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No. 3 of 2004

**Second Session Eighth Parliament Republic of
Trinidad and Tobago**

HOUSE OF REPRESENTATIVES

BILL

**AN ACT to amend the Central Tenders Board Ordinance,
the Income Tax Act, the Corporation Tax Act, the
Petroleum Taxes Act, the Customs Act, the Finance
Act, the Stamp Duty Act, the Value Added Tax Act
and for matters incidental thereto.**

THE FINANCE BILL, 2004

Explanatory Note

(These notes form no part of the Bill but are intended to indicate its general purport)

Clauses 1 and 2 are the short title and commencement provisions respectively.

Clause 3 seeks to amend the Central Tenders Board Ordinance.

Clause 3(a) seeks to amend section 19(1) by increasing the financial limits of a committee which acts for the Board, from \$100,000 to \$500,000.

In clause 3(b), section 24 would be amended to allow the Board to give consideration to quality and to further ensure that the Government receives the best value for its money.

Clause 3(c)(i) would amend section 27B(2)(a), and in so doing increases the limit on amount payable to consultants appointed by a Permanent Secretary from \$5,000 to \$500,000.

Clause 3(c)(ii) seeks to amend section 27B(2)(b), by increasing the limit on amount payable to consultants appointed by a Tenders Committee from \$25,000 to \$1,000,000.

Clause 4 of the Bill seeks to amend various sections of the Income Tax Act, Chap. 75:01.

Section 2 of the Income Tax Act would be amended by inserting in alphabetical sequence the definition of "total income".

Section 8 of the Income Tax Act would be amended to—

- (a) remove the provision relating to the exempt income in paragraph (k) and to retain the basic personal allowance of twenty-five thousand dollars;
- (b) exempt the interest income whether or not denominated in local currency, that is paid or credited to a resident individual in certain specified categories of investment; and
- (c) remove the definition of "total income" which would be inserted in the general interpretation provision of the Income Tax Act so as to have general applicability in the Act.

Section 11(7) of the Income Tax Act would be amended to remove the requirement for land and building taxes to be paid in the year of income in which the wear and tear allowances are claimed.

Section 18 of the Income Tax Act would be amended to—

- (a) increase the personal allowance of resident individuals who have attained the age of sixty years, from thirty thousand dollars to forty thousand dollars; and
- (b) include individuals who are not resident in Trinidad and Tobago and have attained the age of sixty years to a personal allowance of forty thousand dollars in determining their chargeable income.

Section 28 of the Income Tax Act would be amended—

- (a) to insert additional words in subsection (10) that were inadvertently omitted; and
- (b) in subsection (15) to limit the claims made by a person in determining his chargeable income under section 31(1) to the threshold of twelve thousand dollars imposed under that section.

Section 92(2) of the Income Tax Act would be amended to allow the Board of Inland Revenue to apply a refund of income tax to any other income tax liability a tax payer may have.

Section 99 of the Income Tax Act would be amended to—

- (a) confer on the Board the additional power to determine disputes relating to the quantum of emolument and to allow appeals where there is dissatisfaction in respect of such determinations; and
- (b) to establish a procedure to inform the person providing the emolument of its determination, his rights of appeal and the manner in which such appeals are to be made.

Section 119(2) of the Income Tax Act would be amended to increase the limitation period within which the Board may initiate prosecutions to three years from the date of the commission of an offence or twelve months from the date that the Board becomes aware of the matter respectively.

Section 134(6B) of the Income Tax Act would be amended—

- (a) to allow employers to claim up to one-third of their employees total gross emolument income paid by the employer up to a maximum of twenty-four thousand dollars;
- (b) to require a company to deduct or withhold a tax equal to ten percent of the amount payable under section 134(6B) upon the death of a director or employee by way of refund of contributions; and

(c) to establish procedures, penalty and interest to be paid in respect to taxes deducted or withheld by a company under section 134(6B).

