an hotel within the meaning of section 2 of the *Tourism Development Act*, that is in use or is purchased, constructed, re-constructed, altered or adapted to be used for commercial purposes including use as offices or a warehouse or for any trade, but does not include a building let out as a dwellinghouse;

2007-47.
Cap. 341.

Cap. 229A. "improved value" has the meaning assigned to it by section 2 of the *Land Valuation Act*.

12C.1 (1) Where a person has in an income year made a capital expenditure in relation to a water storage facility on any commercial building, then in calculating the assessable income of that person for that income year, there shall be deducted as an allowance an amount up to a maximum of \$3 500 for each commercial building.

Allowance
re: water
storage
facilities.
1996-5.

(2) In this section "water storage facility" means the method of storing water by the use of tanks.

12D. (1) Where a person who is engaged in the business of export to a country outside the Common Market makes an expenditure specified in Part I of the *Second Schedule* for the purpose of promoting the export sales of the business, on market research and development, then in calculating the assessable income of that person for an income year there shall be deducted an amount equal to 150 per cent of the actual expenditure incurred.

Research
and
development
allowance.
1986-2.
1986-25.
1987-26.
Second
Schedule.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Executive Director of the Export Promotion Corporation to the effect that the person claiming the benefit is engaged in the business of export.

12E. (1) Where a person engaged in the tourist industry has in an income year incurred, primarily and principally for the purpose of encouraging tourists to visit Barbados, expenditure for the purposes specified in Part II of the *Second Schedule* then in calculating the assessable income of that person for an income year there shall be deducted an amount equal to 150 per cent of the actual expenditure incurred.

Market
development
allowance
for tourist
industry.
1986-25.
1987-26.
Second
Schedule.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Director of the Barbados Board of Tourism to the effect that the person claiming the benefit is engaged in the tourist industry.

ss.12E.1-12E.2

Tourism
Develop-
ment Fund.
1988-19.
Cap. 308.
1990-2.

12E.1. (1) Where any person has in an income year, contributed an amount of money to the Tourism Development Corporation, a company incorporated under the *Companies Act*, then in calculating the assessable income of that person for that income year there shall be deducted an amount equal to

- (a) 150 per cent of the actual amount contributed; or
- (b) 150 per cent of 3 per cent of his pre-tax profits for the preceding income year

whichever is the lesser.

(2) The benefit described in subsection (1) may be granted on the certificate of the Secretary of the Tourism Development Corporation to the effect that the amount was contributed and that it was used for tourism promotion.

Barbados
Agency for
Micro
Enterprise
Develop-
ment Ltd.
Cap. 308.
1998-8.

12E.2. (1) Where a company has in any income year invested an amount of money in the Barbados Agency for Micro Enterprise Development Ltd., a company incorporated under the *Companies Act* then in calculating the assessable income of that company for that income year, there shall be deducted an amount equal to 120 per cent of the actual amount invested, up to a maximum investment of \$1 million.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Secretary of the Barbados Agency for Micro Enterprise Development Ltd., to the effect that the company claiming the benefit has contributed that amount of money in respect of the Barbados Agency for Micro Enterprise Development Ltd.

12E.3. (1) Where a company has in any income year invested an amount of money in the Enterprise Growth Fund Ltd., a company incorporated under the *Companies Act* then in calculating the assessable income of that company for that income year, there shall be deducted an amount equal to 120 per cent of the actual amount invested, up to a maximum investment of \$1 million.

Enterprise
Growth
Fund Ltd.
1998-8.
Cap. 308.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Secretary of the Enterprise Growth Fund Ltd., to the effect that the company claiming the benefit has contributed that amount of money in respect of the Enterprise Growth Fund Ltd.

12E.4. (1) Where a company has on or after 1st October 1997, contributed an amount of money to the Regional Negotiating Fund, then in calculating the assessable income of that company in any income year, there shall be deducted an amount equal to 150 per cent of the actual amount contributed in that income year.

Regional
Negotiating
Fund.
1998-8.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Chief Executive Officer of the Regional Negotiating Fund by whatever name called, to the effect that the company claiming the benefit has contributed that amount of money in respect of the Regional Negotiating Fund.

12E.5. Sections 12E.2 and 12E.3 do not apply in the case of shares acquired by transfer after they have been issued by a company.

Conditions
on which
benefits may
be granted.
1998-8.

12E.6. Where a company has in any income year incurred any expenditure for the purposes of the Regional Negotiating Fund as a result of

Allowance
for engaging
trade experts
etc.
1998-8.

- (a) engaging persons who possess expertise; or
- (b) training persons in respect of

any trade agreement applicable to the Fund, then in calculating the assessable income of that company in any income year, there shall be deducted an amount equal to 150 per cent of the actual amount expended in that income year.

Hotel Equity
Investment
Fund Inc.
1998-43.
1999-22.

12E.7. (1) Where a company has in any income year invested an amount of money in the Hotel Equity Investment Fund Inc., then in calculating the assessable income of that company for that income year, there shall be deducted an amount equal to 120 per cent of the actual amount invested up to a maximum investment of \$1 million.

1999-22.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Secretary of the Hotel Equity Investment Fund Inc. to the effect that the company claiming the benefit has contributed that amount of money in respect of that Fund.

(3) Subsections (1) and (2) shall not apply to life insurance companies.

(4) Where any amount of the investment made under subsection (1) is withdrawn within 5 years of the making of the investment, the amount so withdrawn shall be brought back into charge to tax in the year in which the withdrawal was made.

Listing
shares on
Securities
Exchange.
1998-43.

12E.8. (1) Where a company has in an income year listed its shares on the Securities Exchange of Barbados, then, in calculating the assessable income of that company for that income year, there shall be deducted an amount equal to 120 per cent of any costs incurred in that income year by the company in listing its shares on the Securities Exchange of Barbados.

(2) The benefit described in subsection (1) may only be granted on the certificate of the General Manager of the Securities Exchange of Barbados to the effect that the company claiming the benefit has incurred those costs in listing its shares on the Securities Exchange of Barbados.

12E.9. (1) With effect from income year 2004, where a company has in an income year contributed an amount of money to the Arts and Sport Promotion Fund established by the *Arts and Sport Promotion Act*, there shall, in calculating the assessable income of that company for that income year, be deducted an amount equal to 150 per cent of the actual amount invested.

Arts and Sport Promotion Fund. 2004-22. Cap. 39.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Accountant General to the effect that the company claiming the benefit has contributed that amount of money to the Arts and Sport Promotion Fund.

12E.10 (1) With effect from income year 2007, where a company has in an income year incurred any expenditure for the purpose of achieving an internationally recognized environmental certification, then in calculating the assessable income of that company in any income year, there shall be deducted an amount equal to 150 per cent of the actual amount expended in that year.

Environmental certification. 2007-47.

(2) The benefit described in subsection (1) may only be granted on the certificate of the Minister responsible for the Environment to the effect that the company claiming the benefit has incurred those costs in achieving an internationally recognized environmental certification.

12F. The expenditure referred to in sections 12D, 12E and 12E.6 should be expenditure which would, but for those sections, have been deductible under section 10.

Type of expenditure. 1986-25. 1998-8.

12G. (1) Where in the income year 1986 and in the 9 immediately ensuing income years a person carrying on business in Barbados derives assessable income from fees, payments or rewards in respect of the undertaking of qualifying overseas construction projects or in respect of qualifying overseas professional services and the Commissioner is satisfied that an amount of net foreign currency earnings relating to the fees, payments or rewards has been transferred to the credit of that person

Tax credit in respect of foreign currency. 1986-25. 1987-26. 1990-27.

s.12G

- (a) by the transfer of foreign currency to Barbados through the Barbados banking system; or
- (b) by payment outside Barbados, in foreign currency in an account held in a bank outside Barbados with the written permission of the Central Bank of Barbados;
- (c) by payment in Barbados in Barbados currency from funds held in Barbados which would be legally remittable from Barbados

1996-5. within the relevant income year, there shall be granted to that person a credit equal to 30 per cent of the net foreign currency earnings.

(2) For the purposes of this section,

- Cap. 71A. (a) "Common Market" has the meaning assigned to it by section 2 of the *Fiscal Incentives Act*;
- (b) "net foreign currency earnings" means the gross amount of foreign currency earnings received from fees, rewards or payments from work performed in respect of qualifying overseas construction projects or qualifying overseas professional services minus all outgoings, including outgoings of a capital nature, incurred directly or indirectly outside Barbados in relation to the qualifying overseas construction project or qualifying overseas professional services;
- (c) "outgoings" include
 - (i) loan repayments in respect of the qualifying overseas construction projects or qualifying overseas professional services, whether the taxpayer borrows the money directly himself or repays an intermediary acting on his behalf,
 - (ii) the cost of plant and machinery, minus its residual value or selling price upon completion of the work, employed in performing the qualifying overseas construction projects;
- 1990-27. (d) "overseas" means the source of the investment outside the Common Market;

- (e) "qualifying overseas construction projects" and "qualifying overseas professional services" are such as are specified in Part III and Part IV, respectively, of the *Second Schedule*. 1987-26. Second Schedule.
- (3) The Minister may by order amend, vary or revoke the *Second Schedule*. 1987-26. Second Schedule.
- (4) Notwithstanding anything in this Act contained, a person may not qualify for concessions under this section and section 14A in respect of the same source of income. 1990-27.
- 12H.** (1) Where in the income year 1996 and subsequent income years a person carrying on business in Barbados derives assessable income from fees, premiums, payments or rewards in respect of the undertaking of qualifying overseas construction projects or in respect of qualifying overseas professional services and the Commissioner is satisfied that an amount of foreign currency earnings relating to the fees, premiums, payments or rewards has been transferred to the credit of that person within the income year or within such later time as the Commissioner in his discretion may allow Tax credit in respect of foreign currency from income year 1996 onwards. 1996-5. 1998-31.
- (a) by the transfer of foreign currency to Barbados through the Barbados banking system;
- (b) by payment outside Barbados, in foreign currency in an account held in a bank outside Barbados with the written permission of the Central Bank of Barbados; or
- (c) by payment in Barbados in Barbados currency from funds held in Barbados which would be legally remittable from Barbados

in computing the tax payable for that income year of such person, there shall be set off against the tax payable on the taxable income of such person, a foreign currency earnings allowance, calculated in the manner specified in the *Fourth Schedule* or *Fifth Schedule*, as the case may be. Fourth Schedule. Fifth Schedule. 1998-31.

2007-47. (1A) Where a company carrying on business in Barbados provides services to the international business sector and earns assessable income in respect of those services, then that income shall be deemed to be foreign currency earnings in accordance with subsection (1).

(2) For the purposes of this section,

Cap. 71A. (a) "Common Market" has the meaning assigned to it by section 2 of the *Fiscal Incentives Act*;

1998-31. (b) "foreign currency earnings" means the gross amount of foreign currency earnings received from fees, premiums, rewards or payments from work performed in respect of qualifying overseas construction projects or qualifying overseas professional services;

2007-47. (c) "international business sector" means the sector comprising resident companies that carry on all of their business overseas;

(d) "overseas" means the source of the investment outside the Common Market;

(e) "qualifying overseas construction projects" and "qualifying overseas professional services" are such as are specified in Part III and Part IV, respectively, of the *Second Schedule*.

Second
Schedule.

Second
Schedule. (3) The Minister may by order amend, vary or revoke the *Second Schedule*.

(4) Notwithstanding anything in this Act, a person may not qualify for concession under this section and section 14A in respect of the same source of income.

Annual
allowances
in calcula-
tion of
assessable
income. **13. (1) Where a person carrying on a business has made a capital expenditure on**

(a) machinery or plant, other than equipment for scientific research, used in that business; or

1983-21. (b) an industrial building or structure used or to be used in that business for some purpose other than resale; or

- (c) equipment for scientific research used in that business or in a field related to that business; or
- (d) new machinery or plant used in the manufacturing sector; or 1998-43.
2003-11.
- (e) intellectual property, 2003-11.

hereafter referred to as depreciable property, then, in calculating the assessable income of that person for an income year, an amount may, at the option of that person, be deducted as an annual allowance equal to,

- (i) in the case of machinery or plant other than new machinery or plant for the manufacturing sector or other than equipment for scientific research, such percentage of the capital expenditure on that machinery or plant less any amount received by that person as a rehabilitation grant as is just and reasonable as representing the wear and tear in the income year on that machinery or plant; 1981-15.
1998-43.
- (ii) in the case of an industrial building or structure used or to be used in that business for some purpose other than resale, 4 per cent of that capital expenditure after deducting therefrom the amount of any rehabilitation grant made to that person in respect of that industrial building or structure; 1983-21.
1998-43.
- (iii) in the case of equipment for scientific research used in that business or in a field related to that business, 20 per cent of that capital expenditure in the income year in which the expenditure was incurred and in the 4 immediately ensuing income years; 1983-21.
1985-6.
1998-43.
2003-11.
- (iv) in the case of new machinery or plant purchased for the manufacturing sector, such percentage of the capital expenditure on that machinery or plant as is just and reasonable as representing the wear and tear in the income year on that machinery and plant, less any amount received by that person as a rehabilitation grant; 1998-43.
2003-11.

s.13

2003-11. (v) in the case of intellectual property, 50 per cent of the amount expended to be deducted over a period of 10 years, on such depreciable property as is in use in the business at the end of that income year.

(2) *Repealed by 1981-15.*

1985-6. (3) Notwithstanding subsection (1), no annual allowance shall be made to a person for an income year in respect of depreciable property if the total of

(a) the amount, if any, received by that person as a rehabilitation grant, and

1985-6. (b) the total amount of initial and annual allowances made to that person in preceding income years,

in respect of that depreciable property exceeds the capital expenditure made by that person on that depreciable property.

1998-43. (3A) Subsection (3) shall not apply in the case of subparagraph (iv) of subsection (1) where the total depreciable amount is equal to 150 per cent of the capital expenditure.

(4) Where a person received a rehabilitation grant in an income year in respect of depreciable property after an initial allowance or an annual allowance has been made to that person in respect of that depreciable property in a prior income year, then the difference between the total of the initial and annual allowances made to that person in respect of that depreciable property in prior income years and the total amount of the initial and annual allowances that would have been made to that person in respect of that depreciable property in prior income years if the rehabilitation grant had been made before any initial or annual allowances were made to that person in respect of that depreciable property shall be included in calculating the assessable income of that person for that income year.

(5) Where depreciable property in respect of which an initial or annual allowance has been made is sold, destroyed or otherwise permanently put out of use in an income year by the person to whom the allowance was made, then

- (a) where the sale, insurance, salvage or compensation moneys in respect of that depreciable property exceed the diminished value of that depreciable property after the appropriate allowances have been made for the preceding income year, the amount of the excess, to the extent that it does not exceed the total of
- (i) the amount of any initial allowance;
 - (ii) the total amounts of annual allowances; and
 - (iii) the amount of any balancing allowance previously given to that person in respect of that depreciable property,
- shall be included, as a balancing charge, in calculating the assessable income of that person for that income year; and
- (b) where the diminished value of that depreciable property after the appropriate allowances have been made for the preceding income year exceeds the sale, insurance, salvage or compensation moneys in respect of that depreciable property, the amount of the excess shall be deducted, as a balancing allowance, in calculating the assessable income of that person for that income year.

(5A) The diminished value of depreciable property of a person is the amount determined by deducting from the capital expenditure on that depreciable property

- (a) the amount, if any, received by that person as rehabilitation grant;
- (b) the amount of any initial allowance that was made to that person; and

(c) the total amount of annual allowances made to that person in the preceding income years,

in respect of depreciable property.

(6) For the purposes of this section, where machinery or plant is leased by a lessor to a lessee who is carrying on a business for use in that business, then this section shall apply to the person, either the lessor or the lessee, on whom the burden of the wear and tear on that machinery or plant directly falls, and

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- (a) where the burden falls directly on the lessee, that lessee shall be deemed to have made a capital expenditure on that machinery or plant in an amount that is reasonable having regard to the terms of the lease; and
- (b) where the burden falls directly on the lessor
- (i) that lessor shall be deemed to have been using that machinery or plant in his business; and
 - (ii) where the lease continues for part only of the income year, the annual allowance for that income year shall be made but shall be proportionately reduced.

(7) For the purposes of this section, where on the sale of depreciable property the buyer has control of the seller, the seller has control of the buyer or another person has control of both the seller and the buyer, the selling price of the depreciable property shall be deemed to be the price that the depreciable property would have been sold for in the open market.

(8) For the purposes of this section, where on the sale of depreciable property the sole or main benefit that might be expected to accrue to the buyer or seller or both is the obtaining of an allowance under this section

- (a) the selling price of the depreciable property shall be deemed to be a price equal to the diminished value of the depreciable property immediately before the sale; and
- (b) the buyer shall not be entitled to an initial allowance in respect of that depreciable property.

(9) For the purposes of this section, where a person succeeds to a business formerly carried on by another person, any depreciable property used in the business both immediately before and immediately after the succession takes place shall be deemed to have been sold by that other person to that person succeeding at a price equal to the diminished value of the depreciable property immediately before the succession took place, but the person so succeeding shall not be entitled to an initial allowance in respect of that depreciable property.

Arrears of
annual
allowances,
1981-15.

13A. (1) The diminished value of depreciable property acquired by a person prior to income year 1980, shall be recalculated in accordance with section 13.

(2) The difference between the diminished values of depreciable property when recalculated by virtue of subsection (1), referred to as "the arrears of annual allowances", may be deducted, subject to this section, in computing the income from business by that person for the income year 1980 and subsequent income years.

(3) The following amounts of arrears of annual allowances are deductible

(a) where the arrears of annual allowances do not exceed \$50 000, the whole amount;

(b) where the arrears of annual allowance exceed \$50 000, \$50 000 or an amount of arrears of annual allowances that represent 25 per cent of the assessable income from the business, whichever is the greater; provided that the amount claimed shall not exceed the amount of the arrears of annual allowances available to be deducted.

(4) For the purposes of subsection (3), assessable income means the gross income in an income year accruing to a person from business computed in accordance with this Act, but does not include a deduction under this section.

(5) Subject to this section, any arrears of annual allowances that are not deducted in any income year may be carried forward and deducted in subsequent income years.

Annual
allowance on
conversion
of residential
property.
1985-6.

13B.¹ (1) Where a person has made a capital expenditure on a conversion described in section 12B and referred to in this section as depreciable property, then, in calculating the assessable income of that person, for an income year an amount may, at the option of that person, be deducted as an annual allowance equal to 4 per cent of that capital expenditure.

¹Section 13B applies to year of income 1984.

(2) Notwithstanding subsection (1), no annual allowance shall be made to a person for an income year in respect of the conversion referred to in section 12B if the total amount of initial and annual allowances made to that person in the preceding years exceeds the capital expenditure made by the person on the conversion.

(3) Subsections (5), (5A) and (7) of section 13 apply to depreciable property described in section 12B.

13B.1 (1) Where a person has made a capital expenditure in construction or conversion of a building described in section 12B(1) and in this section referred to as depreciable property, then, in calculating the assessable income of that person for an income year, an amount may, at the option of that person, be deducted as an annual allowance equal to 4 per cent of that capital expenditure.

Annual allowance on conversion of residential property. 2007-6.

(2) Notwithstanding subsection (1), no annual allowance shall be made to a person for an income year in respect of the construction or the conversion referred to in section 12B(1) if the total amount of initial and annual allowances made to that person in the preceding income year exceeds the capital expenditure made by that person on the construction or the conversion.

(3) Subsections (5), (5A) and (7) of section 13 apply to depreciable property described in section 12B(1) and referred to as such in subsection (1).

13C.¹ No claims under sections 12B and 13B may be entertained unless they are accompanied by a certificate of the Chief Town Planner stating that the expenditure on which a claim is based is in respect of a building that had been in existence before the conversion is effected.

Certificate in support of claim. 1985-6.

14. For the purposes of sections 12 and 13,

(a) a capital expenditure on the purchase of land or on rights in and over land is not a capital expenditure on machinery or plant or on other depreciable property;

Rules relating to annual allowances. 1983-21.

¹ Section 13C applies to year of income 1984.

s.14

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- 2007-47. (aa) where expenditure in respect of a motor vehicle provided for the use of a director or an employee exceeds \$75 000, the excess is not a capital expenditure on machinery or plant;
- (ab) no allowance shall be made on capital expenditure for a building or structure except on the certificate of the Industrial Development Corporation stating that such capital expenditure is in respect of an industrial building or structure;
- (b) a reference to any machinery or plant or to any other depreciable property includes a reference to a part of that machinery or plant or other depreciable property, as the case may be;
- (c) a reference to the sale of machinery or plant or any other depreciable property includes a reference to the sale of that machinery or plant or other depreciable property together with other property;
- (d) all property that is sold under one bargain shall be deemed to be sold together notwithstanding that the form of the transaction is that there are separate sales of separate pieces of property;
- (e) where machinery or plant or other depreciable property is sold together with property that is not depreciable property, the amount that should reasonably be regarded as being the relative value of that machinery or plant or other depreciable property, as the case may be, shall be deemed to be the sale price of that machinery or plant or other depreciable property, as the case may be;
- (f) this section applies with the necessary modifications to the value of insurance, salvage or compensation moneys as it applies to sales and sale prices; and
- (g) this section applies with the necessary modifications to the exchange of property, and to the surrender of a leasehold interest for valuable consideration, as it applies to sales and sale prices, and in particular with the modifications that a reference to the sale price shall be deemed to be a reference to

the value of the consideration for the exchange or surrender and a reference to a capital sum included in the price shall be deemed to be a reference to so much of the value of the consideration as would have been a capital sum if it had taken the form of a monthly payment.

14A. (1) Subject to section 14B, where a person has made export sales to a country other than a country within the Common Market, in computing the tax payable for any income year of such person there shall be set off for the purposes of collection against the tax payable on the taxable income of such person an export allowance calculated in the manner specified in the *First Schedule* if the person satisfies the Commissioner that the provisions of this section are applicable to it.

Export
allowance.
1974-11.
1986-2.
1987-26.

First
Schedule.

- (2) The following are entitled to the export allowance:
- (a) the export of data processing services;
- (b) the export of products of a company that purchases wholesale from a local producer exclusively for export;

1990-27.

(c) the export of products of an industry or business, other than sugar in bulk or such other product as the Minister declares by order to be a traditionally export-oriented product.

(3) *Repealed by 1986-2.*

(4) For the purposes of this section

"Common Market" has the same meaning as in section 2 of the *Fiscal Incentives Act*; Cap. 71A.

"company" means a company registered in Barbados;

"industry" has the same meaning as in section 2 of the *Fiscal Incentives Act*.

14A.1. (1) Where an enclave enterprise owned by persons who are not citizens of Barbados earns income derived from the re-investment of profits earned in Barbados, that enterprise shall, in computing the tax payable in any income year on such income, be entitled to an allowance calculated in accordance with section 14A in the manner specified in the *First Schedule* for calculation of export allowance as if that income were export profits. Investment
income.
1986-25.

First
Schedule.

(2) For the purposes of subsection (1) "enclave enterprise" has the meaning assigned to it by section 2 of the *Fiscal Incentives Act*. 1986-25.
Cap. 71A.

14B. Section 14A shall not apply to a company which is declared to be an approved enterprise for the purposes of the *Fiscal Incentives Act* in respect of the period during which that company is enjoying benefits under that Act. Non-
application
of section
14A.
Cap. 71A.

