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Third Session Eighth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 21 of 2005

[L.S.]

AN ACT to provide for the imposition or variation of
certain taxes and to introduce other provisions of a
fiscal nature and for related matters

[Assented to 22nd July, 2005]

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title **1.** This Act may be cited as the Finance Act, 2005.

PART II

OLD AGE PENSIONS

Section 3 amended
Chap. 32:02 **2.** Section 3 of the Old Age Pensions Act is amended—

(a) in subsection (1)(b), by deleting the words “one thousand dollars” and substituting the words “eleven hundred and fifty dollars”; and

(b) in subsection (4) by deleting the words “nine hundred dollars” and substituting the words “one thousand and fifty dollars”.

Validation **3.** (1) The increase in the monthly pension in excess of one thousand dollars paid by the Board to persons on or after 1st October, 2004 is hereby validated.

(2) The increase in the basic pension in excess of nine hundred dollars paid by the Board to persons on or after 1st October, 2004, is hereby validated.

PART III

PUBLIC ASSISTANCE

Chap. 32:03
amended **4.** The Public Assistance Act is amended in section 11A(3) by deleting the words “six hundred and fifty dollars” and substituting the words “eight hundred dollars”.

Validation **5.** The increase in the disability assistance in excess of six hundred and fifty dollars paid by the Board to persons on or after 1st October, 2004, is hereby validated.

PART IV

INCOME TAX

6. (1) The Income Tax Act is amended—Chap. 75:01
amended

(a) in section 18 (1), by deleting paragraph *(a)* and substituting the following:

“(a) has not attained the age of sixty years and whose gross annual income—

(i) does not exceed thirty thousand dollars, shall be entitled to a personal allowance of thirty thousand dollars;

(ii) exceeds thirty thousand dollars but does not exceed thirty-five thousand dollars, shall be entitled to a personal allowance of thirty thousand dollars less one dollar for every dollar of income exceeding thirty thousand dollars; and

(iii) exceeds thirty-five thousand dollars, shall be entitled to a personal allowance of twenty-five thousand dollars;” ;

(b) by repealing section 136(5); and

(c) by repealing section 139.

PART V

CORPORATION TAX

Chap. 75:02
amended

7. The Corporation Tax Act is amended—

(a) in section 3A(2)—

- (i) in paragraph (f), by deleting the fullstop and substituting therefore a semicolon; and
- (ii) by inserting after paragraph (f) the following paragraph:

“(g) with effect from January 01, 2005 the gross sales or receipts of an approved small company referred to in section 16A.”.

(b) in section 7—

- (i) in subsection (3), by deleting the words “subsections (4) and (5)” occurring before the words “, be made in ascertaining the chargeable profits” and substituting the words “subsection (4) and section 10. o”;
- (ii) by deleting subsection (5);

(c) by inserting after section 10N the following section:

“Covenanted
Donations

10. o. (1) Notwithstanding section 7(3)(b), but subject to subsections (2), (3), (4) and (5) where, in a year of income, a company makes a covenanted donation to charity, the company shall be entitled to claim as a

deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to the amount of the covenanted donation payable during that year not exceeding fifteen per cent of the total income of the company.

(2) Where in a year of income, a company makes a covenanted donation to charity, the amount that may be claimed as a deduction under subsection (1) shall not exceed one million dollars.

(3) A company shall not be entitled to claim as a deduction under subsection (1), an allowance which is more than the actual expenditure incurred during that year of income.

(4) A company shall not be entitled to the allowance under this section where the deed or other agreement under which the covenanted donation to charity is made has not been duly stamped in accordance with the Stamp Duty Act by the 31st December of the year in which the deed or agreement was executed.

(5) For the removal of doubt, a company which is granted an allowance under this section shall not also be entitled to a deduction under sections 10E, 10G, 10H, 10I, 10J and 10K in respect of the expenditure claimed under this section.

(5A) For the purpose of ascertaining the chargeable profits of a company for a year of income, the aggregate deduction or allowance that may be claimed under section 10E, 10G, 10H, 10I, 10J, 10K and this section shall not exceed the sum of one million dollars.

(6) For the purposes of this section, “covenanted donation to charity” means a payment under a deed of covenant or other agreement, made by a company in favour of—

- (a) a sporting body of persons as defined by section 6(2) approved by the President in writing; or
- (b) an ecclesiastical, charitable, or educational institution of a public character approved by the President in writing.”.

(d) in the Table under section 19, by deleting the words “Section 21 (Donations to charity, etc.)”.

