

THE FINANCE BILL, 2006

Explanatory Note

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

This Bill seeks to amend several pieces of legislation of a financial nature, namely the Income Tax Act, Chap. 75:01, the Corporation Tax Act, Chap. 75:02, the Unemployment Levy Act, Chap. 75:03, the Petroleum Taxes Act, Chap. 75:04, the Fiscal Incentives Act, Chap. 85:01, the Income Tax (In Aid of Industry) Act, Chap. 85:04, the Tourism Development Act, 2000 and the Finance Act, 2005.

Clause 2 would amend various sections of the Income Tax Act in the manner detailed hereunder.

Clause 2(a) would deal with section 2(1) by deleting the definition of the term "management charges" and substituting a new definition.

Clause 2(b) would amend section 8(1).

Clause 2(b)(i) would seek to repeal paragraph (fa) of section 8(1). This amendment would terminate for new investments the tax exemptions on interest lending to small business.

Clause 2(b)(ii) would seek to amend paragraph (k) of section 8(1) by deleting the words "twenty five" and substituting the words "sixty thousand". This amendment is in keeping with the proposed increase in the personal allowance to sixty thousand dollars.

Clause 2(b)(iii) would seek to delete the existing paragraph (t) of section 8(1) and replace it with a new section that applies to all residents of Trinidad and Tobago regardless of age. This amendment leaves the tax exemption on annuities intact.

Clause 2(c) would insert a new section 8A, to deal with savings of benefits under the repealed section 8(1)(fa).

Clause 2(d)(i) would amend subsections (1)(b) and (2) by deleting the words "one per cent" and substituting the words "two per cent" Wherever they occur.

Clause 2(d)(ii) would repeal subsections (3) to (8) and subsection (11) of the section thereby terminating the tax concession on what was formally known as the mortgage interest allowance.

Clause 2(e)(i) would amend section 11(1) by repealing paragraphs (k) and (l). This repeal respectively removes the employment and apprenticeship allowances, formerly enjoyed by persons engaged in trades.

Clause 2(e)(ii) would amend section 11(3) by deleting and substituting the section, to allow for the provision to be effective from the 1st January 2006.

Clause 2(e)(iii) would amend section 11(5) by deleting certain words and substituting new words to harmonize the legislation.

Clause 2(f)(i) would amend section 11A by inserting certain new subsections.

Clause 2(f)(ii) would amend section 11A(2A) by deleting paragraph (h).

Clause 2(g) would repeal section 13A, which would eliminate the equity investment deduction, formally enjoyed by an approved hotel or tourism project.

Clause 2(h) would repeal and replace section 18, to increase the personal allowance for individuals.

Clause 2(i) would amend section 18A, by inserting a new subsection (6), which proposes to terminate the tax concession enjoyed by first time home owners, on 1st January, 2006.

Clause 2(j) would repeal section 18B, by removing the Credit Union Allowance.

Clause 2(k) would amend section 20 by repealing subsection 3, which made provisions for a child allowance. This amendment was proposed in light of the increase in the personal allowance.

Clause 2(l) would amend section 28.

Clause 2(l)(i) would amend section 28(1), by deleting paragraphs (ga), (q) and (r) which pertained to certain definitions in the Act that are no longer necessary, by virtue of certain other amendments.

Clause 2(l)(ii) would amend section 28 (5), by deleting subparagraphs (C) and (D) and paragraph (e). These deletions pertain to references with respect to withdrawals from pension funds and deferred annuity plans, which were made tax free if utilized towards the acquisition of a first home, by members under the age of 41 years, who had contributed to the plans for at least 5 years.

Clause 2(l)(iii) would amend section 28(7)(b), to increase the monthly value of the annuity from \$65.00 to \$500.00. This amendment would allow for the entire annuity to be commuted to a lump sum.

Clause 2(l)(iv) would amend section 28(9), by deleting and substituting a new subsection in keeping with the other amendments made to the Act with respect to deferred annuities and pension funds.

Clause 2(l)(v) would amend section 28, by deleting subsections (9A), (9B) and (9C) of the Income Tax Act. These deletions pertained to withdrawals of premiums and contributions for the acquisition of a first home.

Clause 2(l)(vi) would amend section 28(10), by deleting the words "ten per cent" and substituting the words "twenty-five percent".

Clause 2(m) would repeal section 29A which dealt with the withdrawal of pension funds or deferred annuities towards the acquisition of a house.