DIVISION I

Calculation of Assessable Income: Miscellaneous Rules: Special Persons

15. *Repealed by 1980-12.*

- Non-residents. **16.** (1) In calculating the assessable income of a non-resident person for an income year, income derived from Barbados shall be included, income not derived from Barbados shall not be included and no deductions or allowances in respect of the calculation of assessable income shall be made in respect of income or the production of income not derived from Barbados.
- 1984-9. (2) For the purposes of subsection (1)
- (a) "income derived from Barbados" includes
- (i) any amount payable or paid to a non-resident person by a person resident in Barbados on account or in satisfaction of liability for fees or charges arising under a contract for the provision of services, whether such contract is oral or in writing and whether or not it is made in Barbados¹, and
- 1985-6. (ii) amounts received from an office in Barbados or from employment exercised therein under a contract of employment whether made within or outside Barbados², and
- (b) income from royalties is deemed to arise in Barbados where the use of or the right to use a right or property occurs in Barbados².
- Persons resident but not domiciled. **17.** In calculating the assessable income for an income year of a resident person who during the income year is not domiciled in Barbados, the following amounts and no others shall be included, that is to say
- (a) income derived from Barbados for that income year;
- 1985-6. (b) income from an office in Barbados or employment exercised therein for the income year whether or not the contract of employment was made in Barbados and whether or not the employer is resident in Barbados²;
- (c) income from other sources outside Barbados whenever derived to the extent that a benefit is obtained in Barbados from that income in that income year in the form of a remittance of

¹Subsection (2)(a)(i) of section 16 applies to year of income 1970 and following.

²Subsection (2)(a)(ii) and (2)(b) of section 16 and section 17(b) apply to year of income 1984.

money, an importation of property, the granting of credit by bank overdraft or otherwise or in any other form whatever,
and no deductions or allowances in respect of the calculation of assessable income shall be made in respect of income or the production of income not so included.

DIVISION J

Calculation of Assessable Income: Miscellaneous Rules: Special Businesses

18. In calculating the assessable income of a non-resident person for an income year, the income of that person earned in Barbados from the operation of a ship or aircraft owned, chartered or operated by him shall

Business of operating ships or aircraft.

- (a) not be included, where the country or territory where that person resides grants substantially similar relief throughout the income year to a person resident in Barbados; or
- (b) be deemed to be 5 per cent of the amount payable to that person in respect of passengers, livestock, mail and goods shipped at any port in Barbados, in any other case.

19. (1) Each of the following businesses, namely

Business insurance companies.

- (a) general insurance business;
- (b) life insurance business; and
- (c) registered retirement plan business,

carried on by an insurance company shall be deemed to be a separate business carried on by a separate person for the purposes of this Act.

(2) In the case of the general insurance business of a resident insurance company, the assessable income of the company shall be calculated in accordance with this Act as in the case of any other resident company.

(3) In the case of the general insurance business of a non-resident insurance company, the assessable income of the company for the income year is

(a) the total of the gross premiums, interest and other income of the company received or receivable in Barbados in the income year;

minus

1981-15. (b) premiums returned to insured persons and premiums paid as re-insurances in the income year;

minus

(c) the usual percentage reserve for unexpired risks adopted by the company in respect of its total world operations at the end of the income year;

plus

(d) the usual percentage reserve for unexpired risks adopted by the company in respect of its total world operations at the end of the preceding income year;

minus

(e) the total of

(i) the actual losses less the amount for losses recovered under re-insurances;

(ii) the agency expenses in Barbados; and

(iii) a fair proportion of the head office expenses of the company,

in the income year.

1985-6. (4) In the case of the life insurance business of a resident insurance company, the assessable income of the company for the income year is its gross investment income.

1985-6. (5) In the case of the life insurance business of a non-resident insurance company, the assessable income of the company for the income year is

-
- (a) its gross investment income; and
 - (b) an amount deemed to be income calculated at the rate of 7 per cent of the short-fall in the reserves held in the income year below the reserves required to be held in Barbados in accordance with the *Insurance Act* or calculated on the amount of the short-fall at the average rate of actual yield in investments for the year, whichever is higher. Cap. 310.

(6) Where the investment income of a business that is deemed by subsection (1) to be a separate business carried on by a separate person cannot be determined because that business is carried on in conjunction with another business that is deemed by subsection (1) to be separate business and the investment income from those businesses is not separated in the books of the company carrying on those businesses, the following rules shall apply

- (a) in the case of a resident company the investment income of each separate business is that part of the investment income of the company that bears the same proportion to the total investment income of the company as the premiums received or receivable in respect of that separate business bears to the total premiums received or receivable by the company, all calculated in respect of the income year; and
- (b) in the case of a non-resident company
 - (i) the Barbados investment income of the company is that part of the investment income that bears the same proportion to the total investment income of the company as the premiums received or receivable in Barbados bear to the total premiums received or receivable by the company, all calculated in respect of the income year; and
 - (ii) the investment income of each separate business is that part of the Barbados investment income of the company that bears the same proportion to the Barbados investment

income of the company as the premiums received or receivable in Barbados in respect of that separate business bear to the total premiums received or receivable in Barbados, all calculated in respect of that income year.

(7) Where any income, other than investment income, or any deduction or allowance of a business that is deemed by subsection (1) to be a separate business carried on by a separate person cannot be determined because that business is carried on in conjunction with another business that is deemed by subsection (1) to be separate business and such income, deduction or allowance is not separated in the books of the company carrying on those businesses, the amount of such income, deduction or allowance attributable to that separate business, shall be the amount that is reasonable in all the circumstances.

1985-6. (8) Subject to subsection (8A), a loss incurred in a business that is deemed by subsection (1) to be a separate business carried on by a separate person may not be set off against the profits from any other business but, with that exception and subject to the limitations imposed by section 23, may be carried forward and set off against the profits of that separate business within the 5 succeeding income years.

1985-6. (8A) Notwithstanding subsection (8), with effect from income year 1984, no loss incurred by the life insurance business of an insurance company may be deducted from or set off against profits from that or any other business.

1977-16. (9) In addition to the tax payable by virtue of section 44(1) on the taxable income of a company deemed to be a separate person carrying on the life insurance business of an insurance company, whose assessable income is for the purposes of the payment of such tax, calculated in accordance with subsection (4) or (5), as the case may be, of this section, there shall be paid in respect of the income year 1976 and every subsequent income year, a tax at the rate specified in section 44(2) on the premium income of such company, computed in accordance with subsection (10).

1977-16. (10) The premium income on which tax is payable under subsection (9) shall be determined by taking the gross premiums received by the company and deducting therefrom any premiums returned to the assured

1998-31.

and any premiums received in respect of re-insurances, all such premiums being in respect of risks originating within Barbados. 1998-31.

(11) For the purposes of this section a company shall be deemed to be carrying on life insurance business notwithstanding that it has ceased to issue contracts of insurance, if it continues to collect premiums on existing contracts of insurance. 1977-16.

(12) The office, branch or agency of a non-resident company to which subsection (11) refers shall deduct or withhold an amount from the premium income of such company at the rate specified in paragraph (a), (b) or (c) of section 44(2) and shall pay the amount so deducted or withheld in monthly remittances to the Commissioner, not later than the 25th day of each month, in respect of the premium income for the preceding month. 1977-16.
1993-8.

(13) For the purposes of this section and sections 43 and 44 "Caribbean Community" has the meaning assigned to it by section 2 of the *Caribbean Community Act*; 1977-16.
1978-44.
Cap. 15.

"foreign company" means in relation to payment of tax on premium income by a company carrying on life insurance business or general insurance business of an insurance company a company not being a resident company; 1978-44.

"gross investment income" means in relation to

- (a) a resident insurance company, its income from all sources excluding its premium income; and
- (b) a non-resident insurance company, its income derived from Barbados, excluding its premium income;

"life insurance business" includes industrial life insurance business;

"mutual company" has the meaning assigned to it by section 2 of the *Insurance Act*; Cap. 310.

"resident company" means in relation to payment of tax on premium income by a company carrying on life insurance business or general insurance business of an insurance company a company 1978-44.

incorporated in Barbados with not less than 51 per cent of its paid-up capital owned by persons resident in Barbados or a mutual company incorporated in Barbados or such other company as the Minister approves, incorporated in a member country of the Caribbean Community.

Business of associations of underwriters. **20.** (1) The business of underwriting policies of insurance, other than life insurance, carried on by an association of underwriters shall be deemed to be a separate business carried on by a separate person, for the purposes of this Act.

1978-44.
1986-2.
1991-9. (2) The assessable income of a person deemed by subsection (1) to be a separate person carrying on a separate business for an income year is 30 per cent of the total amount of the gross premiums other than re-insurance premiums derived from Barbados and payable in the income year on policies of insurance underwritten by that person.

21. *Repealed by 1986-2.*

Deductions and allowances for separate businesses. 1985-6. **22.** (1) Where a person is deemed by this Act to be a separate person carrying on a separate business for the purposes of this Act with the result that such person is deemed to be 2 separate persons carrying on 2 or more separate businesses for the purposes of this Act, in calculating the assessable income or the taxable income of the 2 deemed separate persons no amount may be deducted, or allowed to more than one of those deemed separate persons and the amounts deducted or allowed shall be apportioned between those deemed separate persons in accordance with the determination of the Commissioner.

1985-6. (2) Where a person is deemed to be a person carrying on separately life insurance and general insurance businesses, then in calculating the person's assessable income from general insurance business for an income year the amount deductible as commissions and management expenses when combined, shall not exceed 60 per cent of the gross premium of the company for that year.

DIVISION K

*Calculation of Assessable Income: Miscellaneous Rules:
Special Cases*

23. (1) In calculating the assessable income of a person for an income year, a loss sustained by that person in respect of any source of income in that year shall be deducted from the assessable income of that person from all other sources in that income year. ^{Losses.}

(2) Where a loss has been sustained by a person in an income year in respect of a source of income subject to tax under this Act and that loss exceeds the assessable income of that person from all other sources whether within or outside Barbados in that income year, the amount of the excess shall be carried forward and shall be deducted in computing the assessable income of that person in ensuing income years, subject to the following rules, that is to say

- (a) any loss carried forward shall be deducted in the next succeeding income year to the full extent of the lesser of
- (i) the amount of the loss carried forward; or
 - (ii) the assessable income of that person for that next succeeding income year

and, where the amount of the loss carried forward exceeds the assessable income of that person for that next succeeding income year, only the amount of the excess shall be carried forward further;

- (b) no loss or part of a loss shall be carried forward beyond the 9th income year following the income year in which the loss was sustained; and <sup>1986-2.
1988-19.
1990-2.</sup>
- (c) where losses that may be carried forward are sustained in more than one income year the losses shall be deducted in succeeding income years in the order in which the losses are sustained.

s.23A

2007-47. (3) With effect from income year 2006, notwithstanding subsections (1) and (2), in calculating the assessable income of a person for an income year in respect of residential property, a loss sustained by that person in respect of residential property in an income year shall be deducted from the assessable income in respect of rent from residential property in that income year; and where that loss exceeds the assessable income in respect of rent from residential property of that person, the amount of the excess shall be carried forward and shall be deducted in computing the assessable income from residential property of that person for the ensuing 9 income years.

2007-47. (4) With effect from income year 2006, notwithstanding subsections (1) and (2), in calculating the assessable income of a person for an income year, a loss sustained by that person in respect of sources of income other than that from residential property shall be deducted from those other sources; and no part of such loss shall be deducted from the assessable income in respect of residential property of that person for an income year.

1992-28.
2007-6. (5) For the purposes of this section, subsection (2) of section 24A, subsection (2) of section 24B and subsection (2) of section 24C for income year 1992 and subsequent income years, losses shall first be deducted from the income of a person for an income year that would, but for sections 24A, 24B and 24C, form part of the assessable income of that person.

Interpreta-
tion in
respect of
sections 23A
to 23K.
1996-5.

23A. (1) For the purposes of this section and sections 23B to 23K

"accounting period" means the period in respect of which corporation tax is chargeable;

"capital allowances" means the allowances specified in sections 12 and 13 of the Act;

"claimant company" means a company which utilises the trading loss of a surrendering company;

"75 per cent subsidiary" means a body corporate of which

- (a) 75 per cent or more of the ordinary share capital of that body corporate is beneficially owned, whether directly or indirectly, by another body corporate; and
- (b) 75 per cent or more of the voting rights are attached to its share capital;

"surrendering company" means a company which suffers a trading loss and surrenders this loss to another company for the purposes of group relief;

"trading losses" means the losses referred to in section 23 but does not include capital allowances and expenses payable to a group member and claimed as a deduction if corresponding amounts have not been included in the income of the group member for the income year.

(2) Group relief is relief that allows the current trading losses of a surrendering company to be set off, by way of relief from corporation tax, against the profits of a claimant company whether in whole or in part, if, throughout their respective accounting periods both companies satisfy the provisions of the group test set out in subsections (3) and (4).

(3) Group relief is available where a surrendering company and claimant company are members of the same group.

(4) For the purposes of subsection (3), two companies are regarded as being members of the same group where

- (a) one company is a 75 per cent subsidiary of the other company; or
- (b) both companies are 75 per cent subsidiaries of a third company.

(5) Every company engaged in group relief must be resident in Barbados.

(6) This section and sections 23B to 23K apply to and take effect in respect of income year 1996.

23B. (1) In determining, for the purposes of group relief, whether a company is a 75 per cent subsidiary of another, the other company shall be treated as not being the owner

Determina-
tion of
subsidiary
company.
1996-5.

- (a) of any share capital which it owns directly in a body corporate if a profit on a sale of the shares would be treated as a trading receipt of its trade;
- (b) of any share capital which it owns indirectly and which is owned directly by a body corporate for which a profit on the sale of the shares would be a trading receipt; or
- (c) of any share capital which it owns directly or indirectly in a body corporate not resident in Barbados.

(2) Notwithstanding that any time a company is a 75 per cent subsidiary of another company the former company shall not be treated at that time as such a subsidiary with respect to group relief unless, additionally at that time

- (a) the parent company is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the subsidiary company; and
- (b) the parent company would be beneficially entitled to not less than 75 per cent of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

Claim for
group relief.
1996-5.

23C. (1) A claim for group relief shall specify the following

- (a) the name of the claimant company;
- (b) the accounting period for which relief is claimed by the claimant company;
- (c) the name of the surrendering company;
- (d) the accounting period for which relief is claimed by the surrendering company;
- (e) the amount claimed in respect of the surrendering company; and
- (f) the total amount of profits of the claimant company to be covered by group relief.

(2) A claim for group relief

- (a) shall not be allowed unless the profits of the claimant company are first applied against any previous years' losses of that company;
- (b) need not be for the full amount available to the claimant company;
- (c) shall require the consent of the surrendering company which shall be submitted to the Commissioner in the form prescribed by the Commissioner;
- (d) must be made within 2 years of the date of the end of the surrendering company's accounting period to which the claim relates; and
- (e) shall only be allowed by the Commissioner after all taxes due to the Crown and all national insurance contributions have been satisfied by both the claimant company and the surrendering company.

Losses
which
may be
surrendered.
1996-5.

23D. (1) Where a surrendering company incurs a trading loss in an income year, the loss may be set off against the total profits of the claimant company for the corresponding accounting periods of the claimant company.

(2) The accounting period of a company, for the purpose of corporation tax, shall begin whenever the company not then being within the charge to corporation tax comes within the charge, whether by the company becoming resident in Barbados or acquiring a source of income, or otherwise.

(3) An accounting period of a company shall end for the purpose of corporation tax on the first occurrence of any of the following

- (a) the expiration of 12 months from the beginning of the accounting period;
- (b) the end of the fiscal period of the company; or
- (c) the company ceasing to be within the charge to corporation tax.

23E. (1) For the purposes of group relief an accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company corresponds to that accounting period.

Corresponding accounting periods. 1996-5.

(2) For the purposes of group relief an accounting period is calculated in the manner specified in the *Third Schedule*.

Third Schedule.

23F. (1) Group relief shall be given only if the surrendering company and the claimant company are members of the same group throughout the whole of the surrendering company's accounting period to which the claim relates and throughout the whole of the corresponding accounting period of the claimant company.

Companies joining or leaving group. 1996-5.

(2) Where on any occasion 2 companies become or cease to be members of the same group then for the purposes of subsection (4), it shall be assumed as respects each company that

- (a) on that occasion, unless a true accounting period of the company begins or ends then, an accounting period of the company ends and a new one begins, the new accounting period to end with the end of the true accounting period, unless before then there is a further break under this subsection; and

(b) the losses of the true accounting period are apportioned to the component accounting periods referred to in paragraph (a); and

(c) the amount of total profits for the true accounting period of the company against which group relief may be allowed is also apportioned to the component accounting periods.

(3) An apportionment under subsection (2) shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other methods shall be used as appears to the Commissioner just and reasonable.

(4) Where the one company is the surrendering company and the other company is the claimant company references in subsection (1) to accounting periods shall be so construed, so that if the 2 companies are members of the same group in the surrendering company's accounting period, they must under that section also be members of the same group in any corresponding accounting period of the claimant company.

Relief obtainable once for the same amount. 1996-5.

23G. (1) Relief shall not be given more than once in respect of the same amount, whether by giving group relief or by giving some other relief, in any accounting period, to the surrendering company, or by giving group relief more than once.

(2) In accordance with subsection (1), 2 or more claimant companies cannot, in respect of any one loss or other amount for which group relief may be given, and whatever their accounting periods corresponding to that of the surrendering company, obtain in all more relief than could be obtained by a single claimant company whose corresponding accounting period coincided with the accounting period of the surrendering company.

Aggregate of claim. 1996-5.

23H. (1) Subject to subsection (2), 2 or more claimant companies may make claims relating to the same surrendering company, and to the same accounting period of that surrendering company.

(2) Notwithstanding subsection (1) where the claimant companies referred to in subsection (1) make claims, the aggregate of the claims shall not exceed the amount of the loss surrendered by the surrendering company.

23I. A claimant company shall only be eligible to claim group relief where that company, has first claimed all its available capital allowances. Capital allowances. 1996-5.

23J. Where the Commissioner discovers that any group relief which has been given is or has become excessive, he may make an assessment to corporation tax in the amount which ought in his opinion to be charged. Tax recovery. 1996-5.

23K. Group relief is not available to Exempt companies. 1996-5.

(a) any company established under

(i) the *International Business Companies Act*; Cap. 77.

(ii) the *Exempt Insurance Act*; Cap. 308A.

(iii) the *Societies With Restricted Liability Act*; Cap. 318B.

(iv) the *International Financial Services Act*; or Cap. 325. 2007-47.

(b) any other company which has been granted tax concessions under any other enactment with the exception of companies operating under the *Hotel Aids Act*; or Cap. 72. 1998-42.

(c) any company that is an authorised or exempt mutual fund under the *Mutual Funds Act*. Cap. 320B.

23L. (1) A payment for group relief Profits and losses and distribution or charge on income vis-à-vis group relief. 1996-5.

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and Cap. 73.

(b) shall not for the purposes of the *Income Tax Act* be regarded as a distribution or charge on income.

(2) In subsection (1) a "payment for group relief" means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an account surrendered by way of group relief, being payment not exceeding that amount.

Capital
element of
annuities.

24. (1) In calculating the assessable income of a person for an income year, the capital element of a payment under

- (a) an annuity paid under a will or trust; or
- (b) a purchased annuity

shall not be included.

(2) The capital element of a payment under an annuity paid under a will or trust is such part of the payment as exceeds the recipient's share of the income of the estate or trust in the period in respect of which the payment is made.

(3) The capital element of a payment under a purchased annuity shall be determined in accordance with the following rules, that is to say

- (a) where the purchased annuity is payable for a term certain, the capital element of each payment is that part of each payment that bears the same proportion to the amount of the payment as the purchase price of, or value of the consideration for, the contract bears to the total of the payment to be made under the contract; and
- (b) where the purchased annuity is payable for a life, whether or not a minimum term certain, or a minimum total payment also forms a term of the contract, the capital element of each payment is that part of each payment that bears the same proportion to the amount of the payment as the purchase price of, or value of the consideration for, the contract bears to the total of the payments actuarially expected to be made under the contract at the time the contract was made, calculated on the basis of the tables used in determining the purchase price

of, or value of the consideration for the contract, or, where no such tables were used, on the basis of the most appropriate tables, with the calculation being based on complete expectation of life.

24A. (1) In calculating the assessable income of a person for income year 1996 and subsequent income years, there shall be deducted from his income that would, but for this subsection, form part of the assessable income of that person the amounts contributed by that person, to a registered retirement plan by deduction from emoluments or otherwise, in that income year, subject to the limitations imposed by subsections (2) to (5).

Registered
retirement
plan
contribu-
tions.
1992-28.
1996-30.

(2) The maximum amount that may be deducted under subsection (1) by an employed person or a self-employed person in an income year, in respect of contributions made by that person on his own behalf, is

(a) 15 per cent of the assessable income from the employment or the business of that person, as the case may be, for that income year; or

(b) \$10 000

1996-30.
2007-47.

whichever is the lesser.

(3) The maximum amount that may be deducted under subsection (1) in an income year, expressed as a total of the amount that may be deducted by an employer in respect of contributions made on behalf of an employee and the amount that may be deducted by that employee in respect of contributions made by him in his own behalf, is an amount equal to 15 per cent of the pensionable emoluments paid by the employer to that employee in that income year, and where the total amount contributed by the employer in respect of an employee and by that employee on his own behalf, when added together, exceeds that amount, the amount that may be deducted by the employer or by the employee, as the case may be, is the amount that bears the same proportion to that 15 per cent as the amount contributed by the employer or by the employee, as the case may be,

s.24B

bears to the total amount contributed by both the employer and the employee.

(4) Where a registered retirement plan is first established and a special contribution is made under the plan by an employer in order to provide benefits to his employees in respect of services rendered before the establishment of that registered retirement plan, the entire amount of that special contribution may not be deducted from the assessable income of the employer in computing his taxable income for the income year in which the contribution was made but the amount of that special contribution may be deducted in a number of equal parts over a period of years, not less than 10, determined in each case by the Commissioner, from the assessable incomes of the employer for those income years in calculating the taxable incomes of the employer for those income years, starting with the income year in which the special contribution was made.

Annual pay-
ments to
benevolent
organisa-
tions.
1992-28.

24B. (1) In calculating the assessable income of a person for income year 1992 and subsequent income years there shall be deducted from the income of that person the amount of payments made by that person in that income year under a settlement, where

- (a) the payments are made to a registered benevolent organisation;
- (b) the payments are made under a requirement of the settlement that such payments will be made every year for a period of not less than 3 years; and
- (c) the terms of the settlement cannot be modified or revoked by that person during that period of not less than 3 years.

(2) The amount that shall be deducted under this section for an income year shall not exceed 10 per cent of the amount that would, but for this section, form part of the assessable income of that person for that income year.

24C. (1) Notwithstanding the provisions of section 25, in calculating the assessable income of an individual for income year 1993 and subsequent income years, there shall be deducted from the income of that individual the amount of payments made by the individual in that income year under a settlement, where

Payments to
minors.
1993-8.

- (a) the payments are made under a requirement of the settlement that such payments will be made every year for a period of not less than 3 years;
- (b) the terms of the settlement cannot be modified or revoked by that individual during that period of not less than 3 years; and

(c) the beneficiary of the payments is a minor (within the meaning of the *Minors Act*) who is not the child of the settlor. Cap. 215.

(2) A settlor may make the deductions permitted by this section only during the minority of the beneficiary.