Validation of acts
done by the Board

8. Every act or thing done by the Board of Inland Revenue in relation to its approval, prior to the coming into operation of the Finance Act, 2005, of covenanted donations to a charity made by a company, is hereby validated and declared to have been lawfully done by the Board.

PART VI

UNEMPLOYMENT LEVY

9. The Unemployment Levy Act is amended— Chap. 75:03

(a) in section 2(1) by inserting in the appropriate place the following definition:

“Board of Inland Revenue” or
“Board” means the Board of
Inland Revenue established by
section 3 of the Income Tax Act;”

Chap. 75:01

(b) by deleting section 6 and substituting the following section:

“ 6. Subject to this Act, the levy shall be charged in accordance with section 7 on the taxable profits of a person for a financial year, in respect of which taxable profits for petroleum profits tax purposes are ascertained.”;

(c) in section 8—

(i) by deleting subsections (1), (2) and (3) and substituting the following:

“ (1) Subject to this Act, the levy shall be computed and assessed on the taxable profits of a person for a current financial year and there shall be paid by that person to the Board on or before 31st March, 30th June, 30th September and 31st December respectively in each year, an amount equal to one-quarter of the levy estimated for that current year.

(2) If all or any part of the levy is not paid by the end of a quarter, the outstanding levy shall carry interest at the rate of twenty per cent a year from the date on which the quarterly installment was due to the date of payment.”;

- (ii) by renumbering subsection (4) as subsection (3);

(d) in section 9—

- (i) by deleting subsections (1) and (2) and substituting the following:

“ (1) The Board may estimate the amount of the levy payable by a person in each quarter of a current financial year where that person fails to pay over the levy by the end of the quarter referred to in section 8(1).”;

- (ii) by renumbering subsections (5) and (6) as subsections (2) and (3) respectively;
- (iii) in subsection (2) as renumbered, by deleting the words “section 8(3)” wherever occurring and substituting the words “section 8(2)”; and
- (iv) in subsection (3) as renumbered, by deleting the words “section 8(4)” and substituting the words “section 8(3)”.

PART VII

PETROLEUM TAXES

10. The Petroleum Taxes Act is amended—Chap. 75:04
amended

- (a) by repealing subsection (1) of section 7 and substituting therefor the following new subsections:

“ (1) Petroleum profits tax shall be computed and assessed on the taxable profits of a person for a current financial year and there shall be paid by that person to the Board on or before 31st March, 30th June, 30th September and 31st December respectively in each year, an amount equal to one-quarter of the tax estimated on its taxable profits for that current year.

(1A) Supplemental petroleum tax shall be computed and assessed on a quarterly basis upon the gross income of a person for the quarters ending on 31st March, 30th June, 30th September and 31st December respectively and shall be paid by that person to the Board by the fifteenth day of the month following the end of each quarter.

(1B) If all or any part of the taxes payable under this section are not paid by the end of a quarter, the outstanding taxes shall bear interest at the rate of twenty per cent a year from the date on which the quarterly instalments were due to the date of payment”.

(b) by deleting the words “only after the commencement of commercial production” occurring in section 15(1A) and substituting the words “from the year following the year in which the expenditure was actually incurred”;

(c) by inserting after section 17, the following section:

^{*Management Charges} 17A. (1) Notwithstanding the provisions of section 10 of the Income Tax Act, where a person carrying on any of the separate businesses makes any payment in respect of management charges to a person not resident in Trinidad and Tobago, there shall be allowed to that person a deduction of an amount equal to the sum of such payments for the financial year or to two per cent of outgoings and expenses allowed under that section (exclusive of all management charges and special allowances) of that business, whichever is the lesser of the two amounts.

(2) In subsection (1), “management charges” means charges made for the provision of management services and charges made for the provision of personal services and technical and managerial skills, head office charges, foreign research and development fees and other shared costs charged by head office.”;

(d) in section 18A, with effect from January 1, 2003, by inserting the words “10I,” immediately after the words “10G,” occurring in line one;

- (e) in section 21, by inserting after subsection (1) the following:

“ (1A) For the purposes of this section, the gross income derived from the disposal of condensate along a pipeline shall be deemed to have been earned by the company in respect of which a licence was issued to produce petroleum.”;

- (f) by repealing sections 22A, 25, 25B, 26, 26A, 26B, 26C and 26D and substituting the following new section:

“ 22A. (1) For the purposes of ascertaining the gross income of a person derived from the production of crude oil, the initial producer shall be deemed to have produced the condensate recovered from a gas pipeline.”