Clause 5 would amend the Corporation Tax Act by amending sections 10G, 10I, 10J, 10K and 10L so as to increase from \$450,000 to \$1,000,000 the maximum allowance which can be claimed by companies which contribute financially towards the promotion of sporting events as well as towards local entertainment productions. Sections 10N would be repealed and substituted by a new provision which would provide that the Minister of Education and the Minister of Culture shall issue certificates that audio-visual or video productions are for educational purposes or promote or reflect local entertainment or culture respectively.

Clause 6 of the Bill would amend the Petroleum Taxes Act, Chap. 75:04, by inserting a new section 18A to make the sections 10G, 10J, 10K, 10L and 10M of the Corporation Tax Act applicable to the Petroleum Taxes Act. This clause seeks to confer tax incentives to companies within the petroleum sector, which sponsor art, culture, sports and audio/video productions.

Clause 7 of the Bill would amend the Stamp Duty Act, Chap. 76:01, to exempt from the payment of stamp duty, all Letters or Powers of Attorney and agreements under hand.

Clause 8(a) of the Bill seeks to amend section 43 of The Miscellaneous Taxes Act, Chap. 77:01 to permit United Independent Petroleum Marketing Company Limited and any other wholesale marketing company designated by the Minister by Order, to collect the road improvement tax.

Paragraph (b) of Clause 8 will repeal Part XIV of the Miscellaneous Taxes Act in which was established the Green Fund. This amendment was embodied in the Finance Act, 2000. The Green Fund was established to introduce with effect from January 2, 2001 a tax at the rate of 0.1 percent to be known as the Green Fund Levy on the gross sales or receipts of all companies conducting business in Trinidad and Tobago.

Paragraph (b) of Clause 8 will achieve, *inter alia*, the following:

(a) The administration of the Green Fund by the Minister of Finance who will disburse monies from the Fund for the purposes certified by the Minister with responsibility for the environment;

(b) the provision of the setting up of accounts, audit practices, levy to be paid with the fund, general penalties and the making of Regulations; and

(c) the delegation of the day-to-day management of programmes funded by the Green Fund to the Minister with responsibility for the Environment.

Clause 9 of the Bill seeks to amend section 45 of the Customs Act, Chap. 78:01. Section 45(1) would be amended to prohibit the importation of armoured, armour-plated, and armoured combat vehicles, except with the written permission of the Minister to whom responsibility for national security is assigned.

Section 45(2) and (4) would be amended to alter the conditions attaching to the importation, by a returning national, of a left-hand drive motor vehicle. The returning national must have attained eighteen years of age and be a citizen or former or the spouse of a citizen or former citizen, of Trinidad and Tobago. He must also have obtained a licence to import the vehicle from the Minister to whom responsibility for trade is assigned.

Clause 10 of the Bill would amend section 4(2) of the Finance Act, 1987, to increase the rate of interest payable by employers for failure to remit health surcharge on time, from fifteen per cent to twenty per cent. This clause also seeks to empower the Board of Inland Revenue to waive the interest.

Clause 11 of the Bill would amend section 35 of the Value Added Tax Act, 1989, to empower the Board Inland Revenue to apply a refund towards the payment of any outstanding tax, interest or penalty payable by the registrant, under the Value Added Tax Act and any other Act administered by the Board. This clause seeks to amend section 35 of the Act by inserting a new subsection (3A) to stipulate the requirements for the filing of returns. This clause also seeks to amend section 44(a) of the Value Added Tax Act to exempt from the payment of value added tax, goods imported by the Defence Force for its own use. Clause 12(c) would amend section 55(2) of the Value Added Tax Act, to empower the President to remit or refund the whole or part of value added tax, on just and equitable grounds. These powers exist under the Income Tax Act and have been made applicable to the Value Added Tax Act, 1989.

Clause 12 would validate the collection by United Independent Petroleum Marketing Company Limited before the commencement of the Act, for which this is the Bill, of the road improvement tax charged under section 43 of The Miscellaneous

BILL

AN ACT to amend the Central Tenders Board Ordinance, the Income Tax Act, the Corporation Tax Act, the Petroleum Taxes Act, the Customs Act, the Finance Act, 1987, the Miscellaneous Taxes Act, the Stamp Duty Act, the Value Added Tax Act and for matters incidental thereto.