24D. In calculating the assessable income of an individual for income year 1993 and subsequent income years, there shall be deducted from the income of that individual the amount of payments made by the individual in that income year under a settlement, where Payments to incapacitated individuals. 1993-8.

- (a) the payments are made under a requirement of the settlement that such payments will be made every year for a period of not less than 3 years;
- (b) the terms of the settlement cannot be modified or revoked by that individual during that period of not less than 3 years; and
- (c) the beneficiary of the payment is an individual other than a minor (within the meaning of the *Minors Act*) and is, by reason of old age or physical or mental incapacity, unable to provide for himself. Cap. 215.

24E. The maximum amount that may be deducted under sections 24C and 24D shall not exceed in the aggregate 5 per cent of the amount that would, but for those sections, form part of the assessable income of the settlor for the income year. Amount deductible for minors and incapacitated individuals. 1993-8.

24F. (1) In calculating the assessable income of a person for income year 1998 and subsequent income years, there shall be deducted from the income that would, but for this subsection, form part of the assessable income of that person the amounts contributed by that person to a registered retirement savings plan by deduction from emoluments or otherwise in that income year, subject to the limitations imposed by subsections (2) and (3). Registered retirement savings plan contributions. 1998-30. 1998-43.

s.24G

(2) The maximum amount that may be deducted under subsection (1) by an employed person or a self-employed person in an income year in respect of contributions made by that person on his own behalf or on behalf of his spouse is

(a) 15 per cent of the assessable income from the employment or the business of that person, as the case may be, for that income year; or

2007-47. (b) \$10 000

whichever is the lesser.

2002-17. (3) Subject to section 24A(2), a person who contributes to a registered retirement plan may also contribute to a registered retirement savings plan and may be allowed to claim

2007-47. (a) a maximum of \$10 000 in respect of both plans; or

(b) 15 per cent of the assessable income from the employment or business of that person, as the case may be, for that income year

whichever is the lesser.

Withdrawal
of funds.
1998-30. **24G.** (1) A person who contributes to a registered retirement savings plan may make one withdrawal of contributions from the plan for the purpose

(a) of acquiring the first dwelling-house for use by that person as a residence; or

(b) of acquiring jointly with the spouse of that person their first dwelling-house for use as their residence.

(2) Where a person makes a withdrawal of contributions from a registered retirement savings plan for a purpose other than that specified in subsection (1) those contributions withdrawn are subject to withholding tax.

1969/109. (3) The amount of tax to be withheld shall be calculated in accordance with regulation 6(5) of the *Income Tax Regulations, 1969.*

24H. The withdrawal of contributions referred to in section 24G is subject to the following conditions

Conditions attached to withdrawal of contributions. 1998-30.

- (a) a person who withdraws contributions for the purpose of acquiring a first dwelling-house for use as the residence of that person shall be a person who does not already own a house;
- (b) the maximum amount that a person referred to in section 24G may withdraw shall be the lesser of 10 per cent of the purchase price of the house to be acquired or \$25 000;
- (c) where a person makes a withdrawal of contributions pursuant to section 24G and fails to apply the total amount withdrawn towards the acquisition of a dwelling-house within 6 months of the date of withdrawal, or after an extension granted by the Commissioner, the amount withdrawn shall be included in computing the assessable income of that person in the year in which the amount is withdrawn; and
- (d) a person who makes a withdrawal of contributions for the purpose of acquiring a first dwelling-house for use as the residence of that person shall only be permitted to make a withdrawal for this purpose once.

24I. (1) Subject to subsection (2), where a person who has made a withdrawal of contributions for the first-time acquisition of a dwelling-house for use as the residence of that person sells that house within 5 years of the date of withdrawal of the contributions, the amount withdrawn shall be included in computing the assessable income of that person in the year in which the house is sold.

Sale of home. 1998-30.

(2) Notwithstanding subsection (1), where a person sells the dwelling-house referred to in subsection (1) within 5 years of the date of withdrawal of contributions, and acquires another house within 6 months of the sale of the first house, the amount of the contributions withdrawn shall not be included in computing the income of that person unless the second house is disposed of within 5 years of the withdrawal of the contributions.

Transfers to
minors.

25. Where a person transfers property or the income from property in such a way, whether directly or indirectly, that a person who is a minor during that income year is beneficially entitled to the income from that property, either immediately or in the future and whether contingently or otherwise, then, for that income year and every subsequent income year until that in which the person beneficially entitled to the income from the property becomes of full age or sooner dies, that income shall be included in calculating the assessable income of the person who, transfers the property or the income from property and shall not be included in calculating the assessable income of any other person.

Conditional
transfers in
trust.

26. Where a person transfers property to a trustee, in trust

- (a) upon terms that the trust property or property substituted therefor shall revert to the donor or to some other person to be determined by the donor at a date after the transfer; or
- (b) upon terms that during the lifetime of the donor no disposition or other dealing with the trust property or property substituted therefor may be made without the consent of the donor,

then the income from that property or property substituted therefor shall be included in calculating the assessable income of the donor and shall not be included in calculating the assessable income of any other person.

Controlled
companies.

27. (1) Where it appears that with a view to the avoidance or reduction of tax a company controlled by not more than 5 persons has not distributed to its shareholders, as dividend, profits for an income year which could be distributed without detriment to the company's existing business, such profits shall be added to the distributed profits for that income year, if any, and, whether or not there are distributed profits for that income year, shall be deemed to have been distributed in the same manner as they would have been distributed if a dividend had been declared to the full amount of those profits for that income year and shall be included accordingly in calculating the assessable income of the shareholders for that income year.

(2) For the purposes of this section, in determining whether profits for an income year could be distributed without detriment to the company's existing business, consideration shall be given not only to the current requirements of the business but also to such other requirements as may be necessary for the maintenance and development of that business.

(3) For the purposes of this section, amounts expended in the income year that would otherwise be deductible in calculating the income of a company for an income year

- (a) in or towards payment for the business, undertaking or property which the company was formed to acquire or which was the first business, undertaking or property acquired by the company; or

- (b) in redemption or repayment of any share, loan capital or debt, including any premium on such share, loan capital or debt, issued or incurred in or towards payment for any business, undertaking or property described in paragraph (a), or issued or incurred for the purpose of raising money applied or to be applied towards payment therefor; or
- (c) in meeting any obligations of the company in respect of the acquisition of any business, undertaking or property described in paragraph (a); or
- (d) in redemption or repayment of any share or loan capital or debt, including any premium on such share or loan capital or debt, issued or incurred otherwise than for adequate consideration; or
- (e) in pursuance or in consequence of any artificial transaction,

shall be deemed not to have been expended and to have been retained to form part of the profits for the income year that could be distributed without detriment to the company's existing business.

(4) For the purposes of this section, share or loan capital or debt shall be deemed to be issued or incurred otherwise than for adequate consideration if

- (a) it is issued or incurred for consideration the value of which to the company is substantially less than the amount of the capital or debt, including any premium thereon; or
- (b) it is issued or incurred in or towards, or for the purpose of raising money applied or to be applied in or towards, the redemption or repayment of any share or loan capital or debt which itself was issued or incurred for such consideration as is mentioned in paragraph (a) or which represents, directly or indirectly, any share or loan capital or debt which itself was issued or incurred for such consideration,

and references in this subsection to money applied or to be applied for any purpose include references to money applied or to be applied in or towards the replacement of that money.

(5) Any amount included in calculating the assessable income of a shareholder under this section for an income year shall not be included in calculating the assessable income of a shareholder for a subsequent income year if that amount is distributed in respect of that shareholding in that subsequent income year.

(6) The provisions of section 65 apply with respect to an amount deemed to have been distributed under this section as if that amount was distributed as a dividend.

Loans to
directors
etc., of
controlled
companies.
1977-16.

27A. (1) Subject to subsection (2) where after 1st January, 1976 a controlled company otherwise than in the ordinary course of its business which includes the lending of money, makes any loan or advances any money to a person to whom this section refers, the amount of such loan or advance shall be deemed to be income earned in the income year in which the loan or advance was made unless the loan or advance is repaid within one year after the end of such income year, and it is established that the repayment was not made as part of a series of loans and repayments.

(2) Subject to subsection (3), where in any income year a person to whom this section refers repays any part of a loan or advance deemed to be income under subsection (1), relief shall be given to such person by setting off against the tax payable on his taxable income for the year the tax attributable to the proportionate part of the loan or advance which was included in his taxable income for the year in which the loan or advance was deemed to be income.

(3) Relief under subsection (2) shall only be given in respect of repayments made within a period not later than 5 years after the end of the income year in which the loan or advance was made.

(4) This section refers to

(a) a director or a shareholder of a controlled company or of another company connected with it but shall not be applicable where the person to whom the loan is made is a company incorporated or continued under the *Companies Act* and the loan is made at existing commercial rates and on terms and conditions normally applicable to such loans;

- (b) a relative of any such director or shareholder;
 - (c) any other person on terms that such director, shareholder or relative indirectly receives the equivalent of the loan or advance or part of it.
- (5) For the purposes of this section

"controlled company" means a company to which section 27 applies;

"relative" includes a husband or wife.

(6) Notwithstanding subsection (1), any amount added to the stated capital account maintained for any shares pursuant to paragraph (b) of subsection (7) of section 31 of the *Companies Act* shall not be treated as a loan or advance to a person to whom this section applies. Cap. 308.

28. (1) Where on the winding-up, discontinuance or re-organisation (whether by way of reduction of capital or otherwise) of a company or the business of a company in an income year, it appears that the company had in prior income years retained profits that could have been distributed without detriment to the company's existing business, the aggregate of those retained profits shall be deemed to have been distributed in that income year immediately before the winding-up, discontinuance or re-organisation (whether by way of reduction of capital or otherwise) in the same manner as they would have been distributed if a dividend had been declared to the full amount of the aggregate of those retained profits and shall be included accordingly in calculating the assessable income of the shareholders for that income year. Winding-up.

(2) For the purposes of this section, in determining whether profits for an income year could have been distributed without detriment to the company's existing business, consideration shall be given not only to the then current requirements of the business but also to such other requirements as may then have been necessary for the maintenance and development of that business.

(3) The provisions of section 65 apply with respect to an amount deemed to have been distributed under this section as if that amount was distributed as a dividend.

Artificial transactions.

29. (1) Where on a transaction of purchase and sale to which a person carrying on business in Barbados is a party

- (a) the vendor controls the purchaser; or
- (b) the purchaser controls the vendor; or
- (c) the purchaser or the wife of the purchaser is a relative of the vendor or the wife of the vendor,

with the effect that the transaction does not take place at arms' length and the price is other than the fair market value, then, in calculating the assessable income of the vendor or the purchaser from carrying on business in Barbados, the transaction shall be deemed to have taken place at a price equal to the fair market value.

(2) Where the main purpose of a transaction is the artificial reduction of the assessable income of a person, then, in calculating the assessable income of the persons participating in the transaction and solely for the purposes of this Act and other enactments relating to income tax, that transaction shall be disregarded or shall be deemed to be modified, whichever is more appropriate to achieve the effect that the transaction no longer results in an artificial reduction of the assessable income of that person.

DIVISION L

Calculation of Taxable Income: Postponed Benefit Deduction

National Insurance contributions and severance payments. 1990-27. 1992-28.

30. (1) In calculating the taxable income of a person for an income year, there shall subject to subsection (4) be deducted from the assessable income of that person

- (a) *Repealed by 1992-28.*
- (b) the amounts contributed by that person on behalf of his employees, in the case of an employer

Cap.47.

under the *National Insurance and Social Security Act.*

1971-24.

(2) In calculating the taxable income of a person for an income year, there shall, subject to subsection (3), be deducted from the assessable income of that person

- (a) the amounts paid during the income year by that person as an employer to any of his employees as severance payments under the *Severance Payments Act*, less the amount of any rebates paid to him out of the Severance Fund under that Act; Cap. 355A.
- (b) the contributions paid during the income year by that person pursuant to section 25 of the *Severance Payments Act*. Cap. 355A.
- (3) No deductions may be made under subsection (2) in the case of any person who ceases to carry on business during the income year in which the payments referred to in paragraphs (a) and (b) of subsection (2) were made.
- (4) No deductions may be made under subsection (1) in respect of Health Service contributions payable under Part IIA of the *National Insurance and Social Security Act*. 1990-27. Cap. 47.

DIVISION M

Calculation of Taxable Income: New Shares Purchased in Public or Private Company

31. Where an individual who prior to 1st July, 1992 purchased new shares in a public or private company sells those shares within 5 years of the year in which they were purchased, any deductions from the assessable income of that individual respecting those shares shall be brought back into charge to tax in the year of sale. Sale of shares. 1993-8.

32-35. *Repealed by 1992-28.*

DIVISION N

Calculation of Taxable Income: Medical Expense Deduction

36. *Repealed by 1992-28.*

DIVISION NA

Calculation of Taxable Income

HOUSEHOLD SERVICES

36A. *Repealed by 1992-28.*

DIVISION NB

Calculation of Taxable Income: Associations

Co-operative Societies. 2007-47.
 Cap. 378A.
 Cap. 378A.

36B. (1) With effect from income year 2007, in calculating the taxable income for an income year of an individual there shall be deducted from the assessable income of that individual, in respect of an investment in shares during that income year with co-operative societies registered under the *Co-operative Societies Act*, an amount not exceeding \$10 000 for each year on the certificate to that effect of an officer within the meaning of section 2 of the *Co-operative Societies Act*.

(2) Where an individual referred to in subsection (1) withdraws any shares within 5 years of the year in which they were invested from a co-operative society in respect of which a deduction was made, the amount so withdrawn shall be brought back into charge to tax in the year in which the withdrawal was made.

(3) In this section, "shares" means deposits in co-operative societies classified as "shares".

Associa-tions. 1986-25.
 Cap. 361.

36C. In calculating the taxable income for an income year of an individual, there shall be deducted from the assessable income of that individual subscription paid

- (a) to trade unions registered under the *Trade Unions Act*, by members thereof, up to a limit in respect of each member of \$240 annually;
- (b) to statutory associations of employees, by members thereof, up to a limit in respect of each member of \$240 annually;
- (c) to political parties represented in Parliament, by members of Parliament, up to a limit in respect of each member of \$5 000 annually or 10 per cent of salary,

whichever is the lesser.

DIVISION O

*Calculation of Taxable Income: Amounts Deductible
in Respect of Owner Occupied Property*

37. (1) In calculating the taxable income for an income year of an individual who owns and wholly occupies residential property there shall be deducted from the assessable income of that individual, Home allowance 2003-11.

- (a) with effect from income year 2003, an amount paid up to \$6 000;
- (b) with effect from income year 2004, an amount paid up to \$10 000,

in respect of expenditure incurred jointly or severally for mortgage interest, insurance premiums, house repairs, renovations, energy saving or water-saving devices.

(1A) Where expenditure is incurred in an income year by an individual in retrofitting the residential property referred to in subsection (1) with roof straps and window shutters, an additional amount up to a maximum \$2 500 may be deducted in respect of that expenditure. 2002-17.

(1B) With effect from income year 2006, where expenditure is incurred in an income year by an individual for 2007-6.

- (a) a home energy audit in respect of the residential property referred to in subsection (1); and
- (b) any conservation systems or materials recommended in that audit,

there shall be deducted from the assessable income of that individual an amount paid up to \$2 000 in respect of that expenditure.

(1C) With effect from income year 2007, where expenditure is incurred in an income year by an individual for the purchase or installation of "environmentally preferred products" in respect of 2007-47.

s.37

residential property referred to in subsection (1), an additional amount up to a maximum of \$5 000 may be deducted in respect of that expenditure.

2007-6.
2007-47. (1D) Notwithstanding subsection (1B), where an individual is entitled to the deduction of an amount up to \$2 000 pursuant to that subsection, the amount deducted, together with any other allowances to which the individual may be entitled to have deducted under paragraph (b) of subsection (1), shall not exceed the maximum of \$10 000 referred to in that paragraph.

1996-5.
2002-17. (2) Where the residential property referred to in subsections (1) and (1A) is jointly owned, the maximum amount deductible in respect of that property for any income year is apportionable.

1996-5. (3) Where part of the residential property to which subsection (1) refers is occupied by the owner and the other part is let or offered for let, the amount deductible by virtue of that subsection that is attributable to that part of the property that is occupied by the owner shall be such amount, and computed in such manner, as the Commissioner allows.

2007-6.
2007-47. (4) A person who claims a deduction under section 12B, 12B.1, 13B or 13B.1 is not entitled to claim the deductions allowed by virtue of this section.

2007-6. (5) In this section,

"authorized energy auditor" means a person who is recognized by the Minister responsible for Energy as being suitably qualified in the field of energy to advise on the conservation of energy with regard to residences by reason of his having the appropriate certification or technical skills and experience to provide an energy audit for residential properties;

2007-47. "environmentally preferred products" means

(a) those products that cause significantly less harm to human health or to the environment than alternative products that serve the same purpose; or

- (b) products the consumption of which contributes significantly to the preservation of the environment

as determined by the Minister by order, after consultation with the Minister responsible for the Environment;

"home energy audit" means an evaluation by an authorized energy auditor of the energy consumption in a household to determine ways in which energy can be conserved. 2007-6.

37A. - 37A.1. *Repealed by 1992-28.*

DIVISION OA

Calculation of Taxable Income: New Shares Purchased in Public Company

37B. (1) In calculating the taxable income for an income year of an individual who purchases shares in public companies at a cost of not more than \$10 000 in total, there shall be deducted from the assessable income of that individual an amount equal to the cost of the shares. Deduction respecting new shares. 1996-30.

- (2) The shares referred to in subsection (1)
- (a) must be new shares;
- (b) must have been issued by a newly incorporated company; or
- (c) if issued by an existing company, must have been issued for the purpose of providing new capital to finance expansion of a business or the acquisition of a new business, but in either case the issue must be in accordance with a prospectus advertised to the public by the company to which the shares relate.
- (3) This section does not apply to
- (a) shares acquired by transfer after they have been issued by a company;
- (b) non-resident individuals.

(4) This section shall be deemed to have come into operation with effect from income year 1996.

Effect of
sale of
shares
within 5
years.
1996-30.

37C. Where an individual to whom subsection 37B(1) refers sells the shares mentioned in that subsection within 5 years of the year in which they were purchased, the deduction respecting those shares shall be brought back into charge to tax in the year of sale.

DIVISION OAA

Calculation of Taxable Income: New Shares Purchased in Private Company

37C.1. - 37C.2. *Repealed by 1992-28.*

DIVISION OB

Calculation of Taxable Income: Investment in Mutual Funds and Contributions to Venture Capital Funds

Venture
capital
funds.
1996-30.

37D. (1) With effect from 1st January, 1997, in calculating the taxable income for an income year of a person, there shall be deducted from the assessable income of that person contributions to venture capital funds or to an innovation fund or a development finance institution approved by the Minister, up to a total in respect of all such contributions of an amount not exceeding \$10 000.

(2) Where a person withdraws any contribution from a venture capital fund or an innovation fund or a development finance institution within 5 years of making such a contribution the amount so withdrawn from a fund shall be brought back into charge to tax in the year in which the withdrawal was made.

(3) For the purposes of this section, "venture capital fund" means a fund from which equity financing is provided to business ventures specified by the Minister and on such conditions as the Minister approves; and "venture capital" shall be construed accordingly.

37E. (1) With effect from 1st January, 1996, in calculating the taxable income for an income year of an individual, there shall be deducted from the assessable income of that individual amounts invested in mutual funds, on such terms as the Minister approves, up to a total, in respect of all such investments, of an amount not exceeding \$10 000. Mutual funds. 1996-30.

(2) Where a person withdraws any investment from a mutual fund within 5 years of making such an investment, the amount so withdrawn from the mutual fund, shall be brought back into charge to tax in the year in which the withdrawal was made.

(3) With effect from income year 2007, notwithstanding subsection (1) of sections 36B, 37B and 37E the deduction permitted may be claimed as follows: 2007-47.

- (a) in respect of shares in co-operative societies referred to in section 36B(1) ... up to \$10 000;
- (b) in respect of shares referred to in section 37B(1) ... up to \$10 000;
- (c) in respect of investments made in mutual funds only ... up to \$10 000;
- (d) in respect of a combination of investments in mutual funds, new shares and shares of co-operative societies ... up to \$10 000.

37F. (1) In calculating the assessable income of a mutual fund for an income year, there shall be deducted such part of its assessable income for that income year as is designated by the mutual fund in respect of particular units, shares or other equity interests in the fund owned by a unit holder, shareholder or other investor. Mutual funds: calculation of assessable income. 1998-42.

(2) The total of the amounts deductible under subsection (1) for an income year shall not exceed the amount that would be the income of the fund for the year if no deductions were made under that subsection.

s.37G

(3) An amount designated shall not be included in computing the income of a taxpayer for the income year in which such designation was made, unless a distribution of that amount to unit holders, shareholders and other investors has been made.

2007-6.

DIVISION OC

Calculation of Taxable Income:
Rental of Residential Property

Calculation
of taxable
income on
rented
residential
property.

37G. (1) In calculating the taxable income for the income year 2006 and every subsequent income year in respect of an individual who rents a residential property there shall be deducted from the assessable income of that individual

- (a) an amount equal to 20 per cent of the rent paid in respect of that property; or
- (b) an amount of \$3, 000,

whichever is the lesser.

(2) Subsection (1) shall not apply to a spouse or other individual who holds a controlling interest in a company that owns the residential property.

(3) The owner of a residential property that is wholly or partly let to a person shall at the end of each calendar year deliver to

- (a) the person in the form approved by the Commissioner a certificate setting out the amount of rent paid in that calendar year in respect of the residential property; and
- (b) the Commissioner a return of rent signed by that person giving a full and complete statement of the total rent received from each person in that income year.

(4) The deduction described in subsection (1) will only be granted on a certificate of the owner to the effect that the person claiming the deduction is a tenant.

DIVISION P

Calculation of Taxable Income: Dependant Deduction

38. *Repealed by 1992-28.*

DIVISION PA

Calculation of Taxable Income: Basic Deduction

38A. *Repealed by 1992-28.*

38B. (1) In calculating the taxable income of an individual for an income year, there shall be deducted from the assessable income of that individual such of the following amounts as are applicable, that is to say:

- (a) subject to paragraph (b), 2003-11.
 - (i) the amount of \$17 500 in respect of income year 2004;
 - (ii) the amount of \$20 000 in respect of income year 2005;
 - (iii) the amount of \$22 500 in respect of income year 2006;
 - (iv) the amount of \$25 000 in respect of income year 2007 and subsequent income years;
- (b) in the case of an individual who is 60 years of age or over and in receipt of a pension, the amount of \$40 000 in respect of income year 2007 and subsequent income years; 2007-47.
- (c) in the case of an individual whose spouse during the year had no income and who during that year either wholly supported his spouse, or whose spouse was habitually living with him, \$3 000 in respect of income year 1995 and subsequent income years;
- (d) in the case of an individual who, during the income year, supported his child or the child of his spouse,

s.38B

- (i) in respect of income year 1993, \$500; and
- (ii) in respect of income year 1994 and subsequent income years, \$1 000

in respect of each of not more than 2 children under the age of 18 years or who had attained the age of 18 years but had not attained the age of 25 years at the end of the income year and was during the income year receiving full time instruction at an educational establishment.

(2) In calculating the taxable income of an individual, only one deduction may be made under subsection (1) in respect of any person in respect of whom a deduction is made under that subsection.