Clause 2(n) would repeal subsections (7) and (8) of section 35 and would substitute a new subsection (7) to allow for the market value of shares at the date of transfer in a year of income, to be deemed income accrued to the beneficial owner of those shares.

Clause 2(o)(i) would amend section 134 to allow a decrease in the contributions that an employer can make toward death or retirement benefits for employees from one-third of the employee's chargeable income to 20% of the emolument of the employee.

Clause 2(o)(ii) would insert three new subsections after subsection (6D) to deal with the case of loans to employees. Such loans are to be taxed on the difference between the interest rate charged and the arm's length commercial rates of interest; the BIR, on the advice of the Central Bank, will advise on the arm's length commercial rate to be used and loans that are written off loans are to be taxed as cash payment.

Clause 2(o)(iii) would amend subsection (9) of section 134 which deals with the wear and tear of motor vehicles and equipment. The \$100,000 limitation on wear and tear would be removed and the wear and tear would now be calculated against the actual market value of the motor vehicle. The amendment to this subsection would allow for the actual requisite to increase to 50% of the annual wear and tear on the asset where it has been acquired and 50% of the annual rental value where it has been leased.

Clause 2(p) would amend section 135 by repealing subsection (3) and substituting a new subsection, that would allow for housing accommodation provided by directors and employees to be taxed by reference to the fair rental value.

Clause 2(q) would delete paragraph 1 of Part I of the Third Schedule and substitute a paragraph that speaks to the decrease in the chargeable income of a person to 25 cents for every dollar.

Clause 2(r) would repeal the 8th and 9th Schedules.

Clause 3 would make certain amendment to Corporation Tax Act. Clause 3(a)

would amend sections 3A(2) by repealing paragraph (g).

Clause 3(b)(i) would repeal paragraph (c), (ka), (s) and (t) of section 6(1) which dealt with exemption from corporation tax of the following:

- Profits from local authorities
- Loans made to the small business sector
- Loans to approve small companies
- Loans to commercial farming on approved agricultural holdings

Clause 3(c) would repeal sections 10C and 10E which dealt with deductions on loans by an approved small company and deduction for training and retraining employees respectively.

Clauses 3(d) to (i) would remove the 50% uplift on expenditure incurred in the promotion of arts, sports and culture. The allowance claimed would now be limited to actual expenditure incurred.

Clause 3(j) would delete and repeal certain sections.

Clause 3(k) would repeal section 16 which dealt with deductions for capital expenditure for approved property development companies.

Clause 3(l) would repeal and substitute subsection (1) of section 16A which would allow for a five year tax holiday for approved small companies.

Clause 3(m) would repeal section 16F and 16G which dealt with claims for credit and variation for the rate of tax credits respectively.

Clause 3(n) would make consequential deletions to the Table in section 19.

Clause 3(o) would amend the First Schedule by deleting the words "thirty-five percent" and substituting the words "twenty-five percent" to correspond with the new rate of corporation tax.

Clause 4 of the Bill would amend the Unemployment Levy Act to absolve the person from paying interest on outstanding levy and taxes up to 30th April 2006.

Clause 5 of the Bill would repeal Part 10 the Miscellaneous Taxes Act.

Clause 6 would repeal and substitute the existing section 7 of the Petroleum Taxes Act. To this end, the clause would contain the following provisions:

- clause 6(a) would provide the definition of "deepwater" and "deepwater block";

- clause 6(b)
 - (i) the Petroleum Profits Tax (PPT) would be computed and assessed for a current financial year and paid quarterly.
 - (ii) the Supplemental Petroleum Tax (SPT) would be computed and assessed on current income on a quarterly basis and paid by the fifteenth day after the end of each quarter.
 - (iii) where the PPT and SPT are not paid by the end of the quarter, outstanding tax attracts interest at the rate of twenty percent.
 - (iv) persons would be obliged to furnish the Board with information that it may require, for crude oil and natural gas.

- clause 6(c) would recognize the fact that drilling and development in deep water are more costly than drilling in shallow water. Provision is therefore made for special and more generous fiscal terms, in order to offer incentives to stimulate petroleum exploration. A person engaged in the drilling or exploration in a deep water block would be granted a capital uplift of forty percent on such expenditure with respect to the computation of PPT.