[, 2004]

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

- 1.** This Act may be cited as the Finance Act, 2004. Short title

Commencement

2. (1) Sections 4 *(e)*(i) and 6 are deemed to have come into operation on 1st January, 2003.

(2) Section 8*(a)* is deemed to have come into operation on 6th October, 2003.

(3) Sections 4 *(b)*(i), (ii), (iii), *(c)*, *(d)*, *(e)*(ii), *(g)* and *(h)* and 5 shall come into operation on 1st January, 2004.

(4) The remaining provisions of this Act shall come into operation upon the commencement of this Act.

PART I

CENTRAL TENDERS BOARD

Ordinance No. 22 of
1961 amended

3. The Central Tenders Board Ordinance is amended—

(a) in section 19(1), by deleting the words “one hundred thousand” and substituting the words “five hundred thousand”;

(b) in section 24, by deleting the words “the lowest offer” and substituting the words “the lowest evaluated offer which, in the opinion of the Board or Committee, represents the best value”; and

(c) in section 27B(2)—

(i) in paragraph *(a)*, by deleting the words “five thousand dollars” and substituting the words “five hundred thousand dollars”; and

(ii) in paragraph *(b)*, by deleting the words “twenty-five thousand dollars” and substituting the words “one million dollars”.

PART II
INCOME TAX

4. The Income Tax Act is amended—

Chap. 75:01

(a) in section 2, by inserting in alphabetical sequence, the following definition:

“total income” means the aggregate amount of income of a person from the sources specified in section 5, before making any deductions allowed by—

(a) any provision of this Act other than sections 10, 11 and 16;

(b) the Income Tax (In Aid of Industry Act) Chap. 85:04,”;

Chap. 85:04

(b) in section 8—

(i) in subsection (1)—

(A) by deleting the word “twelve” occurring in paragraph (k) and substituting the word “twenty-five”; and

(B) by deleting paragraph (p) and substituting the following paragraphs:

“(p) interest whether or not denominated in local currency, paid or credited to a resident individual—

(i) on all classes of savings or other accounts with banks or other financial institutions in Trinidad and Tobago;

- (ii) on savings or other accounts with a person carrying on a trade or business in Trinidad and Tobago who, in the ordinary course of operations of such trade or business, receives and retains money in such circumstances that interest becomes payable; or
 - (iii) on bonds or other similar investment instruments issued in Trinidad and Tobago;
- (pa)* that portion of a dividend comprising interest which is payable to a resident individual who is a beneficiary under a trust operated by a financial institution carrying on unit trust business and licensed

under the
Financial
Institutions Act,
No. 18 of 1993,
where the profits
of such trust are
exempt from cor-
porate tax;

(pb) that portion of the
amount or value
of a distribution
comprising interest
which is paid or
credited to a resi-
dent individual by
the Trinidad and
Tobago Unit Trust
Corporation;”;
and

(ii) in subsection (3), by deleting the
definition of “total income”;

(c) in section 11(7), by deleting the words “in
that year of income” and substituting the
words “for the year of income to which the
claim relates”; and

(d) by renumbering section 18 as section 18(1),
deleting the word “thirty” occurring in
paragraph *(b)* substituting the word “forty”
and adding the following subsection:

“ (2) An individual who is not
resident in Trinidad and Tobago who is
in receipt of income accruing in or
derived from Trinidad and Tobago and
has attained the age of sixty years,
shall be entitled to a personal
allowance of forty thousand dollars.”;

(e) in section 28—

(i) in subsection (10)(*a*), by inserting after the words “deducted or withheld”, the words “and the remainder when received by the employee or annuitant, shall be deemed not to be the income of that person for the purposes of this Act”; and

(ii) in subsection (15), by inserting after the words “section 27(1)(*c*), (*d*) or (*e*)”, the words “, section 31(1)”;

(f) by repealing section 34A;