(3) Where more than one individual is entitled to a deduction under subsection (1) in respect of the same person in the same income year, the aggregate amount that may be deducted by those individuals in respect of that person in that income year shall be the amount that one of those individuals would be entitled to deduct but for this subsection in respect of that person, and the part of that amount that each of those individuals may deduct in respect of that person in that income year may be agreed between them and, failing agreement, shall be fixed by the Commissioner.

(4) No deduction may be made in calculating the taxable income of a married woman habitually living with her husband in respect of the deductions allowed under subsection (1)(d) unless she furnishes to the satisfaction of the Commissioner evidence of the fact of her husband's relinquishing of his claim to those deductions.

(5) The amounts which may be deducted under subsection (1) in respect of a person mentioned in sub-paragraph (i) or (ii) of paragraph (d) of that subsection shall not be reduced by any assessable income of that person which

- (a) is salary, wages, overtime remuneration, bonuses, commissions or an amount in respect of services; and
- (b) the Commissioner is satisfied is applied towards the cost of education of that person.

(6) For income year 1995 and subsequent income years a married person may claim the deduction allowed under subsection (1)(c) notwithstanding that his spouse has received income during the income year arising out of payment of interest and dividends in amount not exceeding \$800. 1993-8.

(7) For income year 1995 and subsequent income years the spouse of a person whose income is exempt from tax by virtue of section 9 or any other enactment is not entitled to claim the deduction allowed under subsection (1)(c). 1993-8.

(8) An individual who qualifies for a deduction under paragraph (b) of subsection (1) in respect of income year 1992 is entitled for that income year either to the benefit of that deduction or to the benefit of the permitted deductions for that income year for 1993-8.

- (i) postponed benefits;
- (ii) annual payments;
- (iii) medical expenses;
- (iv) household services;
- (v) associations;
- (vi) owner occupied property;
- (vii) new shares in a public or private company or both;
- (viii) rental of residential property; and
- (ix) dependants.

(9) With effect from income year 2006, where in an income year an individual has income other than income from residential property, any excess allowances of that individual may only be deducted from residential property income where the allowances exceed the other income of the individual; and no other deductions under sections 24A, 24B, 24C, 24D, 24F, 36B, 36C, 37, 37B, 37D and 37E shall be made against residential property income of the individual in respect of that income year. 2007-47.

s.39

2007-47. (10) With effect from income year 2006, "other income" for the purposes of subsection (9) means the gross income, including exempt income less expenses not being expenses of a capital, private or domestic nature or deductions allowed under sections 23, 24A, 24B, 24C, 24D, 24F, 36B, 36C, 37, 37B, 37D and 37E.

DIVISION Q

Calculation of Taxable Income: General

Deductions
for non-
residents.
1985-6.
1990-2.
1992-28.

1992-28. **39.** (1) Subject to subsection (2), in calculating the taxable income of a non-resident person for an income year, no deduction may be made under section 38B.

(2) In calculating the taxable income for an income year of a non-resident individual who is a Commonwealth citizen throughout that income year, deductions shall be allowed under section 38B, but the

amounts deductible under that section shall be reduced so that the amount of tax payable is not less than the amount which bears the same proportion to the amount which would be payable by that individual if the tax were chargeable on his total income from all sources, both within and outside Barbados, as the amount of his assessable income under this Act bears to the amount of his total income from all sources.

DIVISION R

Miscellaneous Rules

40. (1) For the purposes of this Act, a trust or estate, other than a unit trust, shall, in respect of the trust or estate property and in respect of the income arising therefrom, be deemed to be a separate individual. Trusts and estates.

(2) In calculating the assessable income of a trust or estate, other than a unit trust, for an income year, there shall be deducted such part of the amount that would otherwise form its assessable income for the income year as is payable to a beneficiary in that income year.

(3) For the purposes of this section and of paragraph (k) of section 8, an amount shall not be considered to be payable in an income year unless it was paid in the year to the person to whom it was payable or that person was entitled in that year to enforce payment thereof.

(4) In calculating the taxable income of a trust or estate for an income year, no deduction shall be made under section 36B, 36C or 38B. 1992-28.
1993-8.

41. (1) For the purposes of this Act, a registered unit trust, shall be deemed to be a company resident in Barbados and the persons having an interest in the registered unit trust shall be deemed to be share-holders in that company with the shareholdings of the persons having an interest in the registered unit trust being deemed to be in the same proportion as their interests in the registered unit trust. Unit trusts.

(2) For the purposes of this Act, the income of a registered unit trust for an income year shall be deemed to have been distributed as a dividend at the following times, namely

- (a) where the income was in fact distributed in that income year to the persons having interests in the registered unit trust, on the date when the distribution was made; and
- (b) where the income was not distributed in that income year to the persons having interests in the registered unit trust, on the date when that income would have been distributed if the earliest possible decision had been made under the terms of the trust to distribute that income.

(3) No person shall carry on or purport to carry on the business of dealing in securities or any other property whatsoever as manager or trustee or otherwise on behalf of a unit trust unless the unit trust is a registered unit trust.

(4) No person shall in Barbados

- (a) act as an agent or representative of; or
- (b) invite or solicit any person to purchase an interest in; or
- (c) publish or cause to be published an invitation to any person to purchase an interest in,

a unit trust which is not a registered unit trust.

DIVISIONS

Rates of Tax

Rate of
tax for
individuals.
1992-28.

42. (1) The tax payable by an individual on his taxable income for an income year is as follows:

- (a) for income year 1992
 - (i) 20 per cent of every complete dollar of taxable income up to and including \$15 000;
 - (ii) 30 per cent of every complete dollar of taxable income above \$15 000 and up to and including \$25 000; and
 - (iii) 40 per cent of every complete dollar of taxable income above \$25 000; and

- (b) for income year 1993 and subsequent income years
- (i) 25 per cent of every complete dollar of taxable income up to and including \$24 200; and
 - (ii) 40 per cent of every complete dollar of taxable income above \$24 200;
- (c) for income year 2003 2003-11.
- (i) 22.5 per cent of every complete dollar of taxable income up to and including \$24 200; and
 - (ii) 40 per cent of every complete dollar of taxable income above \$24 200;
- (d) for income year 2004 2003-11.
- (i) 20 per cent of every complete dollar of taxable income up to and including \$24 200; and
 - (ii) 40 per cent of every complete dollar of taxable income above \$24 200;
- (e) for income year 2005 2003-11.
- (i) 20 per cent of every complete dollar of taxable income up to and including \$24 200; and
 - (ii) 37.5 per cent of every complete dollar of taxable income above \$24 200;
- (f) for income year 2006 and subsequent years 2003-11.
2007-6.
- (i) 20 per cent of every complete dollar of taxable income up to and including \$24 200; and
 - (ii) 35 per cent of every complete dollar of taxable income above \$24 200.

(2) Notwithstanding subsection (1), where the tax that would be payable by an individual for an income year is less than \$1, no tax is payable by that individual for that income year.

Rates of
tax for
companies
generally.
2002-17.

43. (1) Subject to this Act, with effect from the income year 2002, the tax payable by a company upon its taxable income is 37.5 per cent of every complete dollar of that taxable income.

2003-11.

(2) With effect from income year 2003, the tax payable by a company upon its taxable income is 36 per cent of every complete dollar of that taxable income.

2003-11.

(3) With effect from income year 2004, the tax payable by a company upon its taxable income is 33 per cent of every complete dollar of that taxable income.

2003-11.

(4) With effect from income year 2005, the tax payable by a company upon its taxable income is 30 per cent of every complete dollar of that taxable income.

2003-11.

(5) With effect from income year 2006, the tax payable by a company upon its taxable income is 25 per cent of every complete dollar of that taxable income.

Rates of
tax on
companies'
general
insurance
business.
1978-44.

43A. (1) In addition to the tax payable under section 43 by a company other than a company that is deemed to be a separate person carrying on the life insurance business of an insurance company, there shall be paid by such company in respect of the income year 1978 and every subsequent income year a tax as specified in subsection (2).

1993-8.

(2) Notwithstanding section 43, the rate of tax payable by a company carrying on general insurance business shall be as follows:

2003-11.

(a) in respect of a company carrying on property insurance business 3.75 per cent of the gross direct premium in respect of resident and non-resident insurers, with effect from income year 2003;

(b) in respect of a company carrying on insurance business other than property insurance 3 per cent in respect of resident and non-resident insurers.

(3) This section applies only to insurance business written in Barbados in respect of which the risks originate within Barbados, and the tax thereon shall be paid not later than 30th June in the year following the income year in respect of which the tax is payable. 1998-31.

(4) For the purposes of this section,

"gross direct premium" means the aggregate of all direct premiums collected or collectible from insured persons but does not include premiums received consequent upon the acceptance of re-insurance business; 1983-21.

"property insurance business" has the meaning assigned to it by section 2 of the *Insurance Act*. Cap. 310.

44. (1) Notwithstanding section 43 but subject to subsection (2), the rate of tax payable by a company that is deemed to be a separate person carrying on life insurance business of an insurance company whose assessable income is for the purposes of tax payable under this subsection, calculated in accordance with subsection (4) or (5), as the case may be, of section 19, upon its taxable income for an income year is 5 per cent of every complete dollar of such taxable income. Rates of tax for insurance companies. 1992-28.

(2) The additional tax payable by a company deemed to be a separate person carrying on the life insurance business of an insurance company shall be, 1993-8.

- (a) in the case of a resident or foreign company, at the rate of 5 per cent of the gross direct premium income on new business written by the company for the income year;
- (b) in the case of a resident company, at the rate of 3 per cent of the gross direct premium income of the company for renewal business for the income year; and
- (c) in the case of a foreign company, at the rate of 5 per cent of the gross direct premium income of the company for renewal business for the income year.

ss.45-46F

Rate of tax
for
associations
of under-
writers.
2004-22.

45. Notwithstanding section 42, 43 or 44, the tax payable by an association of underwriters that is deemed by section 20 to be a separate person carrying on a separate business for an income year is,

- (a) in respect of income year 2004, 33 per cent;
- (b) in respect of income year 2005, 30 per cent;
- (c) in respect of income year 2006 and subsequent years, 25 per cent,

of every complete dollar of the taxable income of that separate person for that income year.

46-46A. *Repealed by 1986-2.*

Rate of
tax for
Government
securities.
1971-42.
1972-9.
1986-2.
1996-5.

46B. Notwithstanding sections 42 to 45, the tax payable by a person upon any part of his taxable income which is interest on securities of the Government, whether issued before or after 17th January, 1972¹, for an income year shall not exceed 12.5 per cent of every complete dollar of that part of his taxable income.

46C. *Repealed by 1985-6.*

Tax payable
by compa-
nies engaged
in manufac-
turing.
2007-6.

46D. Notwithstanding section 43, with effect from income year 2007, the tax payable by a company that is engaged in the business of manufacturing is 15 per cent of every complete dollar of its taxable income.

Rate of tax
on income
from
residential
properties.
2007-6.

46E. Notwithstanding sections 42 to 46D, the tax payable by a person upon any part of that person's taxable income from residential property for an income year, shall be 15 per cent of every complete dollar of that part of his taxable income.

Tax payable
by compa-
nies engaged
in the con-
struction of
houses.
2007-47.

46F. (1) Notwithstanding sections 42 to 46E and subject to subsection (2), with effect from income year 2007, the tax payable by a person engaged in the construction of houses for sale at a price of

¹ Date of commencement of *Income Tax (Amendment) Act, 1971-42.*

less than \$150 000 each inclusive of land, is 15 per cent of every complete dollar of taxable income directly relating to the construction and sale of those houses.

(2) The construction of houses referred to in subsection (1) shall be in respect of projects of more than 15 houses inclusive of the land thereon, and those houses shall be sold to persons acquiring their first dwelling house for use by those persons as their residence.

DIVISION T

Special Taxes

47. Where an individual receives in an income year a lump sum payment as a return of contributions under a registered retirement plan, then, notwithstanding paragraph (g) of section 8, he may elect that the amount of such payment shall not be included in calculating his assessable income for that income year; and where he so elects he shall pay an additional tax in respect of that income year equal to that part of the amount of such payment as bears the same proportion to the amount of such payment as the total amount of tax payable under this Act by that person for the 3 preceding income years bears to the total of the assessable incomes of that person for the 3 preceding income years.

Returns of contributions under registered retirement plans.

48. Where a shareholder is deemed to have received in an income year an amount on a deemed distribution of the aggregate of retained profits under section 28, then, notwithstanding section 28, he may elect that such amount shall not be included in calculating his assessable income for that income year; and where he so elects he shall pay on such amount an additional tax in respect of that income year at a rate equal to the average of the highest rates payable by him on his taxable income during the 3 preceding income years.

Amounts deemed received on winding-up etc.

48A. Tax is payable by the vendor of shares to which paragraphs (l) and (m) of section 8 refer at the highest rate payable by the vendor on his taxable income for the year in which the shares are sold.

Bonus converted into shares. 1980-12. 1986-2.

ss.48B-49

Withholding
tax on
interest
received by
individuals
and
companies.
1993-8.

48B. (1) Notwithstanding the provisions of section 42, the tax withheld and paid in the manner provided for in section 64C is payment in full of that tax on the interest of a resident individual.

(2) For the avoidance of doubt it is hereby declared that subsection (1) does not apply to an individual engaged in the business of money lending, and tax withheld under section 64C in relation to such individual or a company is a prepayment of the tax of such individual or company.

Withholding
tax on
dividends
received by
individuals.
1993-8.

48C. Notwithstanding the provisions of section 42, the tax withheld and paid in the manner provided for in section 65(4A) is payment in full of the tax in respect of the income represented by the dividends of a resident individual.

PART III

Administration and Enforcement

DIVISION U

Staff and Secrecy

Commis-
sioner and
staff.

49. (1) The Commissioner shall administer and enforce this Act and other laws relating to income tax, and shall control and supervise all persons employed to assist him in the administration and enforcement of this Act and those laws.

(2) The Commissioner and such other officers and employees as are necessary to administer and enforce this Act and other laws relating to income tax shall be public officers.

1983-21.

(3)¹ Any function conferred by this Act on the Commissioner is exercisable by any public officer authorised by the Commissioner for the purpose.

¹ The effective date is 16th May, 1983.

50. The Commissioner and any officer or other person employed to administer and enforce this Act and other laws relating to income tax who is specifically designated by the Commissioner for that purpose may, for a purpose connected with the administration or enforcement of this Act or those laws, administer oaths and take and receive affidavits, declarations and affirmations; and such oaths, affidavits, declarations and affirmations shall be of the same force and effect as if administered, taken or received by a Justice of the Peace.

Administra-
tion of
oaths.

51. (1) The Commissioner, the members of the Income Tax Appeal Board, and the officers and other persons employed to administer and enforce this Act and other laws relating to income tax shall

Secrecy.

- (a) maintain and aid in maintaining the secrecy of all matters relating to this Act and other laws relating to income tax which come to their knowledge, and shall not communicate any such matters to any person except for the purpose of administering or enforcing this Act or any other law of Barbados; and
- (b) before they begin to perform any duty in relation to their office or employment, take and subscribe the prescribed oath of fidelity and secrecy.

(2) The Commission may communicate confidential information

2002-17.

- (a) to relevant authorities solely for the purpose of the administration or enforcement of this Act or any other laws relating to income tax, or for the purpose of legal proceedings under those enactments;
- (b) to the Director of Finance and Economic Affairs or the Permanent Secretary in the Ministry of Finance solely for the purpose of the formation, evaluation or implementation of fiscal policy;
- (c) to any person who is otherwise legally entitled to that information under this Act or any other enactment; or
- (d) to any person with the consent of the person to whom the confidential information relates.

DIVISION V

Returns of Income

Returns of
income and
estimate of
tax.
1975-8.

52. (1) Every company and every other person who has carried on a business in an income year, whether or not an assessable income has been derived by that person in that income year, shall deliver to the Commissioner a return of his assessable income for that income year, together with such additional information as is prescribed, all in the prescribed, form on or before

1990-2.

(a) in the case of a company whose fiscal period ends at any time during the period

(i) 1st January to 30th September in any year (both dates inclusive), in respect of income year 1990 and every subsequent income year, the 15th March,

(ii) 1st October to 31st December in any year (both dates inclusive), in respect of income year 1990 and every subsequent income year, the 15th June; and

(b) in the case of any other person, the 30th April

in the year following that income year or within such further period as the Commissioner may in writing allow on a written application made to the Commissioner before the date prescribed by this section in such following income year.

(2) Every person who is not required to file a return of his assessable income for an income year under subsection (1) and who was in that income year

(a) an owner of land;

(b) an owner of property, other than land, from which an assessable income was derived;

(c) a trust or estate;

- (d) an individual whose spouse either had no income or had the income described in section 38B(6) for an income year, and 2004-22.
- (i) who wholly supported that spouse; or
 - (ii) whose assessable income from employment exceeded the amount applicable to the period specified in section 38(B)(1)(a) whose spouse was habitually living with the individual; and
- (e) an individual, other than an individual described in paragraph (d), whose assessable income exceeds the amount applicable to the period specified in section 38B(1)(a); 2004-22.
- (f) an individual referred to in paragraph (b) of subsection (1) of section 38B whose assessable income exceeds \$30 000 with effect from income year 1998 1992-28.
1998-8.

shall deliver to the Commissioner a return of his assessable income for that income year, together with such additional information as is prescribed, all in prescribed form, on or before the 30th April in the year following that income year.

(3) Where a business is carried on by 2 or more persons jointly, the partner who is resident in Barbados and who is named in the written partnership agreement before any other partner who is resident in Barbados or, where there is no written partnership agreement, the oldest partner who is resident in Barbados, shall deliver to the Commissioner a return of the assessable income of the partnership for an income year together with such additional information as is prescribed and including a statement of the names and addresses of all the partners in that income year and a statement of the share of the assessable income of the partnership to which each partner is entitled, all in prescribed form, on or before the 30th April in the year following that income year or within such further period as the Commissioner may in writing allow on a written application made to the Commissioner before the 30th April in such following year.

(4) A return of assessable income purporting to be made by or on behalf of any person shall for all purposes be deemed to have been made by that person or by his authority, as the case may be, unless the contrary is proved.

(5) Every company and every other person required by this section to file a return of his assessable income for an income year shall, in such return, in accordance with this Act

- (a) set out the deductions from assessable income that he wishes to claim;
- (b) calculate his taxable income; and
- (c) estimate the amount of tax payable by him.

DIVISION W

Assessments

Assess-
ments.

53. (1) The Commissioner shall determine the assessable income and taxable income for an income year of every person by whom tax is payable for that income year, and shall assess the amount of tax payable for that income year by each such person.

(2) The Commissioner shall make an assessment under subsection (1) notwithstanding that no return of income has been delivered by the person liable to assessment under that subsection.

(3) In making an assessment under subsection (1), the Commissioner is not bound by the information contained in a return delivered by the person being assessed or by other information supplied by, on behalf of, or in respect of, that person.

Re-
assessments.

54. (1) After an assessment has been made in respect of a person for an income year, the Commissioner may make a re-assessment of the amount of tax payable by that person in respect of that income year

-
- (a) at any time, where the person has made any misrepresentation or has failed to disclose any material fact in making the return or in supplying information required to be supplied in accordance with this Act; or
- (b) within 9 years after the end of that income year in any other case. 1986-2.
1990-2.

(2) Where an assessment or re-assessment has been the subject of an appeal to the Income Tax Appeal Board or the High Court, no re-assessment may be made in respect of that person for that income year unless that person has made a misrepresentation or has failed to disclose any material fact in making his return or in supplying information required to be supplied in accordance with this Act.

55. After making an assessment or re-assessment in respect of a person for an income year, the Commissioner shall deliver a notice of Notices of
assessments.

assessment or notice of re-assessment to that person showing the amount of tax payable by that person in respect of that income year.

56. Subject only to a re-assessment on objection or otherwise or to a settled assessment or final assessment on appeal under this Act, an assessment or re-assessment shall be final and binding notwithstanding any defect or omission therein or in any proceeding under this Act relating thereto.

Finality of assessments.

DIVISION X

Objections

57. (1) A person who disputes his assessment or any part thereof may object to the assessment within 21 days after the date of the notice of assessment or notice of re-assessment, as the case may be, by delivering to the Commissioner a notice of objection.

Objections.

(2) A notice of objection shall be in writing and shall, as far as possible, state the precise grounds of objection to the assessment.

(3) As soon as conveniently possible after receipt of a notice of objection, the Commissioner shall give the person who objects to the assessment an opportunity to support his objection by a written or oral submission to the Commissioner and thereafter the Commissioner shall review the assessment and shall either confirm the assessment or make a re-assessment.

(4) As soon as the Commissioner has either confirmed the assessment or made a re-assessment, he shall deliver to the person who has objected to the assessment a notice of confirmation or a notice of re-assessment, as the case may be.

(5) Where a person has objected to an assessment and has received a notice of confirmation or a notice of re-assessment, he may not object further to the Commissioner in respect of that assessment as confirmed or that re-assessment.

(6) Where there is adequate reason why the time limits established by this section could not reasonably be complied with, the Commissioner may extend the time limits established by this section for a fixed period to be determined by him.

DIVISION Y

Appeals

Income Tax
Appeal
Board.

58. (1) There is hereby established an Income Tax Appeal Board which shall have a separate existence apart from its members.

(2) The Minister shall appoint as members of the Board such number of persons, being not less than 5, as the Minister considers necessary to discharge the functions of the Board, and the Minister shall appoint as Chairman of the Board one of those members who has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court: but where the Minister is satisfied that there is no suitable person who has been such a judge as is mentioned in subsection (2) available and willing to be appointed, he shall appoint as Chairman of the Board a person who has been entitled to practise in Barbados as an attorney-at-law for not less than 10 years but who is not in active practice in Barbados as an attorney-at-law.

(3) Every member of the Income Tax Appeal Board shall hold the office of member for a term of 3 years unless he die, resigns or is dismissed by the Minister for cause before the end of that term, but

(a) a member who is appointed to fill a vacancy created by the death, resignation or dismissal for cause of a former member shall hold office only for the unexpired portion of the term of that former member; and

(b) every member is eligible for re-appointment for a further term.

(4) The Minister may grant leave of absence to the Chairman or any other member of the Income Tax Appeal Board and, notwithstanding subsection (2), may appoint a person to act in place of the Chairman or that other member during the absence of the Chairman or that other member or during any period when the Chairman or any other member is unable to perform the functions of his office.

(5) The members of the Income Tax Appeal Board shall be paid such remuneration, if any, as is fixed by the Minister.

(6) The Minister shall from time to time assign a public officer to perform the functions of Secretary of the Income Tax Appeal Board.

(7) An appeal to the Income Tax Appeal Board shall be heard and determined by the Chairman and 2 members of the Board selected by the Chairman and the Chairman and the members so selected shall have all the powers of the Board in relation to that appeal.

59. (1) Any person who has objected to an assessment and who has received a notice of confirmation or notice of re-assessment may appeal from the decision of the Commissioner to the Income Tax Appeal Board within 30 days after the date when the notice of confirmation or notice of re-assessment, as the case may be, was delivered to him by delivering to the Secretary of the Income Tax Appeal Board 6 copies of a notice of appeal.

Appeals to
Income Tax
Appeal
Board.

(2) A notice of appeal shall, as far as possible, state the precise grounds for the appeal.