- clauses 6(d) and (e) would be consequential on the changes on the basis for computing the PPT;

- clause 6(f) would amend the Act to enable Companies to benefit from the provision for covenanted donations to charity;

- clause 6(g) would apply provisions under the Income Tax Act pertaining to assessments and appeals against assessments, to the SPT and PT.

- clause 6(h) would repeal sections 21(1A) and 22(A) and clause 6(i) would correct an omission in paragraph 5 of the Second Schedule to the Act.

- clause 6(j) would ensure that all contracts along the LNG value chain are based on fair market principles. The Act would be amended to require all current and future contracts in respect of transactions in natural gas for export purposes be submitted to the Board for examination. It would also provide that the Board could determine if necessary that the Petroleum Prices

Committee review and make a determination as to whether they satisfy fair market principles.

- the formula for fair market value would be contained in clause 6(k) while the rates of petroleum taxes to be applied from the disposal of crude oil from any well in a deepwater block, would be provided for in clause 6(1).

Clause 7 would amend the Fiscal Incentives Act, by repealing subsection (1) of section 23 and substituting two new subsections, which would allow an enterprise to claim the allowance for wear and tear in certain circumstances. It would also specify the companies to which the provision is applicable.

Clause 8 would amend section 24 of the Income Tax (In Aid of Industry) Act by repealing subsection (2) and substituting a provision that would specify how the allowance would be determined.

Clause 9 would amend the Tourism Development Act, 2000 by repealing section 38 and inserting a new provision saving the tax benefit which accrued to certain developers under the repealed section 38.

Clause 10 would amend the Finance Act, 2005 by deleting the word "2004" and substituting the word "2005".

Clause 11 would validate any Act done by the Board of Inland Revenue, prior to the coming into force of the Finance Act, 2006 in respect of matters relating to the collection of any penalty in excess of one hundred dollars under Part I of the Petroleum Act.

Clause 12 would specify the dates upon which the various clauses would come into effect.

BILL

An Act to provide for the imposition or variation of certain duties and taxes and to introduce other provisions of a fiscal nature and for related matters.

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, 2006.

PART II INCOME TAX

Chap. 75:01
amended

2. The Income Tax Act is amended-

- (a) in section 2(1), by repealing the definition of “management charges” and substituting the following definition:

“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;”

- (b) in section 8 (1)-

(i) by repealing paragraph (fa);

(ii) in paragraph (k), by deleting the words “twenty-five thousand” and substituting the words “sixty thousand”;

(iii) by repealing paragraph (t) and substituting the following paragraph:

“(t) annuity or other periodic sum payable under an immediate annuity purchased on or after 1st January, 2006 by an individual who is a resident of Trinidad and Tobago;”;

(c) by inserting after section 8, the following section:

“Saving of benefits under repealed section 8(1)(fa) 8A. Notwithstanding the repeal of section 8(1)(fa), where, on or before December 31st, 2005, a person would have been entitled to an exemption from tax under the repealed section 8(1)(fa) in respect of interest income on loans made to fund projects within the small business sector, the provisions of that repealed section shall continue to have effect with respect to that person as if section 8(1)(fa) had not been repealed.”;

(d) in section 10-

(i) in subsections (1)(b) and (2), by deleting the words “one per cent” wherever they occur and substituting the words “two per cent”;

(ii) by repealing subsections (3) to (8) and (11);

(iii) in subsection (9)-

(A) by inserting after the words “an institution” the words “, other than a regional public institution , situated outside of Trinidad and Tobago and”;

(B) by deleting the words “save that” to the end of that subsection;

(iv) in subsection (10)-

(A) by inserting after the words “an institution” the words “, other than a regional public institution, situated outside of Trinidad and Tobago and”;

(B) by deleting the words “save that” to the end of that subsection;

(e) in section 11-

(i) in subsection (1), by repealing paragraphs (k) and (l);

(ii) by repealing subsection (3) and substituting the following subsection:

“(3) In computing the amount to be allowed under subsection (1)(b) in respect of a private motor car purchased prior to 1st January 2006 the cost of which exceeds one hundred thousand dollars, the value against which the amount is

computed shall be deemed to be one hundred thousand dollars.”; and

(iii) in subsection (5) by deleting the words “subsection (3)(a) or (b)” and substituting the words “subsection (3)”;

(f) in section 11A-

(i) by inserting after subsection (1), the following subsection:

“(1A). For the purpose of computing the allowance under section 11(1)(b) for a year of income commencing 1st January 2006, in respect of-

(a) any plant and machinery;

(b) any building used exclusively to house such plant and machinery,

acquired prior to 1st January 1995, the plant and machinery or the buildings housing such plant and machinery, shall be classified into a class specified in the Seventh Schedule and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring the plant and machinery or buildings housing such plant and machinery less any wear and tear allowances previously granted in respect of such plant and machinery or buildings.”