(2) In this section “initial producer” means the person to whom a licence is issued to produce the petroleum.”;

- (g) by inserting in Part III (MISCELLANEOUS AND GENERAL) a new section 26E as follows:

“ 26E. An allowance for decommissioning or abandonment costs under this Act may be claimed only in the year in which the work in respect of the decommissioning or abandonment was actually performed.”;

Chap. 76:01
amended

- (h) by deleting item 1 of the Third Schedule and substituting the following:

“ 1. In this Schedule, “weighted average crude oil price” means the gross income derived by a company from the disposal of crude oil during a particular quarter, divided by the gross volume of crude oil disposed of for that quarter.

1A. For the purposes of item 1, the quarters referred to are the period of three months ending on March 31st, June 30th, September 30th and December 31st of a financial year.”;

(i) in item 2—

- (i) by deleting the words “and land”;
- (ii) by deleting the marginal note and by substituting the following marginal note:

“Rates for Marine Operations”;

(iii) in relation to Marine Operations—

(A) at paragraph (a), by deleting the words “U.S.\$13.00” and substituting the words “U.S.\$15.00”;

(B) at paragraphs (b) and (c), by deleting the words “or sub-licence” and substituting the words “sub-licence or contract” and by inserting after the words “licensed area” the words “or area subject to the contract” wherever appearing;

(iv) by inserting immediately before the heading “Land Operations” the following new item:

“Rates for
Land
Operations

3. The tax chargeable in respect of petroleum land operations is hereby computed and fixed as follows:”;

- (j) in item 3 as now numbered—
- (i) at paragraph (a), by deleting the words “U.S.\$14.00” and substituting the words “U.S.\$16.50”;
 - (ii) at paragraphs (d), by deleting the words “or sub-licence” and substituting the words “, sub-licence or contract” and by inserting after the words “licensed area” the words “or area subject to the contract”;

(k) Delete items (4) and (5).

(l) by inserting after item 6 of the Third Schedule the following new item:

^{“Production Sharing Contract} 7. The income from marine and land operations derived under a Production Sharing Contract shall be subject to supplemental petroleum tax except where the contract expressly exempts the contractor from the liability to pay the tax.”.

(m) by deleting Part B of the Third Schedule and substituting the following:

“PART B

SCALE OF SUPPLEMENTAL PETROLEUM TAX RATES

US\$ Prices Between	<i>Marine</i>		<i>Land</i>	
	A	B	C	D
\$00.00–\$15.00	0	0	0	0
\$15.01–\$16.50	7	5	0	0
\$16.51–\$18.00	11	6	4	0
\$18.01–\$19.50	15	10	8	1

PART B

SCALE OF SUPPLEMENTAL PETROLEUM TAX RATES

US\$ Prices Between	Marine		Land	
	A	B	C	D
\$19.51-\$21.00	19	11	12	2
\$21.01-\$22.50	23	15	16	2
\$22.51-\$24.00	24	15	17	3
\$24.01-\$25.50	25	17	18	3
\$25.51-\$27.00	26	17	19	3
\$27.01-\$28.50	27	18	20	4
\$28.51-\$30.00	28	19	21	4
\$30.01-\$31.50	29	20	22	5
\$31.51-\$33.00	30	21	23	6
\$33.01-\$34.50	31	22	24	7
\$34.51-\$36.00	32	23	25	8
\$36.01-\$37.50	33	24	26	9
\$37.51-\$39.00	34	25	27	10
\$39.01-\$40.50	35	26	28	11
\$40.51-\$42.00	36	27	29	12
\$42.01-\$43.50	37	28	30	13
\$43.51-\$45.00	38	29	31	14
\$45.01-\$46.50	39	30	32	15
\$46.51-\$48.00	40	31	33	16
\$48.01-\$49.50	41	32	34	17
\$49.51 and over	42	33	35	18".

PART VIII

FISCAL INCENTIVES

11. The Fiscal Incentives Act is amended by inserting Chap. 85:01 after section 25 the amended following new section:

“ 25A. (1) An approved enterprise is entitled to an allowance for capital expenditure under this Act only where such allowance is claimed in—

(a) the year of income in which the expenditure was actually incurred; and

(b) the years immediately following the year of income in which the claim referred to in paragraph (a) was made.

(2) A claim for an allowance under this Act may not be deferred.

PART IX

CUSTOMS ACT

12. (1) The Second Schedule to the Customs Act is Chap. 78:01 amended in item 6(~~aa~~5) by deleting the words amended “\$1,200.00” and substituting the words Second Schedule “\$3,000.00”.

(2) The exemption from customs duty granted on or after October 8, 2004 by an officer of customs in respect of goods not exceeding \$3,000.00 in value which accompany a passenger, shall be deemed to be valid.