(3) The Secretary of the Income Tax Appeal Board shall transmit 4 copies of the notice of appeal to the Chairman of the Income Tax Appeal Board one copy of the notice of appeal to the Commissioner.

(4) The Chairman of the Income Tax Appeal Board shall select the 2 members of the Board who, together with him, are to hear and determine that appeal and shall transmit one copy of the notice of appeal to each of those members.

(5) The Chairman of the Income Tax Appeal Board shall set the place, date and time for the hearing of the appeal and shall notify the appellant and the Commissioner of that place, date and time at least 7 days before the date set for the hearing.

(6) In an appeal to the Income Tax Appeal Board

(a) the appeal shall be heard *in camera*;

(b) the appellant and the Commissioner may appear in person or may be represented by an attorney-at-law or an agent;

(c) the onus of proof is on the appellant;

-
- (d) the Chairman of the Board may summons any witness and require him to give evidence on oath or otherwise and to produce such documents or things in his possession or control as the Chairman considers may be of assistance in reaching a decision;
- (e) subject to this section and to any rules with regard to the Board, the Chairman of the Board may determine the procedure to be followed in appeals; and
- (f) the Board has no power to award costs.
- (7) Where the members of the Income Tax Appeal Board who are hearing an appeal are not unanimous in their decision the decision of the majority of those members is the decision of the Board.
- (8) The Income Tax Appeal Board shall, by order
- (a) confirm the assessment or re-assessment appealed from; or
- (b) refer the assessment back to the Commissioner with directions for making a settled assessment,
- and the Secretary shall transmit one copy of the order to the appellant and one copy of the order to the Commissioner, in each case together with a written statement of the reasons for the Board's decision.
- (9) Where the Income Tax Appeal Board has referred an assessment or re-assessment back to the Commissioner with directions for making a settled assessment, the Commissioner shall make a settled assessment in accordance with those directions and shall deliver to the appellant a notice of settled assessment.
- (10) If an appellant believes that a notice of settled assessment is not in accordance with the directions of the Income Tax Appeal Board, he may apply to the Chairman of the Board who shall, by order, determine the content of the notice of settled assessment which shall then be delivered by the Commissioner to the appellant.

60. (1) Any person
- (a) who has objected to an assessment and who has received a notice of confirmation or notice of re-assessment; or
 - (b) who has appealed to the Income Tax Appeal Board and
 - (i) who has received a notice of settled assessment; or
 - (ii) whose assessment or re-assessment has been confirmed by the Board,

Appeals to
High Court.

may appeal from the decision of the Commissioner or the decision of the Board, as the case may be, to the High Court within 30 days after the date when the notice of confirmation or notice of re-assessment was delivered to him or within 30 days after the notice of settled assessment was delivered to him, or the assessment or re-assessment was confirmed by the Board, as the case may be.

(2) The Commissioner may appeal from the decision contained in an order of the Income Tax Appeal Board to the High Court within 30 days after the making of the order.

(3) An appeal to the High Court shall be instituted by summons to be designated an income tax assessment summons entitled in the matter of the *Income Tax Act* and in the matter of the assessment of the person whose assessment is in dispute, naming him, for a certain income year, designating it. Cap. 73.

(4) Every income tax assessment summons shall contain particulars, shortly stated, of the assessment that is in dispute.

(5) Every income tax assessment summons shall be returnable within 14 days and shall be served on

- (a) the Commissioner or the person whose assessment is in issue, as the case may be; and
- (b) on the Secretary of the Income Tax Appeal Board in the case of an appeal from a decision of that Board,

and where an income tax assessment summons is served on the Secretary of the Income Tax Appeal Board the Secretary shall within 14 days of the date of service of such summons transmit to the Registrar

of the Supreme Court a record of the proceedings before the Board including a statement of the reasons for the Board's decision.

(6) Subject to this Act, the Rules of the Supreme Court applicable in respect of proceedings by way of originating summons shall apply with such modifications as are necessary in respect of proceedings on an income tax assessment summons.

(7) The proceedings on an income tax assessment summons and on all matters and things incidental and ancillary thereto shall be had and taken in the same manner, and the powers of the Judge and the Registrar shall be the same as in a trial in an action in the High Court.

(8) Notwithstanding subsection (7) in any proceedings on an income tax assessment summons

(a) the hearing shall be *in camera* unless the person whose assessment is in issue requests that the hearing be held in open court and in such case the hearing shall be held in open court; and

(b) the onus of proof shall be on the appellant.

(9) At the conclusion of the proceedings on an income tax assessment summons, the High Court shall by order

(a) confirm the assessment or re-assessment in issue; or

(b) refer the assessment or re-assessment back to the Commissioner with directions for making a final assessment.

(10) Where the High Court has referred an assessment or re-assessment back to the Commissioner with directions for making a final assessment, the Commissioner shall make a final assessment in accordance with those directions and shall deliver to the person whose assessment was in issue a notice of final assessment.

(11) If a person whose assessment was in issue on an income tax assessment summons believes that notice of final assessment is not in accordance with the directions of the High Court, he may apply, in chambers, to the Judge who made the order of the Court, or if that Judge cannot hear the application, to any other Judge, for an order determining the content of the notice of final assessment which shall then be delivered by the Commissioner to that person.

61. (1) Either the Commissioner or any person whose assessment was in issue on an income tax assessment summons may appeal from the decision of the High Court to the Court of Appeal and every such appeal shall be made within the time and in the manner laid down by any enactment or rules of court for the purposes of appeals from the High Court to the Court of Appeal and shall be subject in all respects to the law relating to such appeals.

Appeals to Court of Appeal and on point of law of Privy Council.

(2) An appeal on a point of law only shall lie as of right to Her Majesty in Council from any decision of the Court of Appeal under this section.

62. Where there is adequate reason why the time limits in respect of appeals to the Income Tax Appeal Board or in respect of appeals to the High Court could not be complied with, the Chairman of the Income Tax Appeal Board or a Judge of the High Court, as the case may be, may extend those time limits for a fixed period, to be determined by him.

Time limits.

63. Subject to paragraph (a) of subsection (1) of section 54 and to section 61

Finality of appealed assessments.

(a) a final assessment or an assessment confirmed by the High Court; and

(b) subject also to an appeal to the High Court, a settled assessment or an assessment confirmed by the Income Tax Appeal Board

shall be final and binding, and, except in proceedings on appeal under this Act, shall not be questioned in any court or in any proceedings.

DIVISION Z

Payment

64. (1) Every person paying to any other person

Prepayment by deductions.

(a) a salary or wages; or

(b) retirement plan benefits, retiring allowances or other benefits included as assessable income by virtue of section 8(f); or

1992-28.

(c) *Repealed by 1986-25;*

s.64

-
- 1998-30. (d) amounts in respect of a registered retirement plan, as
- 1998-43. (i) a return of contributions; or
(ii) benefits received out of or under that plan; or
(e) any other emoluments,
- and every person paying to a non-resident person
- (i) interest; or
(ii) rents; or
(iii) maintenance; or
- 1998-42. (iv) dividends from profits that are exempt from tax or have not been taxed, other than dividends paid to a non-resident person
- Cap. 320B. (A) in respect of shares issued by a mutual fund under the *Mutual Funds Act*; or
(B) with respect to whom the Commissioner has issued a certificate that the non-resident is exempt from income tax on such dividend under the *Pioneer Industries Act* or the *Industrial Development (Export Industries) Act* or the *Industrial Incentives Act*, or the *Industrial Incentives (Factory Construction) Act*; or
- Cap. 83.
Cap. 74.
Cap. 75.
Cap. 76.
- 1993-8. (v) an amount that may be deducted by the person making the payment under sections 24C and 24D in calculating his assessable income; or
- 1970-33. (vi) an amount on account or in satisfaction of liability for fees or charges arising under a contract for the provision of management or administrative services or of technical or managerial skills, whether such contract be oral or in writing and whether or not made in Barbados; or
- 1985-6. (vii) royalties,
- shall deduct or withhold therefrom such amount as is prescribed, and shall at such time as is prescribed pay the amount so deducted or withheld to the Commissioner as a prepayment of tax of the person to whom that amount would otherwise have been paid.

(1A) For the purposes of sub-paragraph (vi) of subsection (1)(e), tax shall be deducted or withheld whether or not the fees or charges to which that sub-paragraph refers have been paid. 1984-9.

(1B) For the purposes of items (i), (vi) and (vii) of subsection (1)(e), the tax required to be prepaid by virtue of this section constitutes payment in full of the tax due on the income described in those terms, of the non-resident person. 1985-6.

(2) Where an amount has been deducted or withheld under subsection (1), the person who would otherwise have received that amount shall be deemed for all purposes of this Act to have received that amount on the date when it would have been received if it had not been deducted or withheld.

(3) An amount deducted or withheld by a person under subsection (1) shall be held in trust for the Crown by that person and shall be kept separate and apart from his other assets by that person and shall not be subject to attachment in respect of any debt or liability of that person, and in event of any liquidation, assignment or bankruptcy that amount shall not form a part of the estate in liquidation, assignment, or bankruptcy.

(4) The payment of an amount to the Commissioner under subsection (1) operates as a discharge of any liability on the part of the person deducting or withholding that amount to the person from whom the amount was deducted or withheld.

(5) Nothing in subsection (1)(e)(vi) or (1B) shall apply where a professional accounting firm carrying on business in Barbados pays to its associate firm outside Barbados an amount on account or in satisfaction of liability for fees or charges for providing professional services in assisting the firm in Barbados in servicing the international, financial and business sector. 1990-27.

64A. The Accountant-General and the Governor of the Central Bank shall, unless the Commissioner otherwise directs, deduct or withhold tax at the rate of 12.5 per cent from any amount paid by him to any person as interest on securities of the Government and within 30 days of so doing, notify the particulars thereof to the Commissioner.

Prepayment
by deduction
from interest
on Govern-
ment
securities.
1971-42.
1996-5.

s.64B

Prepayment
of tax by
companies
and
individuals
carrying on
business or
in receipt of
rents.
1975-8.
1990-2.

64B. (1) Subject to subsections (3) to (6)

- (a) every company whose fiscal period ends at any time during the period 1st January to 30th September in any year (both dates inclusive) shall pay to the Commissioner as a pre-payment of tax
- (i) in respect of the income year 1990, an amount equal to 50 per cent of the tax paid or payable on its total taxable income as disclosed in its return filed in accordance with section 52 in respect of the preceding income year not later than the 15th September, 1990,
 - (ii) in respect of the income year 1991 and every subsequent income year, an amount equal to 50 per cent of the tax paid or payable on its total taxable income as disclosed in its return filed in accordance with section 52 in respect of the preceding income year not later than the 15th September in that income year; and
- (b) every company whose fiscal period ends at any time during the period 1st October to 31st December in any year (both dates inclusive) shall pay to the Commissioner as a pre-payment of tax
- (i) in respect of the income year 1990,
 - (A) an amount equal to 50 per cent of the tax paid or payable on its total taxable income as disclosed in its return filed in accordance with section 52 in respect of the preceding income year not later than the 15th December, 1990, and
 - (B) an amount equal to that mentioned in sub-paragraph (i)(A) not later than the 15th March, 1991,
 - (ii) in respect of the income year 1991 and every subsequent income year,

- (A) an amount equal to 50 per cent of the tax paid or payable on its total taxable income as disclosed in its return filed in accordance with section 52 in respect of the preceding income year not later than the 15th December in that income year, and
- (B) an amount equal to that mentioned in subparagraph (ii)(A) not later than the 15th March in the following income year.

(2) Subject to subsections (3) to (7), every individual who carries on a business or is, on his own account, in receipt of rents shall pay to the Commissioner as a prepayment of tax in respect of the income year 1975 and every subsequent income year, 3 instalments each of an amount equal to 25 per cent of the tax paid or payable by him in respect of the preceding income year and in each case, not later than the 15th June, 15th September and 15th December in that income year.

(3) Where in any income year

- (a) a company begins to carry on business; or
- (b) an individual begins to carry on business or to receive, for his own account, rents,

that company, or individual shall, not later than 30 days before the date on which prepayment of the first instalment of tax payable in respect of that income year is due, apply in writing to the Commissioner for a determination of the amount of the instalments payable under subsection (1) or (2).

(4) The Commissioner may estimate the amount of tax payable under this section by a company or an individual where that company or individual fails to file a return as required by section 52 for the preceding income year, and upon making a demand in writing of that company or individual for the prepayment of the amount so estimated, subsection (1) or (2) shall apply, as the case may be, as if the amount so estimated was the estimate of that company or individual.

s.64C

(5) Where a company or an individual mentioned in subsection (2)

- (a) was not liable to tax in the year preceding the income year;
- (b) is of opinion that the taxable income in respect of the current income year may be less than the taxable income for the preceding income year,

that company or individual shall, not later than 30 days before the date on which prepayment of the first instalment of tax is due under that subsection, apply in writing to the Commissioner for a determination or reduction, as the case may be, of the amount of the instalments payable under subsection (1) or (2).

(6) On an application under subsection (3) or (5), the Commissioner may,

- (a) in the case of an application under subsection (3) or under paragraph (a) of subsection (5), determine; or
- (b) in the case of an application under paragraph (b) of subsection (5), if he is satisfied that the taxable income in respect of the current income year is likely to be less than that of the preceding income year, reduce

the amount of the instalments payable under subsection (1) or (2).

2004-22. (7) Where an individual mentioned in subsection (2) is in receipt of emoluments to which section 64(1) (a) or (b) applies in an income year, subsection (2) shall not apply to that individual in respect of that part of his income arising or accruing to him from such emoluments received by him in that income year, but the amount of tax payable under that subsection shall be calculated by reference to the proportion that his business income bears to his total assessable income.

Withholding
of tax on
interest
payable to
resident
persons.
1992-28.
1993-8.

64C. (1) Where any individual, company, attorney-at-law, trust company, bank or financial institution pays to a resident person or credits to his account in any income year interest amounting to \$100 or more, whether that interest is credited on one or more than one occasion during that year, that individual company, attorney-at-law,

occasion during that year, that individual company, attorney-at-law, trust company, bank or financial institution shall withhold from the total amount of that interest such percentage thereof as is prescribed and shall at the prescribed time pay the amount withheld to the Commissioner.

(2) Notwithstanding subsection (1), where

- (a) interest is credited in respect of a fixed deposit, that interest is subject to the withholding of tax therefrom under that subsection, regardless of the amount credited to that deposit at the date of maturity of the deposit or, if the deposit is prematurely withdrawn, the date of withdrawal;
- (b) a person is credited with interest amounting to less than \$100 on any occasion during a particular year, tax shall be deducted on the aggregate of \$100 or more and withheld from subsequent amounts credited during that income year.

(3) Subsections (2) to (4) of section 64 apply in respect of tax withheld under this section as they do in respect of tax withheld under that section.

(4) This section shall not apply to the amounts which are not to be included in the calculation of assessable income referred to in section 9(1). 1996-5.

64C.1. *Repealed by 1992-28.*

64D. (1) The promoters of entertainment provided by non-resident entertainers shall withhold the prescribed amount from the gross earnings of those entertainers, and shall immediately thereafter or at such other time as the Commissioner prescribes, pay to the Commissioner the amount withheld as payment in full of the tax payable in respect of those earnings. Withholding taxes on income of entertainers. 1981-15.

(2) Tax under this section and section 64E is payable notwithstanding that the earnings described therein have not been paid to non-resident entertainers or persons as the case may be.

s.64E

(3) Subsections (2) to (4) of section 64 apply in respect of amounts withheld under this section and section 64E as they apply to tax withheld under that section.

Withholding
taxes on
income of
non-resident
persons.
1981-15.

64E. (1) Where services are contracted, whether directly or indirectly, to be performed in Barbados by non-resident persons other than by way of carrying on business through a fixed base, the persons in Barbados who are under a contractual liability to pay for those services shall withhold the prescribed amount from the gross earnings of those non-resident persons, and shall immediately thereafter or at such other time as the Commissioner prescribes pay to the Commissioner the amount withheld as payment in full of the tax payable in respect of those earnings.

(2) Where payment for services to which subsection (1) refers is made by a company resident in Barbados to a non-resident affiliate company, the resident company shall withhold the prescribed amount from the gross earnings in accordance with subsection (1) and pay the amount withheld as payment in full of the tax payable as specified in that subsection.

(3) For the purposes of this section

- (a) one company is affiliated with another company if one of them is the subsidiary of the other or both are subsidiaries of the same holding company or each of them is controlled by the same person;
- (b) if 2 companies are affiliated with the same company at the same time, they are affiliated with each other at that time.

(4) Where a person fails to withhold the prescribed amount in accordance with this section, the payment for services to which this section refers may not be claimed as an expense or deduction for the purposes of this Act or the *Petroleum Winning Operations Taxation Act*.

Cap. 82.

64F. Every resident mutual fund shall withhold or deduct from any amount distributed by it, in respect of a unit, share or other equity interest held in it, to a resident individual an amount equal to 12.5 per cent thereof, and shall within such time as is prescribed pay the amount so withheld or deducted to the Commissioner as payment in full of the tax in respect of the income of the resident individual arising from that unit, share or other equity interest.

Withholding tax on income from mutual funds. 1998-42.

64G. (1) The manager of a mutual fund which is licensed under the *Mutual Funds Act* shall, unless the Commissioner otherwise directs, withhold tax at the rate of 25 per cent from the investment of an individual who is a resident investor in the mutual fund where that investment is withdrawn within 5 years of being invested.

Withholding tax from mutual fund investment. Cap. 320B. 2002-17.

(2) The tax withheld under subsection (1) shall be paid to the Commissioner within 7 days of being withheld and shall be accompanied by a return in such form as is approved by the Commissioner.

64H. (1) The manager of a co-operative society registered under the *Co-operative Societies Act*, shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from any shares invested in the society by a resident individual, and in respect of which a deduction was made under section 36B where the withdrawal is made within 5 years of being invested.

Withholding tax from shares invested in Co-operative Societies. 2007-47. Cap. 378A.

(2) The tax withheld under subsection (1) shall be paid to the Commissioner within 7 days of being withheld and shall be accompanied by a return in such form as is approved by the Commissioner.

65. (1) Subject to section 65A, where a company registered in Barbados pays a dividend, other than a preference dividend, to a shareholder,

Company dividends. 1975-8. 1977-16.

(a) no amount may be withheld or deducted therefrom on account of the tax imposed on the company by section 3(2), and an amount withheld or deducted in contravention of this

s.65

paragraph shall not be deemed to be an amount of tax paid by that shareholder in respect of any income year of the shareholder;

(b) the company shall deliver to the shareholder a certificate in the prescribed form showing the gross amount of the dividend.

1975-8. (2) Every resident company registered in Barbados upon payment of a preference dividend to a shareholder shall

2004-22. (a) deduct or withhold therefrom an amount equal to

(i) 33 per cent in respect of income year 2004;

(ii) 30 per cent in respect of income year 2005;

(iii) 25 per cent in respect of income year 2006 and subsequent years,

and shall, within such time as is prescribed, pay the amount so deducted or withheld to the Commissioner;

(b) deliver to the shareholder a certificate in the prescribed form showing the net amount of the dividend, the amount deducted or withheld under paragraph (a), not taking into account any credit allowed in Barbados for foreign income tax paid by the company, and the gross amount that is obtained by adding to the net amount of the dividend the amount deducted or withheld under paragraph (a).

1975-8. (3) The difference between the gross amount obtained under subsection (2) in respect of a dividend paid to a shareholder mentioned in that subsection and the net amount of the dividend paid to such shareholder shall be deemed to be an amount of tax paid by that shareholder in respect of the income year of the shareholder in which the dividend was paid.

(4) Every resident company shall withhold or deduct an amount equal to 15 per cent thereof from any amount paid by it as dividends, other than dividends referred to in sub-paragraph (iv) of section 64(1)(e), dividends or other distribution paid by a mutual fund in respect of shares, unit or other equity interest held in that mutual fund and preference dividends, to a non-resident person, and shall within such time as is prescribed pay the amount so withheld or deducted to the Commissioner as payment in full of the tax, in respect of the income represented by the dividend, of that non-resident person. 1975-8.
1985-6.
1998-42.

(4A) Every resident company shall withhold or deduct an amount equal to 12.5 per cent thereof from any amount paid by it as dividends, other than preference dividends, to a resident individual, and shall within such time as is prescribed, pay the amount so withheld or deducted to the Commissioner. 1992-28.
1993-8.

(4B) Subsection (4A) shall not apply to dividends to the extent that they can have been paid only out of profits which the company paying the dividends earned or out of other income which the company received before the 1st day of July, 1992. 1992-28.

(4C) Subsection (4A) shall not apply to dividends where the shares in respect of which the payment is made are issued to the taxpayer *in lieu* of a dividend payment and are retained by the shareholder for a period of not less than 5 years from the date of ownership. 1996-30.

(4D) Subsection (4A) shall not apply to dividends paid by the Hotel Equity Investment Fund Inc. 1998-43.
1999-22.

(5) Where in respect of the income year 1976 and every subsequent income year an office, branch or agency of a non-resident company engaged in trade or business in Barbados remits or is deemed to remit any part of the profits of such non-resident company accruing in or derived from Barbados, such office, branch or agency shall deduct or withhold therefrom an amount equal to 10 per cent thereof and shall within such time as is prescribed pay the amount so deducted or withheld to the Commissioner. 1977-16.

(6) For the purposes of subsection (5) an office, branch or agency of a non-resident company shall be deemed to have remitted the profits thereof except to the extent that the office, branch or agency has re-invested to the satisfaction of the Commissioner such profits or any part thereof in Barbados, other than in the replacement of fixed assets. 1977-16.

(7) For the purposes of subsections (5) and (6) "profits" means profits after the payment of any income tax or corporation tax. 1977-16.

(8) Subsection (5) shall not apply to an office, branch or agency of an exempt insurance company. 2003-11.

65A. (1) In respect of the income year 1987 and every subsequent income year where a resident company pays a dividend other than a preference dividend to a resident shareholder, the recipient of the dividend is entitled to a tax credit at the rate of 15 per cent of the amount of the dividend. Tax credit 1987-26.

(2) In computing the assessable income of a shareholder for the purposes of this section, the amount of cash dividends and the value of the tax credit are to be included. 1984-9. 1987-26.

(3) A shareholder who is entitled to a tax credit under this section may claim to have the tax credit set off against the income tax payable on his income under this Act in respect of the income year in which dividends are paid and, where the tax credit exceeds the income tax payable, to have the excess paid to him. 1984-9. 1987-26.

(4) This section applies to a shareholder who is 1987-26.

(a) an individual;

- (b) a separate trust established for the purpose of administering the funds of a registered retirement plan and exclusively engaged in administering such funds; or
- (c) a person deemed to be a separate person carrying on as a life insurance company, a separate business classified as a registered retirement plan under section 19.

1992-28. (5) This section does not apply to dividends referred to in section 65(4A).

Exemptions
in respect of
qualifying
insurance
companies.
1998-31.

65B. In respect of income year 1998 and subsequent income years, the following provisions of this Act shall not apply in respect of payments made by a qualifying insurance company:

- (a) section 64(1), sub-paragraphs (i) to (vii);
- (b) section 64(1A);
- (c) section 64(1B);
- (d) section 64E(1);
- 2003-11. (e) section 65(4);
- 2003-11. (f) section 65(5).

Tax credit:
insurance
companies.
1998-43.
1999-22.