(1B) For the purpose of computing the allowance for a year of income commencing 1st January 2006 in respect of the exhaustion of wear and tear of any building which-

(a) qualifies under the Income Tax (In Aid of Industry Act); and

(b) is acquired after 1st January 2006,

such building shall be classified into Class A specified in the Seventh Schedule and the wear and tear percentage relating to that class shall be applied against the expenditure incurred in acquiring such building.

- (ii) in subsection (2A), by repealing paragraph (h);
- (g) by repealing section 13A;
- (h) by repealing section 18 and substituting the following section:

“18. (1) An individual to whom section 17 applies, shall be entitled to a personal allowance of sixty thousand dollars.

(2) A person in receipt of pension income accruing or derived from Trinidad and Tobago who-

(i) is not resident in Trinidad and Tobago; and

(ii) has attained the age of sixty years,

shall be entitled to a personal allowance of sixty thousand dollars.”;

- (i) in section 18A, by inserting after subsection (5), the following subsection:

“(6) This section shall not apply to an individual who acquired for the first time by way of purchase or construction a house on or after 1st January, 2006.”

- (j) by repealing section 18B;

- (k) in section 20, by repealing subsection (3);

- (l) in section 28 –

- (i) in subsection (1), by repealing paragraphs (ga),(q) and (r);

- (ii) in subsection (5)-

- (A) in paragraph (a)(i), by repealing subparagraphs (C) and (D); and

- (B) by repealing paragraph (e);

- (iii) in subsection (7)(b), by deleting the words “sixty-five dollars” and substituting the words “five hundred dollars”;

- (iv) by repealing subsection (9) and substituting the following new subsection:

“(9) All amounts received by a person in a year of income as a benefit under an approved pension fund plan or an approved deferred annuity plan shall be deemed to be the income of that person, except amounts received by way of a lump sum equivalent to the capitalised value of twenty-five per cent of the annual pension or annuity at the date of retirement or maturity.”;

- (v) by repealing subsections (9A), (9B) and (9C);

- (vi) in subsection (10), by deleting the words “ten percent” and substituting the words “twenty-five percent”;

- (m) by repealing section 29A;

- (n) in section 35, by repealing subsections (7) and (8) and substituting the following subsection:

“(7) Where shares are transferred in a year of income pursuant to subsection (6)(a), the market value of the shares at the date of transfer shall be deemed to be the income accrued to the beneficial owner of the shares on that date and the full amount of such income shall form part of the income of the individual for that year.”;

- (o) in section 134-

- (i) in subsection (6B)(a), by deleting the words “one third part of the chargeable income of the employee” and substituting the words “one third of the chargeable income of the employee or twenty per cent of the emolument income of such employee, whichever is the greater.”;

- (ii) by inserting after subsection (6D), the following new subsections:

“(6E) Where, in a year of income-

- (i) a company provides a loan to any of its directors or to a person employed by it in an employment to which sections 133 to 141 apply; and

- (ii) the repo rate of interest of the Central Bank of Trinidad and Tobago as at the 31st December of the year immediately prior to the year of income, is more than the rate of interest charged by the company on such loan,

the difference between the two rates of interest referred to in paragraph (ii) shall be treated as a perquisite of the office or employment of the director or employee and shall be chargeable to tax as emoluments as defined by section 100.

(6F) Subject to subsection (6G), where a loan referred to in subsection (6E) is written-off by the company, the outstanding balance on the loan shall be treated as a perquisite of the director or employee and shall be chargeable to tax as emoluments as defined by section 100.

(6G) Subsection (6F) shall not apply where the Board is satisfied that the loan that was written off cannot be recovered by the company.”;

(iii) in subsection (9)-

- (A) by deleting the words “The value” and substituting the words “With respect to motor vehicles purchased prior to 1st January, 2006 the value”; and
- (B) by inserting after subsection (9) the following subsections:

“(10) With respect to motor vehicles or equipment acquired on or after 1st January, 2006 the value per month of the perquisite referred to in subsection (8) is deemed to be fifty per cent of-

- (a) the wear and tear of the motor vehicle or equipment as the case may be; or
- (b) the rental value of the motor vehicle or equipment as the case may be for the period of

use.