(g) in section 92(2), by inserting after the words “payment under this Act”, the words “or any other written law administered by the Board”;

(h) in section 99—

(i) in subsection (1)—

(A) in paragraph (*a*), by deleting the word “or”;

(B) in paragraph (*b*), by deleting the comma and substituting the word “;”

(C) by inserting after paragraph (*b*), the following paragraphs:

“(c) the quantum of the emolument is in dispute; or

(d) the tax deducted or withheld from the emoluments of an employee is in accordance with the provisions of

this Act or any regulations made under section 125;”;
and

(D) by deleting the words “subject to the provisions of this Act relating to appeals” and substituting the words “in writing subject to the provisions of this section relating to objections and appeals against the determination of the Board”; and

(ii) by inserting after subsection (1A), the following subsections:

“ (1B) Where the Board is of the opinion that an amount is an emolument and that the correct taxes have not been deducted or withheld, it shall—

(a) cause to be served on the person providing the emolument, notice of its determination under subsection (1A), demanding the amount of tax to be deducted or withheld by that person; and

(b) inform the person of his right to object.

(1c) Where a person providing an emolument under this section disputes the determination of the Board, he may apply to the Board by

notice of objection in writing delivered to the Board, to review its determination and such application shall—

- (a) state precisely the grounds of his objection; and
- (b) be made within fifteen days from the date of service of the notice of determination.

(1D) The provisions of section 86(3), (4), (5), (5A), (6), (7), (8) and (11) and section 87 of this Act relating to objections and appeals shall apply mutatis mutandis to this section, except in relation to the period of twenty-four months stated in section 86(8), which shall for the purposes of this section be read as twelve months.”;

- (i) in section 119(2), by deleting the words “within twelve months from the date of the commission of the offence or within six months” and substituting the words “within three years from the date of the commission of the offence or within twelve months”;
- (j) in section 134(6B)(a)—
 - (i) by deleting the words “chargeable income of the employee computed in accordance of this Act before making deductions specified in section 20” and substituting the words “gross emoluments of the employee paid by that employer in

a year of income up to a maximum of twenty-four thousand dollars in respect of all funds or contracts”;

(ii) in subparagraph (i), by inserting before the word “employee”, the words “director or”; and

(iii) in subparagraph (ii), by inserting before the word “employee”, the words “director or”; and

(k) by inserting after section 134, the following section:

“Tax on
refund of
premiums

134A. (1) Where an amount is payable by a company in respect of a fund or contract approved by the Board under section 134(6B) upon the death of a director or employee by way of refund of premiums, there shall be deducted or withheld, a tax equal to ten per cent of the amount payable and the remainder of the amount, when received by the beneficiary of the director or employee, shall be deemed not to be the income of the beneficiary for the purposes of this Act.

(2) The tax referred to in subsection (1) shall be paid by the company to the Board by the fifteenth day of the month following that in which the refund of premiums was paid.

(3) There shall be payable by the company a penalty of one hundred per cent of the tax owed for failure to pay the tax within the time specified in subsection (2).

(4) There shall be payable from the due date, interest at the rate of twenty per cent a year on the amount of tax remaining unpaid.

(5) In this section and in section 134, “refund of premiums” has the meaning assigned to it in section 28(1)(M).”.

PART III CORPORATION TAX

Chap. 75:02

5. The Corporation Tax Act is amended—

(a) in sections 10G, 10I, 10J, 10K and 10L, by deleting the words “four hundred and fifty thousand dollars” wherever they occur and substituting in each place the words “one million dollars”; and

(b) by repealing section 10N and substituting the following section:

“Certification
by the
Minister 10N. For the purposes of sections by the 10J and 10K—

(a) the Minister with responsibility for education shall issue a certificate, in respect of a production for educational purposes referred to therein, in the manner prescribed to the effect that the production is for educational purposes;

(b) the Minister with responsibility for culture shall issue a certificate in

respect of a production to promote or reflect local entertainment or culture referred to therein, in the manner prescribed to the effect that the production is to promote or reflect local entertainment or culture,

and a deduction shall not be allowed by the Board in the absence of such certificate.”.