65C. (1) Where a life insurance company has in any income year invested an amount of money in the Hotel Equity Investment Fund Inc., then that company shall be entitled to a tax credit at the rate of 48 per cent of the amount invested in the Fund but the tax credit shall not exceed \$480 000 per annum.

(2) Where a person withdraws any amount of the investment made under subsection (1) within 5 years of the making of the investment, the amount so withdrawn shall be brought back into charge to tax in the year in which the withdrawal was made.

(3) The amount of any unused credit

- (a) subject to the provisions of Division K, shall be used to reduce the tax payable by any subsidiary within the corporate group; or

(b) shall be carried forward for a period of 9 years,
but no cash refund shall be allowed.

(4) This section shall not apply to premium tax.

65D. (1) Where an employed individual who

Reverse
tax credit
2007-47.

(a) is resident in Barbados;

(b) for income year 2007, earns less than \$15 000 annually but not more than \$1 250 monthly;

(c) for income year 2008, earns less than \$16 500 annually but not more than \$1 375 monthly; or

(d) for income year 2009 and subsequent income years earns less than \$18 000 annually but not more than \$1 500 monthly,

applies to the Commissioner, in such form as the Commissioner approves, within 2 years of the income year in which the earnings were paid, that person shall be entitled to a credit in accordance with subsection (2).

(2) The credit to which an individual referred to in subsection (1) is entitled is as follows:

(a) for income year 2007, the amount of \$800;

(b) for income year 2008, the amount of \$1 100;

(c) for income year 2009, and subsequent income years the amount of \$1 300.

(3) Subsections (1) and (2) shall not apply

(a) to self-employed persons;

(b) to directors of companies that are controlled by 5 or less persons;

(c) to beneficiaries of a trust or an estate within the meaning of section 40; or

s.66

(d) in respect of earnings payable to the estate of a deceased person.

Payment
of tax.
1990-2.

66. (1) Every company

(a) whose fiscal period ends at any time during the period 1st January to the 30th September in any year, (both dates inclusive), shall, in respect of income year 1990 and every subsequent income year, pay any part of the tax estimated in its return filed in accordance with section 52 in respect of that income year and is then unpaid not later than the 15th March in the following income year; and

(b) whose fiscal period ends at any time during the period 1st October to 31st December in any year, (both dates inclusive), shall, in respect of income year 1990 and every subsequent income year, pay any part of the tax estimated in its return filed in accordance with section 52 in respect of that income year and is then unpaid not later than the 15th June in the following income year.

1977-16.
1977-62.

(1A) Notwithstanding the provisions of subsection (1) the tax payable on the premium income of a company to which section 19 refers shall be paid in respect of the income year 1976, not later than 30th June, 1977 and not later than 30th June in every subsequent year for each income year after the income year 1976.

(2) Subject to subsection (3), every individual who has carried on a business or has been, on his own account, in receipt of rents shall pay to the Commissioner

(a) in respect of the income year 1974, 25 per cent of the tax that is estimated in his return filed in accordance with section 52 in respect of that income year not later than each of the following dates

(i) the relevant date,

(ii) the 31st July, 1975,

- (iii) the 30th November, 1975, and
 - (iv) the 28th February, 1976;
- (b) in respect of the income year 1975 and subsequent income years, any part of the tax that is estimated in his return filed in accordance with section 52 in respect of that income year and is then unpaid not later than the relevant date.
- (3) Where an individual who carries on business is in receipt of emoluments or other income which is not received from that business and those emoluments are equal to or greater than 75 per cent of his total assessable income for the income year, subsection (2) shall not apply to that individual, but such individual shall pay to the Commissioner any part of the tax that is estimated in his return filed in accordance with section 52 in respect of that income year and is unpaid on the relevant date in the manner provided by subsection (4).
- (4) Every individual, other than an individual to whom subsection (2) applies, shall pay to the Commissioner
- (a) 50 per cent of the tax that is estimated in his return filed in accordance with section 52 in respect of an income year, not later than the relevant date; and
 - (b) the other 50 per cent of the tax that is so estimated and is then unpaid, not later than the 30th September in the year of assessment relating to that income year.
- (5) For the purposes of subsections (2), (3) and (4), the expression "relevant date" means the date on or before which a return of assessable income is under section 52 required to be filed. ^{1990-2.}
- (6) Every individual mentioned in subsection (3) or (4) who complies with section 52 and who receives in respect of an income year a notice of assessment dated not later than the 30th September in the year of assessment relating to that income year shall pay to the Commissioner
- (a) on or before the 30th September; or

(b) within 30 days of the date of the notice of assessment,

whichever occurs later, any part of the tax that is assessed and is then unpaid, whether or not any objection has been made or any appeal has been taken in relation to that assessment.

(7) Every person, other than an individual to whom subsection (6) applies, shall, within 30 days of the date of the notice of assessment in relation to that person, pay to the Commissioner any part of the tax that is assessed and is then unpaid, whether or not any objection has been made or any appeal has been taken in relation to that assessment.

Payment by
tax reserve
certificate.
1987-26.

66A. (1) A company or self-employed person may tender a tax reserve certificate in or towards satisfaction of his tax liability.

(2) The Commissioner shall accept from a person mentioned in subsection (1) tax reserve certificates so tendered.

(3) The tax liability in respect of which a certificate has been tendered and accepted is treated as paid to the extent of the value of the certificate any interest accruing thereon at the time of payment.

Cap. 106.

(4) Where the value of the certificate and any interest accruing thereon exceeds the liability, the Commissioner shall as agent for the Governor of the Central Bank or other person specified in section 6 of the *Treasury Bills and Tax Certificates Act*, issue a certificate for the balance.

(5) Where the certificate by virtue of its denomination is not for the full value of the balance mentioned in subsection (4), the excess shall be repaid to the person tendering the certificate.

Penalties
and interest.
2002-17.

67. (1) A person who, in respect of a return of income referred to under section 52 for any income year,

(a) fails to deliver that return within the time required by that section; or

(b) delivers that return but, where tax is payable in respect thereof, fails to estimate in that return the tax payable within the time required by that section,

shall pay to the Commissioner a penalty of \$100 in addition to any other penalty that may be payable under subsection (1A).

(1A) A person referred to in subsection (1) shall pay, in addition to the penalty payable under that subsection and the tax payable under this Act, a penalty equal to 5 per cent of the tax assessed on that person for the income year in respect of which the default referred to in paragraph (a) or (b) of subsection (1) was committed, if the tax was unpaid at the time of the default. 2005-22.

(2) A person who fails to deduct, withhold or pay an amount that he is required by section 19(12), 64, 64B, 64C, 64D, 64E, 65(2), (4), (4A) or (5) to deduct, withhold or pay within the time prescribed shall pay to the Commissioner a penalty equal to 10 per cent of the amount that was not deducted, withheld or paid, or \$10, whichever is the greater. 1977-16.
1977-62.
1981-15.
1992-28.

(3) A person who fails to pay an amount that he is required by section 19(12), 64, 64B, 64C, 64D, 64E, 65(2), (4), (4A) or (5) or 66(1A) to pay at or within the time prescribed shall, in addition to the penalty imposed by subsection (2), pay to the Commissioner an amount as interest at the rate of .5 per cent per month calculated for each month during which any part of the amount was not paid on the largest amount that had not been paid at any time in that month. 1977-62.
1981-15.
1992-28.

(4) Where any penalty or interest has been paid or is payable by a person under subsection (4) of section 12 or under subsection (2) or (3) of this section, the Minister may, where the circumstances of the case appear to him to warrant such indulgence, remit the penalty or interest, in whole or in part.

(5) A person who fails to pay an amount of tax that is estimated by him or that is assessed on him for an income year within the time required by section 66, or who fails to pay an amount imposed by section 46C within the time specified in that section, shall, in addition to the tax, pay to the Commissioner a penalty equal to 5 per cent of the amount of tax that was due and unpaid at the expiry of the time limited for payment, or \$10, whichever is the greater. 1984-9.

- 1984-9. (6) (a) A person to whom subsection (1) applies or who fails to pay an amount of tax that is estimated by him or that is assessed on him for an income year within the time required by section 66, or who fails to pay an amount imposed by section 46C within the time specified in that section, shall, in addition to the tax and in addition to the penalty imposed by subsection (1) or subsection (5), pay to the Commissioner an amount of interest at the rate of 1 per cent per month

calculated for each month during which any amount of tax and penalty remained unpaid on the largest amount of tax and penalty that was due and unpaid at any time in that month;

- (b) for the purposes of paragraph (a), in the case of a person to whom subsection (1) applies, the amount of the tax assessed on that person shall be deemed to have been unpaid as from the date on which the return of income was required to be delivered under section 52.

(7) Where any penalty or interest has been paid or is payable by a person under subsection (1), (5) or (6), and

- (a) the failure giving rise to the penalty or interest arose because that person was

(i) out of Barbados; or

(ii) incapacitated and undergoing medical treatment at the time the failure occurred,

and the failure was remedied as soon as reasonably possible after that person returned to Barbados or ceased to be incapacitated or undergoing medical treatment; or

- (b) where the circumstances of the case appear to warrant such indulgence,

the Minister may remit the penalty or interest, in whole or in part.

(8) A person who knowingly evades or attempts to evade payment of tax under this Act shall, in addition to the tax and in addition to the penalty imposed by subsection (5), and the interest imposed by subsection (1) or subsection (6), pay to the Commissioner an amount as a penalty equal to the amount of tax evaded or sought to be evaded.

(9) An amount remitted under subsection (4) or (7) that has been paid to the Commissioner shall be repaid by the Accountant-General on the certificate of the Minister.

(10) For the purposes of subsections (5) to (9), "tax" includes "surcharge". 1984-9.

Refund of
over-
payments.
1984-9.

68. (1) Where the amount paid by a person as tax, interest and penalties for an income year is in excess of the amount payable in accordance with this Act by that person for that income year and where that person applies to the Commissioner, in writing, for a refund of the excess within 3 years after the date of his notice of assessment for that income year, the Commissioner shall apply the amount of that excess against any outstanding liability of that person under this Act and cause the balance, if any, to be repaid to that person.

(2) *Repealed by 1986-25.*

(3) *Repealed by 1986-25.*

(4) Where the Commissioner is satisfied that any portion of the amount paid to an individual as a return of contributions under a registered retirement plan will be re-invested in another registered retirement plan within the time specified in paragraph (g) of section 8, the Commissioner shall repay the tax relating to the amount re-invested directly to the operator of that other registered retirement plan on behalf of that individual.

Payment of
cash rebate.
1981-15.

68A. (1) Where the cash rebate to which a person is entitled by virtue of section 12A for the income year is in excess of that person's tax liability under this Act for that income year, the Commissioner shall, on the application in writing of that person within 3 years of filing a return for that income year, apply the amount of excess against any tax liability under this Act, and repay the balance, if any, to that person.

(2) *Repealed by 1986-25.*

Repayments.
1984-9.
1986-25.
1988-19.

69. Repayments under section 68 and section 68A and interest payable under section 70A are a charge on the Consolidated Fund and shall be made by the Commissioner out of funds provided by the Accountant-General for the purpose.

Tax refund
certificates.
1987-26.

69A. (1) A person entitled to a repayment under section 68 or 68A may at his option be issued a tax refund certificate for the value of the amount to be repaid.

(2) Where the certificate by virtue of its denomination is not for the full value of the amount to be repaid, the excess shall be repaid to that person.

70. Where an assessment of tax on a person for an income year is altered and a re-assessment, settled assessment or final assessment is made, the provisions of this Act with respect to payment, repayment, interest, penalties and collection shall apply as if the re-assessment, settled assessment or final assessment and any notice of re-assessment, notice of settled assessment or notice of final assessment was a notice of assessment.

Payment on altered assessment.

70A. Where a person delivers a return of income in respect of income year 1986 and subsequent income years under section 52 within the time required by that section and a refund of tax overpaid is due to that person and the refund is not paid to the person within 6 months after the time required by section 52 the Commissioner shall, on the amount overpaid, pay to the person interest at the rate of 1 per cent per month from the time so required.

Interest payable by Commissioner. 1986-25.

DIVISION AA

Collection

71. All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to the Crown and recoverable as such in civil proceedings in the High Court or in the magistrate's court of District "A", at the option of the Crown, notwithstanding that the amount involved exceeds the normal monetary limit on the jurisdiction of the magistrate's court.

Recovery of taxes.

72. (1) An amount payable by a person under this Act that has remained unpaid for a period of 30 days may be certified in relation to that person by the Commissioner in a certificate called an unpaid tax certificate.

Unpaid tax certificates.

(2) An unpaid tax certificate may be filed by the Commissioner in the High Court or in the magistrate's court of District "A" and shall be registered in the court in which it is filed and after the expiry of 7 days after it is filed and registered has the same force and effect as a judgment

of the court in which it is registered in favour of the Crown against the person named in the certificate for the amount specified in the certificate, plus

- (a) interest thereon as provided in this Act until the date of payment; and
- (b) the reasonable costs and charges attendant upon the registration of the certificate,

and all proceedings may be taken on the certificate and it may be enforced as if it was a judgment of the court in which it is registered.

(3) Where an unpaid tax certificate is filed by the Commissioner in the High Court or in the magistrate's court of District "A", the Commissioner shall forthwith deliver a copy of the unpaid tax certificate to the person to whom the unpaid tax certificate relates; and if the copy of the unpaid tax certificate is not so delivered within 7 days of the filing, then subsection (2) ceases to have effect with respect to that unpaid tax certificate.

Execution
and
enforcement
of judgments
in certain
circum-
stances.
1983-33.

72A. Where a judgment

- (a) exists by virtue of section 72; or
- (b) is obtained in any court

against a person in respect of income tax owed by that person, the Commissioner may proceed to execute and enforce that judgment and exercise all the remedies attached thereto for the satisfaction of the judgment notwithstanding any enactment or rule of law to the contrary relating to

- (c) the powers and duties of a receiver;
- Cap.308. (d) the effect of a winding up order under the *Companies Act*; or
- Cap.303. (e) the effect of a receiving order under the *Bankruptcy Act*.

Garnishment.

73. (1) Where the Commissioner believes that any person is indebted to or liable to make a payment to another person and that other person is indebted to the Crown under this Act, the Commissioner may

deliver to the first-mentioned person a demand for payment stating the name of the person indebted to the Crown and the amount of the debt to the Crown including the rate of interest thereon, and where that first-mentioned person is the employer of the person indebted to the Crown the amount demanded for each pay period being an amount not exceeding one-third of the sum payable to the employee during that period, expressed either as a dollar amount or a percentage of remuneration. 1974-11.

(2) Every person who receives a demand for payment under subsection (1) relating to one of his employees shall pay to the Commissioner at the same time as he would pay that employee the amount demanded by the Commissioner or the amount of the employee's indebtedness to the Crown, whichever is the lesser, and shall continue to do so on each occasion that the employee is entitled to be paid until the employee's indebtedness to the Crown is satisfied.

(3) Every person who receives a demand for payment under subsection (1) relating to some person other than one of his employees shall, if he is indebted to or liable to make a payment to that other person, pay to the Commissioner the amount of his indebtedness or the amount which he is liable to pay to that person or the amount of that person's indebtedness to the Crown, whichever is the lesser.

(4) Every person who has discharged any liability to a person indebted to the Crown under this Act after receiving a demand for payment under subsection (1) without complying with subsection (2) or (3) is liable to pay to the Crown an amount equal to the liability discharged or which he was required under subsection (2) or (3) to pay the Commissioner, whichever is the lesser.

(5) The payment of an amount to the Commissioner under subsection (2) or (3) operates as a discharge of any liability of the person making the payment to the person to whom the payment would, but for this section, have been paid, to the extent of the amount paid to the Commissioner.

(6) This section is effective notwithstanding the *Protection of Wages Act*. Cap. 351.

Persons
leaving
Barbados.

74. (1) Where the Commissioner suspects that a person is about to leave Barbados, he may deliver to that person a notice for immediate payment stating the amount that the Commissioner believes that person is liable to pay as taxes, interest or penalties under this Act or would be liable to pay if the time for payment had arrived, and that person shall forthwith pay the amount specified in the notice for immediate payment.

(2) Where a person who has received a notice for immediate payment fails to pay forthwith the amount specified therein, that amount shall be deemed to have remained unpaid for a period of 30 days for the purposes of section 72 and that section will be applicable in respect of that person as if the reference to 7 days in subsections (2) and (3) of that section were references to 24 hours.

(3) An amount paid or recovered in consequence of this section shall be deemed to have been paid or recovered to be applied against the liability for taxes, interest and penalties of the person by whom it was paid or from whom it was recovered in respect of the income year in which the amount was paid or recovered, or prior income years.

DIVISION AB

Investigations

Accounts
and records.

75. (1) Every person carrying on business and every person who is or may be required by this Act to collect or pay a tax or other amount shall keep records and books of account, including an annual inventory, in Barbados, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected to be determined.

(2) Without restricting the generality of subsection (1), every person carrying on a business in which a service is provided shall make a separate record of every transaction made in the course of that business.

(3) Where a person has failed to keep adequate records and books of account for the purposes of this Act, the Commissioner may require him to keep such records and books of account as he may specify and that person shall thereafter keep records and books of account as so required.

(4) Every person required by this section to keep records and books of account shall retain every such record or book of account and every account, voucher or other record necessary to verify such record or book of account, until written permission for their disposal is obtained from the Commissioner.

76. (1) A person authorised by the Commissioner for any purpose related to the administration or enforcement of this Act may, at any reasonable time, on production of his letter of authorisation enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and

Audit and
ancillary
powers.

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of tax payable under this Act;
- (c) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance with his audit or examination either orally or, if he so requires, in writing, on oath or otherwise and, for that purpose, require the owner or manager to attend at the premises or place with him; and
- (d) if, during the course of an audit or examination, it appears to him that there has been a violation of this Act or a regulation, seize, take away and retain any of the records, books, accounts, vouchers, letters, telegrams and other documents that may be relevant.

(2) The Commissioner may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person

- (a) any information or additional information in the form of a return of income or a return of information or otherwise; and
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements or other documents,

within such reasonable time as may be stipulated therein.

(3) The Commissioner may, for any purpose related to the administration or enforcement of this Act, by not less than 7 days notice in writing require any person to attend before him and give evidence on oath and to produce on oath all books, letters, accounts, invoices, statements or other documents in his possession or control.

(4) The Commissioner may, for any purpose related to the administration or enforcement of this Act, authorise in writing any officer or other person employed to administer and enforce this Act, together with such members of the Police Force as that person calls upon to assist him, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records or things which may afford evidence of a violation of this Act or a regulation, and to seize, take away and retain any such documents, books, records or other things.

(5) Where any book, record or other document has been seized, examined or produced under this section, the person by whom it was seized or examined or to whom it was produced may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Commissioner to be a copy made pursuant to this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(6) No person shall hinder, molest or interfere with any person doing anything that he is authorised by or pursuant to this section to do, or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall do anything that he is required by this section to do.

(7) Without restricting the generality of this section, this section applies to banks and attorneys-at-law, their employees and offices as it applies to any other business, persons and premises.

77. (1) Where an attorney-at-law is prosecuted for failure to comply with a requirement under section 76 to give information or to produce a document, he shall be acquitted if he establishes to the satisfaction of the Court

Attorney-client privilege.

- (a) that he, on reasonable grounds, believed that a named client of his had an attorney-client privilege in respect of the information or document; and
- (b) that he informed the Commissioner within 7 days after receiving notice of the requirement that a named client of his had, in the opinion of the attorney-at-law, an attorney-client privilege in respect of the information or document.

(2) Where a person is about to examine or seize a document in the possession of an attorney-at-law and the attorney-at-law claims that a named client of his has an attorney-client privilege in respect of that document, the person shall, without examining or making a copy of the document

- (a) seize the document and place it, together with any other document with respect to which the same attorney-at-law makes a similar claim of attorney-client privilege with respect to the same named client, in a package; and
- (b) seal and identify the package and place it in the custody of the Registrar of the Supreme Court.

(3) Where a document has been placed in the custody of the Registrar under subsection (2), the attorney-at-law or the named client in respect of whom the claim of attorney-client privilege was made in respect of that document may apply to a Judge in Chambers, upon at least 3 days notice to the Commissioner, for an order determining the question of whether that named client has an attorney-client privilege in respect of that document, and on the hearing of that application the Judge may inspect the document.

(4) Where no application under subsection (3) is made within 30 days after a document was placed in the custody of the Registrar under subsection (2), the attorney-client privilege shall be deemed to have been waived by the named client in respect of that document and the document shall be delivered up by the Registrar of the Supreme Court to the Commissioner.

(5) Where an order is made by a Judge under subsection (3) to the effect that an attorney-client privilege attaches to that document, the Registrar of the Supreme Court shall deliver up that document to the attorney-at-law from whom it was seized; but if an order is made to the effect that no attorney-client privilege attaches to that document, the Registrar of the Supreme Court shall deliver up that document to the Commissioner.

(6) While a package is in the custody of the Registrar of the Supreme Court under this section

- (a) the attorney-at-law in respect of whom the claim of attorney-client privilege is made may require the Registrar to open the package and permit the attorney-at-law to make a copy of a document contained therein in the presence of the Registrar, and the Registrar shall comply with that requirement; and
- (b) the Registrar may open the package and separate the documents contained therein into 2 or more separate groups of documents,

and thereafter the Registrar shall reseal the package or packages.

(7) No person shall examine or seize a document in the possession of the attorney-at-law without giving the attorney-at-law an opportunity to make a claim of attorney-client privilege in respect of that document and in respect of a named client.

(8) For the purposes of this Act, an attorney-client privilege may be waived at any time by the client.

(9) For the purposes of this Act, an accounting record of an attorney-at-law, including any supporting voucher or cheque, shall be deemed not to be within the scope of attorney-client privilege.

DIVISION AC

Representatives for Tax Purposes

78. (1) For the purposes of this Act, every person who directs or controls the property or income from property of the following persons, or who otherwise represents those persons, namely

Representatives for tax purposes.

- (a) a company;
- (b) an incapacitated person;
- (c) a deceased person;
- (d) a non-resident person;
- (e) a person who is bankrupt or whose property is in liquidation or receivership;
- (f) a person who is under the age of 16 years;
- (g) a trust or estate that is deemed to be a separate individual; or
- (h) an association of underwriters,

as manager, principal officer, factor, agent, parent, guardian, committee, legal representative, trustee, trustee in bankruptcy, liquidator, receiver or in other representative capacity, shall perform all the duties and may exercise all the rights imposed on or granted to the person he represents by this Act, and this Act applies to that representative and to things done or omitted to be done by or in relation to that representative as if he were the person he represents.

(2) Notwithstanding subsection (1), the separate property of the person acting in a representative capacity shall not be subject to the tax imposed by this Act on the person he represents and the tax imposed by this Act on the person he represents shall be paid out of the separate property of the person he represents.

(3) A person acting in a representative capacity under subsection (1) may retain out of money coming into his hands on behalf of the person he represents so much thereof from time to time as is sufficient to discharge the obligations under this Act of the person he represents and he shall not

be liable to the person he represents with respect to any matter arising as a result of his compliance with this section.