(11) For the purposes of subsections (9) and (10), “motor vehicle” has the same meaning assigned to it in section 2 of the Motor Vehicles and Road Traffic Act.”;

- (p) in section 135 by repealing subsection (3) and substituting the following subsections:

“(3) Where in a year of income, the whole or part of property which is owned by a company, is made available as living or other accommodation for the benefit of any of its directors or employees and the property is not used solely in the performance of the duties of the directors or employees, the provisions of section 133 shall have effect as if the company paid an amount equal to the fair rental value in respect of such property.

(3A) For the purposes of this section, the expression “fair rental value” means the value of the rent which the property can obtain in the open market between unrelated parties.”;

- (q) in Part I of the Third Schedule, by repealing paragraph 1 and substituting the following paragraph:

“1. The rate of tax payable on the chargeable income of a person other than a company shall be twenty-five cents for every dollar.”;

- (r) by repealing the Eighth and Ninth Schedules.

PART III

CORPORATION TAX

Chap. 75:02
amended

3. The Corporation Tax Act is amended-

(a) in section 3A(2), by repealing paragraph (g);

(b) in section 6 –

(i) in subsection (1), by repealing paragraphs (c), (ka), (s) and (t);

(ii) by inserting after subsection (5), the following subsection:

“(6) Notwithstanding the repeal of subsection (1) (ka), (s) and (t), where, on or before December 31st, 2005, a person would have been entitled to an exemption from tax under the repealed subsections (1)(ka), (s) or (t) in respect of interest income on loans made to fund projects under that subsection, the provisions of that repealed subsection shall continue to have effect as if subsection (1)(ka), (s) and (t) had not been repealed.”;

- (c) by repealing sections 10C and 10E;
- (d) in section 10G, by deleting the words “an allowance equal to one hundred and fifty per cent of the actual expenditure” and substituting the words “the actual expenditure incurred.”;
- (e) in sections 10I and 10J , by deleting the words “an allowance of one hundred and fifty per cent of” wherever they occur;
- (f) by repealing section 10K;
- (g) in section 10L, by repealing subsection (2) and by renumbering section 10L(1) as section 10L;
- (h) in section 10M, by deleting the words “10E, 10G, 10H, 10I, 10J and 10K” and substituting the words “10G, 10H, 10I and 10J”;
- (i) in section 10N, by deleting the words “and 10K” appearing after the words “For the purposes” and substituting the words “section 10J”;
- (j) in section 10 O-
 - (A) by repealing subsections (2) and (5A);
 - (B) in subsection (5), by deleting the words “10E” and “10K”;
- (k) by repealing section 16;

- (l) in section 16A-
 - (i) by repealing subsection (1) and substituting the following subsection:
 - “(1) Subject to sections 16B to 16E-
 - (a) an approved small company;
 - (b) an approved company carrying on business in a regional development area; and
 - (c) an approved activity company,
 - shall be exempt from the payment of corporation tax for a period of five years commencing 1st January, 2006.”; and
 - (ii) by repealing subsections (2) and (4);
- (m) by repealing sections 16F and 16G;
- (n) in section 19 by deleting in the Table entitled “Income Tax Provisions applied to Corporation Tax”, the words “Section 13A (Deduction for investment in approved hotel or tourism development project)”;
- (o) in the First Schedule by deleting the words “thirty per cent” in paragraph 1 and substituting the words “twenty-five per cent”; and

PART IV
UNEMPLOYMENT LEVY

Chap. 75:03
amended

- 4. The Unemployment Levy Act is amended-
 - (a) in section 8-
 - (i) in subsection (1), by inserting before the word “paid” the words “due and”;
 - (ii) by inserting after subsection (2), the following subsection:

“(2A) Notwithstanding subsection (2)-

Act. No. 21 of 2005 (a) every person shall pay to the Board on or before 30th April 2006 any outstanding levy due for any of the quarters for the year ending 31st December 2005 as a result of the coming into operation of the Finance Act 2005, and no interest shall accrue on such outstanding levy up to 30th April, 2006; and

(b) if all or any part of the outstanding levy referred to in paragraph (a), is not paid by 30th April, 2006, the outstanding levy shall bear interest at the rate of twenty per cent a year from 1st May, 2006 up to the date of payment.”;

(b) section 9-

(i) in subsection (2)-

(A) by deleting the words “section 8(2)” wherever occurring and substituting the words “subsection (5)” respectively; and

(B) by deleting the word “fifteen” and substituting the word “twenty”;

(ii) by inserting after subsection (3), the following subsection:

(4) Subject to this section, every person shall pay to the Board the remainder of the levy, if any, as disclosed in its statement for the financial year, on or before April 30 in the next year.