PART IV

PETROLEUM TAXES

6. The Petroleum Taxes Act is amended by inserting Chap. 75:04 amended after section 18, amended the following section:

“Corporation Tax Act to apply 18A. Sections 10G, 10J, 10K, 10L and 10M of Tax Act to the Corporation Tax Act, apply to this Act, with any necessary modifications, for the purpose of determining the chargeable profits of companies charged to tax under this Act.”.

PART V

STAMP DUTY

7. The Stamp Duty Act is amended— Chap. 76:01 amended

(a) by deleting sections 28, 29 and 67; and

(b) in the Schedule—

(i) by deleting the item commencing with the words “Agreement or any Memorandum of an Agreement” and ending with the words “made by a public officer officially” and all the exemptions following under this item;

- (ii) by deleting the words “and see sections 28 and 29”;
- (iii) by deleting the item commencing with the words “Letter of Power of Attorney” and ending with the words “In any other case” and by deleting the heading “Exemptions” and items (1) to (6) set out thereunder, immediately following the item; and
- (iv) by deleting the words “and see section 66”.

PART VI
MISCELLANEOUS TAXES

8. The Miscellaneous Taxes Act is amended—

- (a) in section 43(1)(b), by inserting after the word “Limited”, the words “, United Independent Petroleum Marketing Company Limited and any other wholesale marketing company designated by the Minister by Order to collect the tax”.
- (b) by repealing Part XIV and substituting the following Part:

“PART XIV

GREEN FUND LEVY

61. In this Part—

Interpretation

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

“business levy” means the tax levied and paid by a company to the Board under section 3A of the Corporation Tax Act;

“company” means a body corporate or an unincorporated association and includes a partnership;

“financial year” has the meaning assigned to it in section 3 of the Constitution;

“Fund” means the Green Fund established under section 65 of this Part;

“gross sales or receipts” means the gross revenue sales or receipts of a company which are determined in accordance with income tax principles;

“levy” means the green fund levy imposed by section 62 of this Part;

“Minister” means the Minister with responsibility for finance.

Green Levy
Fund

62. (1) With effect from 1st January, 2001, there shall be levied and paid to the Board a tax at the rate of 0.1 per cent to be known as a Green Fund Levy, on the gross sales or receipts of a company carrying on business in Trinidad and Tobago, whether or not such company is exempt from the business levy.

(2) The levy shall be payable by a company in each quarter ending on 31st March, 30th June, 30th September and 31st December in each year of income and the provisions of section 79 of the Income Tax Act shall apply *mutatis mutandis* to this subsection.

Chap. 75:02

(3) The provisions of section 3A(6), (7), (8), (9) and (10) of the Corporation Tax Act shall apply *mutatis mutandis* in relation to the levy but with the necessary modifications and adaptations.

(4) The Board shall, in respect of the collection and recovery of the levy, have all the powers as it has in relation to income tax under the Income Tax Act.

Refunds

63. (1) Where it is proved to the satisfaction of the Board that a company has, in any quarter paid levy in excess of the amount in respect of which the company is properly chargeable, that company shall be entitled to have the levy so paid in excess, refunded to it.

(2) Every claim for refund shall be made within one year from the end of the quarter to which the claim relates.

(3) Instead of making a refund that might otherwise be made under this section, the Board may, where the company is liable to make a payment to the Board under this Act or any other written law administered by the Board, apply the amount to be refunded against the other liability and shall notify the company accordingly.

Purposes of Fund

64. The purpose of the fund is to financially assist Organizations and community groups that are primarily engaged in activities related to the remediation, reforestation and conservation of the environment.

Establish-
ment and
Management
of Green
Fund

65. (1) There is hereby established a fund to be known as the Green Fund.

(2) The Green Fund shall be administered by the Minister who shall disburse monies from the Fund for the purposes referred to in section 64.

(3) The Minister may delegate to the Minister with responsibility for the environment such duties regarding the management of the activities financed by the Green Fund as he considers fit.