DIVISION AD

Offences

- Offences. 79. (1) Every person who
- (a) fails to deduct, withhold or pay an amount under section 64 within the time prescribed;
 - (b) fails to pay any amount of tax due by him when it is due and payable;
 - (c) fails to file a return of income under section 52 as and when required by that section;
 - (d) fails to keep or retain records or books of account as required by section 75;
 - (e) fails, without proper justification, to do anything that he is required to do under section 76;
 - (f) fails, without proper justification, to obey a summons or requirement under paragraph (d) of subsection (6) of section 59;
 - (g) hinders, molests, obstructs, impedes or interferes, with any person doing anything that he is lawfully authorised to do in connection with the administration of this Act;
 - (h) negligently, in relation to this Act or any possible liability, hereunder
 - (i) makes any false or deceptive return,
 - (ii) gives any false or deceptive information,
 - (iii) misleads or attempts to mislead the Commissioner or a member of his staff, or a member of the Income Tax Appeal Board,

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- (iv) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of himself or any other person except as permitted by section 75,
 - (v) makes or assents to or acquiesces in the making of false or deceptive entries, or omits, or assents to or acquiesces in the omission of, a material particular in the records or books of account of himself or any other person;
 - (i) commits any other breach of this Act or a regulation for which no penalty is expressly provided; or
 - (j) aids, abets, incites or conspires with any other person to commit an offence described in paragraphs (a) to (i),

is guilty of an offence and, in addition to any other penalty otherwise provided and recoverable by civil proceedings, is liable on summary conviction to a fine of not less than \$10 and not greater than \$10 000.

- (2) Every person who
 - (a) wilfully or knowingly, in relation to this Act or any possible liability hereunder
 - (i) makes any false or deceptive return,
 - (ii) gives any false or deceptive information,
 - (iii) misleads or attempts to mislead the Commissioner or a member of his staff, or a member of the Income Tax Appeal Board,
 - (iv) destroys, alters, mutilates, secretes or otherwise disposes of the records or books of account of himself or any other person except as permitted by section 75 in order to facilitate an evasion of tax, or
 - (v) makes or assents to or acquiesces in the making of false or deceptive entries, or omits, or assents to or acquiesces in the omission of, a material particular in the records or books of account of himself or any other person; or

- (b) aids, abets, incites or conspires with any other person to commit an offence described in paragraph (a),

is guilty of an offence, and in addition to any other penalty otherwise provided and recoverable by civil proceedings, is liable on summary conviction to imprisonment for a term not exceeding 6 months, or to a fine of not less than \$500 and not greater than \$10 000 or to both such imprisonment and such fine.

(3) Every person who has communicated or allowed to be communicated to a person not legally entitled thereto any information obtained under this Act or a regulation or who has allowed any person not legally entitled to do so to inspect or have access to any written statement furnished under this Act or a regulation is guilty of an offence and is liable on summary conviction to a fine of \$100.

Prosecu-
tions.

80. (1) An information in respect of an offence under this Act or the regulations may be heard, tried or determined before one of the magistrates of District "A" and may be laid on or before a day 5 years after the matter of the information occurred or within one year from the day on which evidence, sufficient in the opinion of the Commissioner to justify a prosecution for the offence, came to his knowledge, whichever is the later, and the Commissioner's certificate as to the day on which such evidence came to his knowledge is conclusive evidence thereof.

(2) An information under this Act may be laid by the Commissioner, any officer or employee assisting the Commissioner in the administration and enforcement of this Act, any member of the Police Force or any person specifically authorised by the Commissioner, and where an information purports to have been laid under this Act

- (a) it shall be deemed to have been laid by a person specifically authorised by the Commissioner and shall not be called in question for lack of authority of the informant except by a person acting on behalf of the Commissioner;
- (b) no proceedings thereon shall be dismissed by reason only of the failure of the informant to appear in person or by attorney-at-law if the informant is represented by an officer or employee assisting the Commissioner in the administration and enforcement of this Act; and

assisting the Commissioner in the administration and enforcement of this Act; and

- (c) no proceedings thereon, where the informant is the Commissioner, shall lapse or be dismissed by reason of any change as to the holder of the office of Commissioner.

81. (1) Any matter relating to the administration of this Act by the Commissioner including, without restricting the generality of the foregoing, any matter relating to the records of the Commissioner, the delivery or non-delivery of documents, the giving or failing to give evidence, the receipt or non-receipt of documents, the payment or non-payment of tax or other amounts or the date or time of doing any act or the date or time when any act remained undone may be proved by an affidavit of the Commissioner or a member of his staff setting out that he has examined the records maintained by the Commissioner; and what those records indicate with respect to that matter shall be received as *prima facie* evidence of the facts set out therein and as *prima facie* evidence that the records maintained by the Commissioner show correctly when and whether any act has or has not been done. Evidence.

(2) An affidavit of the Commissioner or a member of the staff of the Commissioner setting out that a document annexed thereto is a document or a true copy of a document relating to a matter arising in the administration of this Act or the regulations and setting out the manner in which that document or true copy of a document came into his possession or control shall be received as *prima facie* evidence of the nature and contents of the document and of the fact that it was made or signed by or on behalf of the person by whom or on whose behalf it purports to have been made or signed and in the case of a document required by this Act to be delivered that it was delivered by or on behalf of that person, and shall be admissible in evidence and have the same probative force as the original document would have if it had been proven in the ordinary way.

(3) Where evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is the Commissioner or a member of the staff of the Commissioner, it is not necessary to the admissibility of the affidavit as evidence that the

signature or the status of such person be proven or that the official character of the person before whom the affidavit is sworn be established.

(4) Judicial notice shall be taken of all regulations made under this Act without such regulations being specially pleaded or proven.

(5) This section applies to all proceedings, whether civil or criminal, arising from the administration or enforcement of this Act, the regulations or any other enactment or regulations relating to income tax.

PART IV

Double Taxation Relief

Common-
wealth
double
taxation
relief.

82. (1) Notwithstanding any other provision of this Act, where a person has paid or is liable to pay tax under this Act for an income year on any part of his income and has also paid or is liable to pay Commonwealth income tax on the same part of his income, he is entitled to relief from tax under this Act on that part of his income at a rate determined as follows, that is to say

- (a) where that person is resident in Barbados in that income year
 - (i) if the Commonwealth income tax rate does not exceed one-half of the Barbados income tax rate of that person, the relief is at the Commonwealth income tax rate, and
 - (ii) in any other case, the relief is at one-half of the Barbados income tax rate, and
- (b) where that person is not resident in Barbados in that income year
 - (i) if the Commonwealth income tax rate does not exceed the Barbados income tax rate of that person, the relief is at one-half of the Commonwealth income tax rate, and
 - (ii) in any other case, the relief is at a rate equal to the Barbados income tax rate minus one-half of the Commonwealth income tax rate of that person.

- (2) For the purposes of this section
- (a) the expression "Commonwealth income tax" means any income tax imposed by a country or territory that
 - (i) is a member of the Commonwealth, and
 - (ii) grants relief in respect of Barbados income tax in a manner similar to that provided by this section;
 - (b) certificate issued by or on behalf of the person administering the income tax legislation of the particular Commonwealth country may be received as evidence of the Commonwealth income tax rate in any particular case;
 - (c) a rate of tax shall be determined by dividing the income tax paid or payable before the deduction of relief granted under this or a similar section by the amount of the assessable income, or the equivalent, in respect of which the tax has been charged; and
 - (d) where a person is resident in an income year in both Barbados and a country or territory under whose laws he is liable to pay Commonwealth income tax for that income year he shall be deemed not to be resident in Barbados in that income year if he spends more time in that country or territory than he spends in Barbados in that income year.

83. (1) Notwithstanding any other provisions of this Act, where an agreement has been made between Barbados and another country or territory with respect to the avoidance of double taxation, the prevention of fiscal evasion or other matters relating to the taxation of income, whether that agreement is made by the Government of Barbados or otherwise and by whatever name the agreement is known or designated, the agreement has the force of law in and for Barbados and is effective in accordance with its terms throughout and in relation to the duration of the agreement.

Double
taxation
relief by
international
agreement.

s.83A

(2) The Minister may, subject to negative resolution, make regulations for the purpose of carrying out any agreement referred to in subsection (1) or for giving effect to any of the provisions thereof, and such regulations may be made and continue in force notwithstanding that no agreement is in effect for the purposes of subsection (1).

(3) In the event of any inconsistency between an agreement and any regulations made under subsection (2), the terms of the agreement prevail to the extent of the inconsistency.

(4) In the event of any inconsistency between an agreement and any regulation made under subsection (2), on the one hand, and the provisions of this Act on the other hand, the terms of the agreement and the regulations made under subsection (2) prevail to the extent of the inconsistency.

(5) Where an agreement is in effect under this section between Barbados and another country or territory, the income tax imposed by that other country or territory shall be deemed not to be Commonwealth income tax for the purposes of section 82 unless that agreement otherwise provides.

(6) Notwithstanding any other provision of this Act, the Commissioner or a person authorised by the Commissioner may disclose to an authorised officer of the Government of a country or territory with which an agreement has been made of the type described in subsection (1) any information that the agreement requires or contemplates will be so disclosed.

General
double
taxation
relief.
2005-22.

83A. (1) Notwithstanding any other provision of this Act, with effect from income year 2005, where tax is payable in a country other than Barbados on profits, income or gains derived from sources in that country, the tax so payable in that country shall be allowed as a credit against the tax payable in Barbados on such profits, income or gains.

(2) Where dividends are paid by a non-resident company to a resident company which holds directly not less than 10 per cent of the capital of that non-resident company, the credit referred to in subsection (1) shall take into account the tax payable by the non-resident company on the profits out of which the dividends are paid.

(3) The tax credit referred to in subsection (1) shall not exceed the amount of the tax, as computed before the credit is given, which is attributable to the income derived outside Barbados.

PART V

Regulations

84. (1) The Minister may, subject to negative resolution, make Regulations.
regulations

- (a) prescribing rules for the registration of, and other matters in relation to, benevolent organisations under this Act;
- (b) prescribing rules for the registration of, and other matters in relation to, retirement plans under this Act;
- (c) prescribing rules for the registration of, and other matters in relation, to unit trusts;
- (d) prescribing the industries that are basic industries;

-
- (e) setting the percentage of the capital expenditure on particular classes of machinery and plant that are to be deemed to be just and reasonable as representing the annual wear and tear of those classes of machinery and plant, in default of it being established that some other percentage is the just and reasonable percentage;
 - (f) specifying the extent to which interest on bonds, debentures or stock of the Government of Barbados, beneficially owned by a non-resident person, shall not be included in calculating the assessable income of that person for an income year;
 - (g) prescribing the persons or classes of persons required to make returns of information and prescribing the type of information to be contained therein and the dates when those returns must be filed;
 - (h) prescribing rules for the Income Tax Appeal Board; 1981-15.
 - (i) providing a system for the deducting, withholding and payment of amounts under section 64 and providing for all other matters relating thereto;
 - (j) providing for the cessation of the application of effectiveness or the revocation of any order, rule, regulation or other statutory instrument or document made under powers conferred on any person under the *Income Tax Act, 1921*¹;
 - (k) prescribing anything, other than tables and forms, that by this Act is to be prescribed or is to be determined or regulated by regulation;
 - (l) providing, where there is no provision or not sufficient provision in this Act in respect of any matter or thing necessary to give effect to this Act, the manner or form in which the deficiency is to be supplied;
 - (m) making any provisions which may be convenient for the administration of this Act or which in the opinion of the

¹ Act 1921-6 replaced by this Act.

Commissioner may be desirable or necessary to carry out the purpose or provisions of this Act; and

(n) providing that any breach of regulations is an offence punishable on summary conviction and prescribing penalties for such an offence which may be as great as but not greater than the maximum penalties provided by subsection (l) of section 79.

(2) The Commissioner may, by order, prescribe such forms and tables as are required by this Act or as he considers desirable for the administration and enforcement of this Act and the regulations.

(3) The fact that no regulations have been made with respect to any matter or thing with respect to which regulations may be made under this section shall not vitiate anything done or required to be done by this Act and shall not otherwise affect the operation of this Act.

PART VI

Interpretation

Interpretation.

85. (1) For purposes of this Act, the expression

"annuity" means an amount payable on a periodic basis, whether payable at intervals longer or shorter than a year, and whether payable under a contract, will, trust or otherwise;

"assessable income" means income of any kind calculated in accordance with Divisions C to K and Division R of Part II;

"basic industry" means an industry prescribed by regulation as being a basic industry;

"benevolent organisation" means a body politic, corporate or collegiate, a company, a trust, a society and a fellowship or fraternity, whether corporate or not corporate, which is established in Barbados and all the resources of which are devoted to charitable, religious, educational or scientific purposes of a public nature, and no part of the income of which is payable or paid to or is otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

- "brother" means a male person who is related to another person because each is a child of the same third person;
- "business" includes a profession, vocation, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include an office or employment;
- "charity" has the meaning assigned to it in section 2 of the *Charities Act* Cap. 243. and "charitable" has a corresponding meaning;
- "child" includes a step-child;
- "Commissioner" means the person holding or lawfully exercising the functions of the office of Commissioner of Inland Revenue;
- "company" means any body corporate whether incorporated in Barbados or elsewhere and includes a society and an association other than an association of underwriters but does not include a local or public authority;
- "defined benefit" has the meaning assigned to it in section 2 of the *Occupational Pension Benefits Act, 2003*; 2003-17.¹
- "defined contribution benefit" has the meaning assigned to it in section 2 of the *Occupational Pension Benefits Act, 2003*; 2003-17.¹
- "disposition" includes any trust, grant, agreement or arrangement;
- "double taxation relief" means relief from tax under Part IV;
- "emoluments" includes salary, wages, overtime remuneration, bonus, commission, retirement plan benefits and retiring allowances, any amount in respect of services, any prerequisite (including the benefit of a rent free residence or any sum paid *in lieu* thereof), directors' fees that are subject to tax under this Act and that arise or accrue in or derive from or are received in Barbados; 1980-12, 1984-19, 1986-25, 1992-28.
- "employee" means an individual in the service of some other person, including the Crown, the Government or the Crown in right of its government of any part of the Commonwealth outside Barbados

¹Act 2003-17 has not been proclaimed.

or a foreign state or sovereign, and includes an officer, and "employment", "employer" and "employed" have corresponding meanings;

1998-42. "equity interest" has the meaning assigned to it by section 2 of the
Cap. 320B. *Mutual Funds Act*;

1971-42. "fiscal period", in relation to a company or other person carrying on a business, means the period for which the accounts of the business have been ordinarily made up and accepted for the purposes of income tax and, in the absence of an established practice, the fiscal period is that adopted by the person with the approval of the Commissioner; but no fiscal period may exceed 53 weeks and no change in a usual and accepted fiscal period may be made for the purposes of this Act without the concurrence of the Commissioner;

"general insurance business" means an insurance business other than a life insurance business or a registered retirement plan business;

"incapacitated person" means a lunatic, idiot, insane person and any other person who is unable by reason of mental incapacity to comply with this Act;

"income year" means

- (i) in the case of a company or other person carrying on a business, a fiscal period; and
- (ii) in the case of an individual, a calendar year, and when an income year is referred to by reference to a calendar year the reference is to the income year coinciding with or ending in that calendar year;

1978-44. "insurance company" means a company carrying on a general insurance business, a life insurance business or a registered retirement plan business;

Cap. 77. "international business company" has the meaning assigned to it by section 3 of the *International Business Companies Act*;

"legal representative" means an executor, administrator or other representative of a deceased person;

"life insurance business" means ordinary life insurance business, industrial life insurance business; general and pension annuity business and retirement plan business, but does not include registered retirement plan business;

"maintenance" means an amount paid by a person in respect of the support of his spouse or children, whether as alimony or otherwise, pursuant to a decree, order or judgment of a competent tribunal, where the amount is paid as one of a number of periodic payments and where the person making the payment is habitually living apart from his spouse or children, as the case may be, at the time the payment is made;

"mutual fund" means a mutual fund authorised to carry on business under the *Mutual Funds Act*; 1998-42.
Cap. 320B

"non-resident" means not resident in Barbados;

"office" means the position of an individual entitling him to a fixed or ascertained stipend or remuneration, and includes a judicial office, the office of a Minister, the office of a member of the Senate or House of Assembly, any other office the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of a corporation director, and "officer" means a person holding such an office;

"pension plan" means a retirement plan registered under the *Occupational Pension Benefits Act, 2003*; 2003-17.¹

"preference dividend" means a dividend payable on a preferred share or preferred stock at a fixed gross rate per cent, issued by a resident company before the 1st January, 1975, or, where a dividend is payable on such a preferred share or preferred stock partly at a fixed gross rate per cent and partly at a variable rate, such part of that dividend as is payable at a fixed gross rate per cent; 1975-8.

¹Act 2003-17 has not been proclaimed.

"prescribed" in the case of a table, a form, or the information to be given in a form, means prescribed by order of the Commissioner, and, in any other case, means prescribed by regulation;

"property" means property of any kind whatsoever, whether real or personal, corporeal or incorporeal, and, without restricting the generality of the foregoing, includes a right of any kind whatsoever, a share, or a *chose in action*;

"purchased annuity" means an annuity granted for adequate consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, but does not include

- (i) an annuity purchased under a registered retirement plan; or
- (ii) an annuity purchased by any person in recognition of the past services of any other person; or
- (iii) an annuity purchased under any direction in a will, settlement or trust or purchased to provide an annuity payable under or out of property subject to a will, settlement or trust;

1998-31. "qualifying insurance company" has the meaning assigned to it by
Cap. 310. section 2(1) of the *Insurance Act*;

"registered", except when applied to a unit trust, means accepted by the Commissioner and registered by him for the purposes of this Act, for a specified time or until the registration is withdrawn or cancelled by the Commissioner;

"registered retirement plan business" means any business undertaken for the purpose of establishing and conducting a retirement plan that is in fact a registered retirement plan in the income year in which the business is being carried on;

1998-30. "registered retirement savings plan" means a retirement savings plan approved and registered by the Commissioner for the purpose of this Act that complies with the provisions of this Act and the regulations;

"registered unit trust" means any unit trust declared by an order of the Minister to be a registered unit trust;

"relative" means a person who is related by blood to another person, and for the purposes of this definition a legally adopted child shall be deemed to be related by blood to its adopted parent and to every person to whom the adopted parent is related by blood;

"retirement plan" means

2003-17.¹

- (i) a pension plan;
- (ii) an arrangement or scheme, whether established by legislation, trust, contract or otherwise, whereby a periodic payment is made or an annuity for life is provided to an individual by an employer or former employer of that individual; or
- (iii) a registered annuity contract between an individual and a person carrying on an annuities business, in consideration of payments made by that individual;

"retirement plan benefit" includes any amount received out of or under

¹Act 2003-17 has not been proclaimed.

a retirement plan other than as a premium or consideration for administering the plan, as a pension or otherwise, and, without restricting the generality of the foregoing, includes any payment to a beneficiary under the plan or to an employer or former employer of the beneficiary or his spouse, but does not include a lump sum payment on retirement;

"royalties"¹ means any payment of any kind received as consideration for the use of or the right to use, any copyright of literary, artistic, or scientific work including royalties in respect of motion pictures and works on film, tape or other means or reproduction for use in connection with radio or television, any patent, trademark, design or model, plan, secret formula or process, or scientific experience; 1985-6.

"salary" means the assessable income of a person from an office or employment and includes all fees for services not rendered in the course of a business of that person but does not include retirement plan benefits or allowances on retirement;

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets;

"settlor" includes any person by whom a settlement was made or entered into, either directly or indirectly, and, without restricting the generality of the foregoing, includes any person who has provided or undertaken to provide funds directly or indirectly for the purpose of a settlement or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement;

"share" includes any interest in the capital of a company;

"shareholder" includes any member of a company, whether the capital of that company is divided into shares or not;

"sister" means a female person who is related to another person because each is a child of the same third person;

¹ Has effect from year of income 1984.

"tax" means

- (i) in relation to a person liable to tax under subsection (1) of section 3, the income tax imposed by that subsection,
- (ii) in relation to a company the corporation tax imposed by section 3(2);

"taxable income" means assessable income less the deductions permitted by Divisions L to Q of Part II;

"unit trust" means any arrangement that provides facilities for the participation by persons as beneficiaries under a trust in which an interest in the property subject to the trust or in the income or other gains arising therefrom may be purchased in the income or other gains arising from the acquisition, holding, management or disposal of securities or any other property whatsoever;

"wages" means the assessable income of a person from an office or employment not rendered in the course of a business of that person but does not include retirement plan benefits or allowances on retirement; and

"year of assessment" means the year following an income year.

(2) For the purposes of this Act, where, in an income year, a non-resident person

- (a) produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed, in whole or in part, anything in Barbados, whether or not he exported that thing without selling it prior to exportation; or
- (b) solicited orders or offered anything for sale in Barbados through a factor, agent or servant, whether the contract or transaction was to be completed inside or outside Barbados or partly in and partly outside Barbados,

he shall be deemed to have been carrying on business in Barbados in that income year and the income of that business shall be deemed to be income derived from Barbados for that income year.

(3) For the purposes of this Act, in determining whether a person, alone or together with others, exercises control over another person, a relationship of control shall be deemed to exist where

- (a) that other person is a company and that first person, alone or together with those others, holds a majority of the shares of the company or otherwise possesses by himself, a relative, a relative of his wife or a nominee sufficient voting power to ensure that the affairs of the company are conducted in accordance with his wishes; and
- (b) that other person is a member of a partnership and that first person has a right to more than one-half of the assets or income of the partnership

and in determining whether a certain number of persons exercise a relationship of control over a company, persons in partnership and persons interested in the estate of a deceased person or in property held in trust shall, respectively, be deemed to be a single person.

(4) For the purposes of this Act, "industrial building or structure" 1983-21. means a building or structure in use or purchased, constructed, reconstructed, altered or adapted to be used for the purposes of

- (a) an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy; or
- (b) a trade carried on in a mill, factory or other similar premises; or
- (c) a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or
- (d) a trade which consists in the storage of goods or materials
 - (i) which are to be used in the manufacture of other goods or materials, or
 - (ii) which are to be subjected in the course of trade to any process, or

- (iii) which, having been manufactured or produced or subjected in the course of trade to any process, have not been delivered to a purchaser; or
- (e) a trade which consists in the working of any mine, oilwell or other source of natural deposits capable of being lifted or extracted from the earth; or
- (f) scientific research, exclusively,

and includes any building or structure provided by the person carrying on such trade or undertaking for the welfare of workers employed in that trade or undertaking and in use for that purpose, but does not include any building or structure in use as, or part of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office or for any purpose ancillary to the purposes of a dwelling-house, retail shop, premises used for making repairs, showroom, hotel or office. In determining whether a building or structure is an industrial building or structure

- (i) a part of a trade or undertaking shall be deemed to be severable from the remainder of that trade or undertaking and to constitute a separate trade or undertaking, and
- (ii) where part of a whole building or structure could be classified as an industrial building or structure and part could not and the capital expenditure in respect of the part that could not be so classified is not more than 10 per cent of the total capital expenditure on the building or structure, the whole building shall be deemed to be an industrial building or structure; and where such percentage exceeds 10 per cent, the whole building shall be deemed not to be an industrial building or structure.

(5) For the purposes of this Act

1996-5.