(5) If all or any part of the remainder of the levy is not paid by 30th April in the next year, whether an assessment is already made or not, it shall carry interest at the rate of twenty per cent a year from the next day up to the date of payment.”

PART V

MISCELLANEOUS TAXES

amended

PART VI
PETROLEUM TAXES

Chap. 75:04
amended

6. The Petroleum Taxes Act is amended-

- (a) in section 2(1), by inserting in the appropriate alphabetical sequence the following definitions:

“deepwater” means that part of the submarine area which has a water depth greater than one thousand metres;

“deepwater block” means fifty percent or more of a licensed area or contract area which lies in deepwater;”;

- (b) by repealing section 7 and substituting the following:

“Payment of petroleum profits tax 7. (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.

(2) If all or any part of the tax payable under this section is not paid by the end of a quarter, the outstanding tax in respect of each quarter 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.

(3) In paying its quarterly instalments of tax, a person shall furnish the Board with such information as the Board may require, including in particular-

- (a) in respect of his producing business for that quarter-

(i) the quantity of crude oil and natural gas produced and disposed of from land operations and the quantity from marine operations;

(ii) the prices at which the crude oil and natural gas was disposed of;

(b) in respect of refining business for that quarter-

(i) the volume of crude oil and petroleum products received;

(ii) the processing fees charged.

(4) Notwithstanding subsection (2)-

(a) every person shall pay to the Board on or before 30th April 2006 any outstanding tax due for any of the quarters for the year ending 31st December 2005 as a result of the coming into operation of the Finance Act 2005, and no interest shall accrue on such outstanding tax up to 30th April, 2006; and

Act No. 21 of 2005

(b) if all or any part of the outstanding tax referred to in paragraph (a), is not paid by 30th April, 2006, the outstanding tax shall bear interest at the rate of twenty per cent a year from 1st May, 2006 up to the date of payment.”;

(5) A person to whom Part I applies, who fails, neglects or refuses to furnish a return of income for the years of income commencing 2005 after six months from the time required to file the return, shall thereafter in addition to any other penalty provided in any Act and unless the Board otherwise directs, be liable to a penalty of one thousand dollars for every six months or part thereof during which such failure, neglect or refusal continues.

Payment of
Supplemental
Petroleum tax

7A. (1) Supplemental petroleum tax shall be computed and assessed on a quarterly basis upon the gross income of a person for the quarters ending 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.

(2) Every person shall furnish to the Board a return relating to the tax payable under this Part, in the form approved by the Board and signed by a duly authorised signatory of that person -

- (a) in respect of each of the quarters for the year ending 31st December 2005, on or before 30th April, 2006; and
- (b) in respect of every quarter thereafter, within fifteen days after the end of the respective quarter; or
- (c) where the person ceases to carry on business, within fifteen days after ceasing to carry on such business.

(3) Subject to subsection (4), if all or any part of the tax payable under this Part is not paid by the fifteenth day of the month following the end of a quarter, the outstanding tax shall bear interest at the rate of twenty per cent a year from the day after the date on which the quarterly instalment was due up to the date of payment.

(4) Notwithstanding subsection (3)-

- (a) every person shall pay to the Board on or before 30th April 2006 any outstanding tax owing for any of the quarters for the year ending 31st December 2005 as a result of the coming into operation of the Finance Act, 2005, and no interest shall accrue on such outstanding tax up to 30th April, 2006; and
- (b) if all or any part of the outstanding tax referred to in paragraph (a), is not paid by 30th April, 2006, the outstanding tax shall bear interest at the rate of twenty per cent a year from 1st May 2006 up to the date of payment.