Payment to
Fund

66. (1) Notwithstanding section 29(2), the Board shall, within fourteen days from the end of each quarter, pay into the Green Fund the levy received by it in accordance with this Part.

(2) The resources of the Fund shall comprise of the levy paid by the Board under this section.

Accounts and
audit

67. (1) All accounts relating to the Green Fund shall be—

- (a) kept separately by the Comptroller of Accounts but shall be shown in the general accounts of Trinidad and Tobago and laid therewith before Parliament; and
- (b) audited annually by the Auditor General in accordance with the Exchequer and Audit Act as if the Fund were established under section 43 of that Act.

Report of
Minister

68. The Minister shall, within three months from the end of a financial year, submit to Parliament a report on the disbursements, management and operations of the Green Fund.

69. The Minister may make Regulations for—

- (a) the management and control of the Green Fund;
- (b) the accounts, books and forms to be used in the management of the Green Fund;
- (c) the projects and other activities concerning which advances are made from the Fund; and
- (d) the general operations of the Green Fund.”.

PART VII

CUSTOMS DUTY

Chap. 78:01

9. Section 45 of the Customs Act is amended—

(a) in subsection (1)—

- (i) in paragraph (u), by deleting the full stop and substituting a semi-colon; and
- (ii) by inserting after paragraph (u), the following paragraph:
 - “(v) armoured, armour-plated, or armoured combat vehicles, except with the written permission of the Minister to whom responsibility for national security is assigned.”;

(b) in subsection (2), by deleting paragraph (h) and substituting the following paragraph:

“(h) a returning national who has attained eighteen years of age and—

- (i) is or was a citizen of Trinidad and Tobago;
- (ii) has citizenship of two countries, one of which is Trinidad and Tobago; or
- (iii) is the spouse of the person referred to in subparagraph (i) or (ii),

and obtains from the Minister to whom responsibility for trade is assigned, a licence to import such vehicle in accordance with the Trade Ordinance.”

(c) in subsection (4), by deleting paragraph (a).

PART VIII

HEALTH SURCHARGE

10. Section 4(2) of the Finance Act, is amended by— Act No. 4 of 1987 amended

(a) deleting the words “fifteen per cent” and substituting the words “twenty per cent”; and

(b) inserting after the words “date of payment”, the words “, unless the Board otherwise directs”.

PART IX
VALUE ADDED TAX

Act No. 37 of 1989
amended

11. The Value Added Tax Act, is amended—

- (a) in subsection (2)(b), by inserting after the word “Act”, the words “or any other Act administered by the Board”; and
- (b) by inserting after subsection (3), the following subsection:
 - “ (3A) For the avoidance of doubt, a return referred to in subsection (3) shall be accurate in all particulars and satisfy the requirements of sections 31 to 34.”;
- (c) in section 44(a), by inserting after the word “20”, the words “, 27”; and
- (d) in section 55(2), by deleting the words “104 to 115, section 118 and sections” and substituting the words “88, 104 to 115, 118.”.

PART X
VALIDATION

Validation
Chap. 77:01

12. (1) The collection by United Independent Petroleum Marketing Company Limited before the commencement of this section, of the tax charged under section 43 of the Miscellaneous Taxes Act and paid to the Comptroller of Accounts in accordance with the said section 43, is deemed to be valid.

(2) No legal proceedings or other action of any kind shall be entertained in respect of or in consequence of the collection by United Independent Petroleum Marketing Company Limited of the tax referred to in subsection (1).

Passed in the House of Representatives this day
of , 2004.

Clerk of the House

I confirm the above and certify that this is a Money
Bill.

Speaker

Passed in the Senate this day of ,
2004.

Clerk of the Senate

I confirm the above.

No. 3 of 2004

SECOND SESSION

EIGHTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Central Tenders Board Ordinance, the Income Tax Act, the Corporation Tax Act, the Petroleum Taxes Act, the Customs Act, the Finance Act, the Stamp Duty Act, the Value Added Tax Act and for matters incidental thereto.

Received and read the

First time

Second time

Third time