- (a) a person shall be deemed to be resident in Barbados in an income year if that person
 - (i) spends in the aggregate more than 182 days in Barbados in that income year, or

- (ii) is ordinarily resident in Barbados in the relevant income year;
- (b) a person shall be deemed not to be resident in Barbados in an income year if he
- (i) did not spend in the aggregate more than 182 days in Barbados in that income year,
- (ii) was not domiciled in Barbados at any time in that income year, and
- (iii) gives notice in writing to the Commissioner within the time limited by this Act for delivering his return of assessable income for that income year to the Commissioner that he wishes to be treated as a non-resident in respect of that income year.
- (6) For the purposes of sub-paragraph (ii) of paragraph (a) of subsection (5), a person shall be deemed to be ordinarily resident in Barbados in an income year if that person ^{1996-5.}
- (a) has a permanent home in Barbados; and
- (b) has given notice to the Commissioner that he intends to reside in Barbados for a period of at least two consecutive income years, including the income year in question.
- (7) For the purposes of subsection (6) "permanent home" means ^{1996-5.} accommodation in Barbados which is permanently available for the use of the person in question but does not include accommodation retained for his use in Barbados solely as a vacation property.

PART VII

Transitional and Expiring Provisions

- 86.** (1) This Act applies and has effect in respect of the 1968 ^{Coming into force and repeal. 1921-6.} income year and subsequent income years.
- (2) to (4) *Spent.*

(5) The *Income Tax Act, 1921* is repealed with effect from and after 31st December, 1973.

(6) to (12) *Spent.*

87. *Spent.*

Expiring
provisions.

88. (1) In calculating the assessable income of an individual for an income year, an annuity payment or part thereof paid under an annuity policy that was purchased in Barbados before the 1st January, 1953 and that provides that the aggregate amounts paid thereunder as annuity payments cannot be less than the purchase price of the policy, to the extent that, when taken together with all such payments previously made under the policy, it does not exceed the purchase price of the policy, shall not be included.

(2) *Spent.*

(3) In calculating the taxable income for an income year of an individual who has made a payment in that income year under a requirement of a settlement made before the 29th September, 1966, paragraph (a) of section 34 shall be deemed to read as follows

"(a) the payments are made to or applicable for the benefit of another individual under a requirement of the settlement that such payments will be made every year for a period of not less than 7 years or for the life of that other individual, whichever is the longer period, or under a requirement of a settlement made before 29th September, 1966 that such payments will be made every year for a period of not less than 7 years."

(4) In calculating the taxable income of an individual for an income year, if in that income year the individual has maintained a policy of insurance on his life or on the life of his wife or child and he had maintained that policy of insurance before the 1st January, 1953, section 31 may at the option of that individual be deemed to read as follows

"31. In calculating the taxable income of an individual for an income year, there shall be deducted from the assessable income of that individual in respect of a policy of insurance on the life of that individual or on the life of his wife or child, not exceeding

- (a) in the case of any one policy an amount equal to 7 per cent of the capital sum assured on death under that policy;
- (b) in total, an amount equal to one-sixth of the assessable income of that individual for that income year; or
- (c) in total, \$960

1969-51.

whichever is the least."

(5) In calculating the taxable income for an income year of a person who has made contributions under a retirement plan which was registered before 2nd January, 1969, subsection (3) of section 32 shall be deemed to read as if for the references therein to 15 per cent there was substituted in each case a reference to 20 per cent.

FIRST SCHEDULE

1987-26.
1990-27

(Sections 12, 14A and 14A.1)

METHOD OF CALCULATING EXPORT ALLOWANCE

1. An export allowance set off for the purpose of subsection (1) of section 14A shall be calculated as follows

<i>Export profits as percentage of total profits</i>	<i>Rebate of income tax as a percentage of income tax on export profits</i>
up to 20%	35%
21% but under 41%	45%
41% but under 61%	64%
61% but under 81%	79%
81% and over	93%

THE LAWS OF BARBADOS

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2. For the purposes of calculation, export profits shall be deemed to be profits arrived at by the formula $\frac{E \times P}{S}$ where

- (a) 'E' represents the proceeds of sales (ex-factory) of the out-put of the company exported to a country other than a country within the Common Market during its income year;
- (b) 'P' represents the profits of the company from all sales of the product in respect of which the allowance is granted for its income year;
- (c) 'S' represents the proceeds of sales (ex-factory) of the total out-put of the enterprise during its income year.

1987-26.
1998-31.

SECOND SCHEDULE

(Sections 12D, 12E and 12G)

PART I

Expenditure on Market Research and Development

1. Fares, accommodation and subsistence incurred by the taxpayer himself or his employee on overseas promotional tours or market research and development.
2. Salaries and wages in respect of time spent outside Barbados by an employee primarily and wholly for the purpose of promoting exports.
3. Payments to an agent in Barbados in respect of travel undertaken by that agent outside Barbados in respect of promotion work on behalf of the taxpayer. The agent must be involved in export promotion. If he is not so fully engaged expenditure must be apportioned. Expenses of commissions on sales are not allowable.
4. Payments to an agent outside Barbados primarily and principally engaged in export sales promotion on behalf of the taxpayer. Commissions on sales are not allowable.
5. Expenses of employees based overseas.
6. Expenses of advertising or other means of soliciting business outside Barbados.
7. Expenses of bringing potential customers to Barbados (travel, accommodation and subsistence).

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8. Expenses of exhibiting at overseas exhibitions, trade-fairs or similar activities.
 9. Expenses of providing free samples to overseas buyers or agents for the purpose of inducing sales, or the provision of technical information. (Gratuities are not allowable).
 10. The training in Barbados of independent overseas agents or buyers for the purpose of the promotion of export sales.
 11. Payments to associations approved by the Minister for carrying out export promotional activities for their members.
 12. Costs of preparing overseas tenders and quotations.
 13. Costs of brochures, pamphlets or similar products primarily for overseas distribution.
 14. Communication costs.

PART II

Expenditure Incurred in Tourist Industry

1. Fares, accommodation and subsistence of the taxpayer or his employee travelling from Barbados overseas on tourist promotion, exclusive of the cost of a holiday trip.
2. Salaries and wages paid to employees during their travel overseas to promote tourism, calculated proportionately in accordance with the duration of the trip.
3. Payments to an agent in Barbados engaged in tourist promotion, to undertake promotion work overseas on behalf of the taxpayer. Commissions on sales are not allowable.
4. Costs (other than capital costs) of establishing and maintaining a permanent overseas sales representative as an employee to engage primarily and principally in tourist promotion for the benefit of the taxpayer.
5. Costs of advertising or other means of soliciting business or publicity outside Barbados.
6. Costs of supplying brochures or pamphlets for distribution abroad.

7. Expenditure incurred at fairs, exhibitions and travel marts, for tourist promotion.

8. Expenditure on overseas market research or on the obtaining of overseas market information.

9. Contributions to joint tourist promotion arrangements to be carried out abroad.

10. Costs of bringing to Barbados tour operators for briefing where the promotion of tourist services is the sole objective.

PART III

Qualifying Overseas Construction Projects

1996-5. 1. Work in connection with the construction, erection, installation, repair, maintenance, cleaning, painting, renewal, removal, alteration, dismantling or demolition of

(a) any building, erection, edifice, structure, wall, fence or chimney, whether constructed wholly or partly above or below ground level;

(b) any road, motorway, harbour works, railway, cableway, tramway, canal or aerodrome;

(c) any drainage, irrigation or river control;

(d) any electricity, water, gas, telephone or telegraph reticulation;

(e) any bridge, viaduct, dam, reservoir, earthworks, pipeline, aqueduct, culvert, drive, shaft, tunnel or reclamation;

(f) any scaffolding.

1996-5. 2. Architectural services.

3. Construction projects.

4. Engineering projects.

5. Management consultancy.

6. Technical and administrative services.

PART IV

Qualifying Overseas Professional Services

1. Architectural (including contract supervision) services, surveying, valuation, design or planning services.
2. Economic evaluation and research.
3. Engineering services (including contract supervision).
4. Technical and advisory services performed or supplied in relation to the 1990-27 following activities
 - (a) establishment or maintenance of accounting systems;
 - (b) establishment, maintenance or development of any agricultural project;
 - (c) establishment or maintenance of auditing systems;
 - (d) establishment or maintenance of computer software systems;
 - (e) establishment, maintenance or development of any farming project;
 - (f) establishment, maintenance or development of any fishing project;
 - (g) establishment, maintenance or development of any horticultural project;
 - (h) establishment or maintenance of management systems;
 - (i) establishment or maintenance of organisational systems;
 - (j) establishment or maintenance of training systems;
 - (k) the encouragement, development or establishment of business in Barbados by foreign investors or non-nationals;
 - (l) repair work carried out in Barbados on foreign owned assets temporarily imported into Barbados.
5. Construction projects. 1996-5.
6. Management consultancy. 1996-5.
7. Public accountancy services. 1996-5.
8. Administrative services. 1996-5.
9. Legal, trust and corporate secretarial services. 1996-5.

1996-5.	10. Entertainment.
1996-5.	11. Medical and Dental services.
1996-5.	12. Cultural services and Sports.
1998-31. Cap. 310.	13. Services in respect of insurance business including re-insurance of risks undertaken in the course of carrying on an insurance business and investment or other business activities undertaken in connection with the insurance business by a company registered under the <i>Insurance Act</i> .
2005-22.	14. Information services.
2005-22.	15. Education services.
2005-22.	16. Investment management services.
2005-22.	17. E-commerce services.

THIRD SCHEDULE

(Section 23E)

METHOD OF CALCULATING ACCOUNTING PERIOD

1. Where an accounting period of a surrendering company and a corresponding accounting period of a claimant company do not coincide

(a) the amount which may be set off against the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{B}$$

where that fraction is less than unity; and

(b) the total profits of the claimant company for the corresponding accounting period shall be reduced by applying the fraction

$$\frac{A}{C}$$

where that fraction is less than unity.

2. For the purpose of calculation

(a) 'A' is the length of the period common to the 2 accounting periods;

- (b) 'B' is the length of the accounting period of the surrendering company;
- (c) 'C' is the length of the corresponding accounting period of the claimant company.

FOURTH SCHEDULE

1996-5.

(Section 12H)

1. A foreign currency allowance set off for the purposes of subsection (1) of section 12H shall be calculated as follows:

<i>Profits from foreign currency earnings as percentage of total profits</i>	<i>Rebate of income tax as percentage of income tax on net profits from foreign currency earnings</i>
up to 20%	35%
21% but under 41%	45%
41% but under 61%	64%
61% but under 81%	79%
81% and over	93%

2. For the purposes of calculation, profits from foreign currency earnings shall be deemed to be profits arrived at by the formula

$$\frac{\text{FCE} \times \text{P}}{\text{TE}}$$

where

- (a) "FCE" represents the foreign currency earnings transferred to the credit of that person within the relevant income year in accordance with section 12H;
- (b) "P" represents the net profits from all sources;
- (c) "TE" represents the total gross earnings from all sources.

1998-31.

FIFTH SCHEDULE

(Section 12H)

1. A foreign currency earnings allowance set off for the purposes of subsection (1) of section 12H shall be calculated as follows:

<i>Premiums from foreign insurance business as a percentage of total premium income</i>	<i>Rebate of income tax, expressed as a percentage of income tax applicable to foreign insurance business</i>
20% and under	35%
over 20% but under 41%	45%
41% but under 61%	64%
61% but under 81%	79%
81% and over	93%

2. For the purposes of this calculation the income tax applicable to foreign insurance business shall be deemed to be

$$\frac{\text{FP} \times \text{TT}}{\text{TP}}$$

where

- (a) "FP" represents in respect of foreign insurance business
 - (i) premiums net of re-insurances, and
 - (ii) investment income;
- (b) "TP" represents in respect of both foreign and local insurance business
 - (i) premiums net of re-insurances, and
 - (ii) investment income; and
- (c) "TT" represents tax in respect of both foreign and local insurance business.

-
3. (1) For the purposes of this *Schedule*
- (a) "foreign insurance business" means insurance business in respect of which the risks and the premiums originate outside the Common Market, and includes investment and other business activities related to that business;
 - (b) "tax" includes all amounts payable under section 43, 43A or 44 of this Act, but shall not include any tax on premiums;
 - (c) "Common Market" has the meaning assigned to it by section 6(1) of the *Caribbean Community Act*; and Cap. 15.
 - (d) "premiums" and "premium income" include all business income derived from the insurance business being carried on, except for investment income.
- (2) The tax referred to under subsection (1)(b) shall be calculated taking into account the relief from tax granted in accordance with section 82 or 83.
- (3) Paragraphs (a), (b) and (c) of section 19(1) apply to this *Schedule*.

INCOME TAX (AMENDMENT) ACT, 2009 – 6

Arrangement of Sections

Section

1. Short title.
2. Amendment of section 9 of Cap. 73.
3. Amendment of section 13 of Cap. 73.
4. Amendment of Cap. 73.
5. Insertion of Division OD into Cap. 73.
6. Amendment of section 43A of Cap. 73.
7. Amendment of section 44 of Cap. 73.
8. Amendment of section 52 of Cap. 73.
9. Amendment of Cap. 73.
10. Amendment of section 65 of Cap. 73.
11. Amendment of section 65D of Cap. 73.
12. Amendment of section 67 of Cap. 73.
13. Amendment of section 75 of Cap. 73.
14. Amendment of section 78 of Cap. 73.
15. Commencement of certain provisions.

BARBADOS

I assent
C. STRAUGHN HUSBANDS
Governor-General
30th March, 2009.

2009 - 6

An Act to amend the Income Tax Act.

(6th April, 2009). Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Income Tax (Amendment) Act, 2009*. Short title.
2. Section 9 of the principal Act is amended in subsection (1) by, deleting sub-paragraph (iv) of paragraph (1). Amendment of section 9 of Cap. 73.

Amend-
ment of
section 13
of Cap. 73.

3. Section 13 of the principal Act is amended

(a) in subsection (1) by,

- (i) deleting the comma appearing at the end of paragraph (e) and inserting the words “;or”;
- (ii) inserting immediately after paragraph (e) the following as paragraph (f):

“(f) an energy audit and the retrofitting of a building or the installing of a system to produce electricity from sources other than fossil fuels;”;

(iii) inserting immediately after sub-paragraph (v) the following as sub-paragraph (vi):

“(vi) in the case of an energy audit and retrofitting of a building, or the installing of a system to provide electricity from sources other than fossil fuels, 20 per cent of the amount expended to be deducted over a period of 5 years,”;

(b) inserting as subsection (2) the following:

“(2) A person who claims a deduction under section 37H is not entitled to claim an allowance by virtue of sub-paragraph (vi) of subsection (1).”;

(c) by deleting subsection (3A) and substituting the following:

“(3A) Subsection (3) shall not apply in the case of sub-paragraphs (iv) and (vi) of subsection (1) where the total depreciable amount is equal to 150 per cent of the capital expenditure.”.

4. The principal Act is amended by inserting immediately after section 36B the following new section as section 36B.1. Amendment of Cap. 73.

“Savings in Co-operative Societies. Cap. 378A. **36B.1.** (1) With effect from income year 2008, in calculating the taxable income for an income year of an individual there shall be deducted from the assessable income of that individual an amount not exceeding \$3 000 of savings deposited during the income year in a co-operative society registered under the *Co-operative Societies Act*, if there has been no withdrawal from the amount deposited as savings, on the certificate to that effect of an officer within the meaning of section 2 of the *Co-operative Societies Act*.

(2) Where an individual withdraws an amount in respect of which a deduction was made, within 3 years from the end of the income year from a co-operative society, the amount withdrawn shall be brought back into charge to tax in the year in which the withdrawal was made.”

5. The principal Act is amended by inserting immediately after Division OC the following as Division OD: Insertion of Division OD into Cap. 73.

“DIVISION OD

Calculation of Taxable Income:

Energy conservation and renewable energy deduction.

“**37H.** (1) With effect from income year 2008, in calculating the taxable income of a person, there shall be deducted from the assessable income of that person amounts expended equal to 150 per cent of

INCOME TAX (AMENDMENT) ACT, 2009-6

the actual expenditure and not exceeding \$5 000 for each year for 5 years in respect of the conducting of

- (a) energy audits; and
- (b) 50 per cent of the cost of retrofitting premises or installing systems to produce electricity, from sources other than fossil fuels.

(2) A person who claims a deduction under section 37(1B) is not entitled to claim the deduction allowed by virtue of this section.

(3) Notwithstanding subsection (2), a person who has not claimed a deduction under section 37(1B) may also claim a deduction under subsection (1) in respect of residential property which that person owns, but does not occupy.

(4) In this section,

“authorized energy auditor” means a person who is recognized by the Minister responsible for Energy as being suitably qualified in the field of energy with regard to residential and non-residential properties by reason of his having the appropriate certification or technical skills and experience to provide an energy audit for residential and non-residential properties;

“energy audit” means an evaluation by an authorized energy auditor of the energy consumption in a residential or non-residential property to determine ways in which energy can be conserved.”

6. Section 43A of the principal Act is amended

Amend-
ment of
section 43A
of Cap. 73.

(a) in subsection (1), by deleting the words “in respect of income year 1978” and substituting the words “with effect from 1st January, 2009”;

(b) in subsection (2),

(i) by deleting paragraph (a) and substituting the following:

“(a) in respect of a company carrying on property insurance business 4.75 per cent of the gross direct premium in respect of resident and non-resident insurers;”;

(ii) by deleting the words “3 per cent” appearing in paragraph (b) and substituting the words “4 per cent”.

7. Section 44 of the principal Act is amended by deleting the opening words and paragraph (a) of subsection (2) and substituting the following:

Amend-
ment of
section 44
of Cap. 73.

“(2) With effect from the 1st January, 2009 the additional tax payable by a company deemed to be a separate person carrying on the life insurance business of an insurance company shall be,

(a) in the case of a resident or foreign company, at the rate of 6 per cent of the gross direct premium income on new business written by the company for the income year;”.

8. Section 52 of the principal Act is amended in subsection (2) by deleting paragraph (f) and substituting the following:

Amend-
ment of
section 52
of Cap. 73.

“(f) an individual referred to in paragraph (b) of subsection (1) of section 38B whose assessable income exceeds \$40 000 with effect from income year 2007;”.

Amend-
ment of
Cap. 73.

9. The principal Act is amended by inserting immediately after section 64H the following as sections 64I and 64J:

“Withhold-
ing tax from
savings
deposited
in co-
operative
societies.
Cap. 378A.

64I. (1) The manager of a co-operative society registered under the *Co-operatives Societies Act* shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from amounts deposited as savings in the society by a resident individual, and in respect of which a deduction was made under section 36B.1. where the withdrawal is made within 3 years of the end of the income year during which it was deposited.

(2) The tax withheld under subsection (1) shall be paid to the Commissioner within 7 days of being withheld, and shall be accompanied by a return in such form as is approved by the Commissioner.”

“Withhold-
ing tax
investments
invested
and disposed
of within
5 years.

64J. (1) Where any investments

(a) described in

(i) section 8 (1)(g)(iii); or

(ii) section 9(1)(p), (p.1), (p.2) or (s); or

(b) the benefit of which is described in section 9(1)(ss)

are disposed of within 5 years of the date of purchase then the person making or liable to make the payment, disbursement or redemption in respect of such disposal shall, unless the Commissioner otherwise directs, withhold tax at the rate of 20 per cent from such amounts.

(2) The tax withheld under section (1) shall be paid to the Commissioner within 7 days of being withheld and shall be accompanied by a return in such form as is approved by the Commissioner.”

10. Section 65 of the principal Act is amended by inserting immediately after subsection (4D) the following as subsection (4E):

Amendment of section 65 of Cap. 73.

“(4E) With effect from income year 2007, subsection (4) shall not apply to dividends other than preference dividends paid to a non-resident shareholder when the amount paid as dividends is derived from income earned from sources outside of Barbados.”.

11. Section 65D of the principal Act is amended in subsection 2 by,
(a) deleting paragraph (b) and substituting the following:

Amendment of section 65D of Cap. 73.

“(b) for income year 2008, and subsequent income years the amount of \$1 300.”; and

(b) deleting paragraph (c).

12. Section 67 of the principal Act is amended

Amendment of section 67 of Cap. 73.

(a) by deleting subsections (2) and (3) and substituting the following:

“(2) A person who fails to deduct, withhold or pay an amount that he is required by sections 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A) or (5) to deduct, withhold or pay within the time prescribed shall pay to the Commissioner a penalty equal to 10 percent of the amount that was not deducted, withheld or paid, or \$10, whichever is the greater.

(3) A person who fails to pay an amount that he is required by sections 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A), (5) or 66(IA) to pay at or within the time prescribed shall, in addition to the penalty imposed by subsection (2), pay to the Commissioner an amount as interest at the rate of 0.5 per cent per month calculated for each month during which any part of that amount was not paid on the largest amount that had not been paid at any time in that month.”.

INCOME TAX (AMENDMENT) ACT, 2009-6

- (b) by inserting immediately after subsection (3) the following as subsection (3A);

“(3A) A person who knowingly fails to deduct or withhold an amount that he is required by section 19(12), 64, 64B, 64C, 64D, 64E, 64F, 64G, 64H, 64I, 64J, 65(2), (4), (4A) or (5) to deduct or withhold, within the time prescribed shall, unless the Commissioner otherwise directs, in addition to the penalty imposed by subsection (2), pay to the Commissioner an amount equal to the amount of tax which was required to be deducted or withheld, as a penalty.”;

- (c) by deleting subsection (8) and substituting the following:

“(8) A person who knowingly evades or attempts to evade payment of tax under this Act shall, in addition to the tax, and penalty imposed by subsection (5), and the interest imposed by subsection (3) and subsection (6), pay to the Commissioner an amount not exceeding 100 per cent of the amount of tax evaded, or sought to be evaded, as a penalty.”;

- (d) by inserting immediately after subsection (10) the following as subsections (11) and (12):

S.I. 1969/
109. “(11) A person who fails to submit information to be supplied in a return of income or an information return as required by the Act and *Income Tax Regulations, 1969*

- (a) in the prescribed form;
- (b) within the time required; or
- (c) within such further period as the Commissioner may in writing allow and unless the Commissioner otherwise directs

shall, in addition to any other penalties imposed by this Act or regulations, pay

- (a) a penalty of \$100; and
- (b) \$10 for every day the failure continued.”.

13. Section 75 of the principal Act is amended by inserting immediately after subsection (4) the following as subsection (5):

Amendment of section 75 of Cap. 73.

“(5) Every person required to deliver a return of his assessable income for an income year as set out in section 52(2)(e) and (f) shall

- (a) keep adequate records for the purposes of this Act; and
- (b) retain every such record, voucher or other record necessary to verify such record

for a period of up to 5 years after the end of the relevant income year, unless the Commissioner otherwise directs, before the disposal of the records.”.

14. Section 78 of the principal Act is amended by inserting immediately after subsection (3) the following as subsection (4):

Amendment of section 78 of Cap. 73.

“(4) Where a person has been appointed to act in a representative capacity under subsection (1) as a liquidator or receiver, the Commissioner shall be informed of the appointment not later than 14 days after the date of the appointment.”.

15. The amendments directed to be made to

Commencement of certain provisions.

- (a) sections 13(1)(f), 13(1)(vi), 13(3A) of the principal Act shall be deemed to have taken effect from income year 2008; and
- (b) section 64I of the principal Act shall take effect from income year 2009.

CRIMINAL APPEAL (AMENDMENT AND MISCELLANEOUS
PROVISIONS) ACT, 2009-12

SCHEDULE

(section 5)

Column 1

Column 2

Enactments

Amendments

2 *Income Tax Act,*
Cap. 73

In section 61, delete

(a) the words "Privy Council" appearing therein; and

(b) subsection (2) and substitute the following:

“(2) An appeal on a point of law shall lie as of right to the Caribbean Court of Justice from any decision of the Court of Appeal under this Section.”.