PART X

INCOME TAX (IN AID OF INDUSTRY)

13. The Income Tax (In Aid of Industry) Act is Chap. 85:04 amended—

(a) by deleting section 16B;

(b) by deleting section 17A and substituting the following:

“ 17A. (1) For the purposes of section 11 of the Income Tax Act, where on or after January 1, 2004, a person carrying on a production business incurs expenditure on the provision of machinery or plant for the purposes of the trade, there shall be made to him from the financial year in which the expenditure was incurred an allowance of twenty per cent calculated on a straight line basis, on the residue of such expenditure after deduction of the initial allowance referred to in section 16(2).

(2) Notwithstanding subsection (1), the provisions of the law existing immediately prior to the commencement of the Finance Act, 2005 shall apply in respect of any unrelieved balance of expenditure for the period ending December 31, 2003.”;

(c) by deleting section 23A;

(d) in section 24, by deleting the words “for that year” occurring in the eighth line of subsection (1) and substituting the words “in accordance with section 15(1A) of the Petroleum Taxes Act”;

(e) by inserting after section 63 the following new sections:

“ 63A. (1) A person is entitled to an allowance for capital expenditure under this Act only where such allowance is claimed in—

(a) the year of income in which the expenditure was actually incurred; and

(b) the years immediately following the year of income in which the claim referred to in paragraph (a) was made.

(2) A claim for an allowance for capital expenditure may not be deferred except a claim for an allowance under section 24 which, in accordance with section 15(1A) of the Petroleum Taxes Act can only be claimed from the year following the year in which the expenditure was actually incurred. Act No. 37 of 1989 amended

(3) Where in a year of income a person has not claimed an allowance to which it is entitled under this Act, the Board shall, for the purpose of computing the residue of expenditure on which the annual allowance will be granted for that year, include an amount equal to the allowance to which the person was entitled in the previous year or years as if the person had in fact claimed the allowance or allowances in the respective years.

63B. (1) Where a person who has ceased to do petroleum business in Trinidad and Tobago has incurred decommissioning or abandonment costs in a year of income and there is insufficient income in that year to set off the total costs of such decommissioning or abandonment, that person may request the Board of Inland Revenue to reopen the returns submitted by him in respect of the financial year immediately preceding the current financial year.

(2) For the purpose of this section, “financial year” has the meaning assigned to it under section 2(1) of the Petroleum Taxes Act.”.

PART XI

SECURITIES INDUSTRY

No. 32 of 1995
amended

14. The Securities Industry Act, 1995 is amended in section 9(1) by deleting the word “five” and substituting the word “seven”.

PART XII

PENSIONABLE EMOLUMENTS

Chap. 23:52

15. Notwithstanding the provisions of the Pensions Act, allowances paid on or after December 6, 2000 to the holders of the offices of School Supervisor I, School Supervisor II, School Supervisor III, Director of School Supervision and Chief Education Officer pending the transfer of the said offices to the Teaching Service shall be taken into account in determining the emoluments of the holders of these offices for pension purposes.

PART XIII

THE FINANCE ACT, 2004

No. 5 of 2004
amended

16. The Finance Act, 2004 is amended in section 11(a) by inserting after the word “subsection”, the word “35” with effect from 1st January, 2004.

PART XIV

GATE FUND

No. 69:01
L.N. No. 198 of 2001
L.N. No. 329 of 2004

17. All moneys credited to and all charges or liabilities on the Dollar for Dollar Fund established under section 43 of the Exchequer and Audit Act shall be transferred to the Government Assistance for Tuition Expenses Fund established under that section upon the coming into operation of this Act.

PART XV

PRIVILEGES AND IMMUNITIES

18. The Privileges and Immunities (Caribbean Court of Justice) (CCJ), Regional Judicial and Legal Services Commission (RJLSC) and the Caribbean Court of Justice Trust Fund) Order, 2004 is amended by deleting clause 7 and substituting the following:

“ 7. Clauses 3, 4, and 5 are deemed to have come into operation on August 22, 2003.”.

PART XVI

COMMENCEMENT

19. Notwithstanding any law, Parts VI, VII, VIII and X shall be deemed to have come into operation on January 01, 2004.

Passed in the House of Representatives this 15th day of July, 2005.

J. SAMPSON-JACENT

Clerk of the House

Passed in the Senate this 19th day of July, 2005.

N. JAGGASSAR

Acting Clerk of the Senate

Senate amendments agreed to by the House of Representatives this 20th day of July, 2005.

J. SAMPSON-JACENT

Clerk of the House