Act No. 21 of 2005

(5) A person who fails, neglects or refuses to furnish a return by the date on which the return is required to be furnished under this section shall, in addition to any other penalty provided in this Act and unless the Board otherwise directs, be liable to a penalty of one thousand dollars in respect of any such return for every quarter or part thereof during which such failure, neglect or refusal continues.

- (c) in section 15, by inserting after subsection (1A), the following subsections:

“(1B) Notwithstanding subsection (1A), where the expenditure is in respect of exploration costs, the annual allowance shall commence from the year of expenditure.

(1C) In computing the taxable profits of a person who incurs, on or after January 1st 2005, capital expenditure on the drilling of exploration wells in a deepwater block, that person shall be granted capital allowances on his exploration expenditure calculated by reference to an amount equal to one hundred and forty percent of such expenditure.

(1D) For the purposes of this section, a “deepwater block” and an “exploration well” is a block or well, as the case may be, so classified by the Minister to whom responsibility for petroleum is assigned.”;

- (d) in the Table under section 16-

(i) by deleting the word “76” and substituting the words “76(1) to (5); and

(ii) by deleting the word “79” and substituting the word “80”;

- (e) by repealing section 17(a);

- (f) in section 18A, by deleting the words “and section 10N” and substituting the words “, 10N and 10 O”;

- (g) in the Table under section 26G, by deleting the reference to “Section 87” and by inserting in the appropriate sequence the following:

“Sections 83 to 89 (Assessments, additional assessments)”;

- (h) by repealing sections 21 (1A) and 22A;

- (i) in paragraph 5 of the Second Schedule-

(A) in sub-paragraph (1), by inserting after the words “sub-paragraph (3)” the words “and paragraph 5A, 5B and 5C”;

(B) in sub-paragraph (4), by inserting after the words “is not” the words “or is presumed not to be”;

(j) by inserting after paragraph 5 of the Second Schedule, the following paragraphs:

“5A. Notwithstanding any law to the contrary, a person liable to tax under this Act shall submit to the Board for examination any contract which he entered into or proposes to enter into in respect of the sale, exchange, transfer or other disposition, for export purposes, of natural gas, whether or not in the gaseous or liquefied state.

5B. Where, upon an examination of a contract under paragraph 5A, it appears to the Board that the method used under the contract in valuing the sale, exchange, transfer or other disposition of natural gas for export purposes, will not arrive at a fair market value for such sale, exchange, transfer or other disposition, the Board shall submit the contract to the Minister for a determination of the fair market value in accordance with paragraphs 6, 6A and 6B.

5C. Notwithstanding any law to the contrary, a determination made by the Minister under paragraph 5B shall apply to a contract referred to in paragraph 5A and may be reconsidered where the Minister has new information which will affect the fair market value of the natural gas as previously determined.”

(k) in paragraph 6 of the Second Schedule-

(A) in sub-paragraph(2), by inserting before the word “exchanges” the words “sales,”;

(B) by inserting after sub-paragraph (2), the following sub-paragraph:

“(2A) In the case of the sale, exchange, transfer or other disposition, for export purposes, of natural gas, whether or not in the gaseous or liquefied state, between a person carrying on production business and -

(a) a person carrying on

liquefaction of natural gas;
or

(b) a person who purchases the gas for export purposes; or

(c) an affiliated or related person,

there shall be taken into consideration in determining the fair market value of the gas the following:

- (i) The market destination of the gas;
- (ii) The price of the gas at the final destination;
- (iii) Regasification costs;
- (iv) Shipping costs;
- (v) Liquefaction costs;
- (vi) Pipeline transport costs;
- (vii) Publicly available values outside Trinidad and Tobago;
- (viii) Other relevant considerations.”;

(1) in the Third Schedule, by inserting after paragraph 7 the following paragraph:

“8.(1) The rates of supplemental petroleum tax to be applied from the disposal of crude oil from any well in a deepwater block shall be at the rates set out in Column D of Part B of this Schedule.”

(2) A deepwater block is one so classified by the Minister to whom responsibility for petroleum is assigned.”.

PART VII **FISCAL INCENTIVES**

Chap. 85:01
amended

7. The Fiscal Incentives Act is amended-

(a) in section 23, by repealing subsection (1) and substituting the

following:

“(1) In computing the profits of an approved enterprise for the purpose of relief from corporation tax under section 5(1)(a)(i), the enterprise shall be required to claim the allowance for the exhaustion by wear and tear resulting from the use of its assets in-

- (a) the year of income in which the assets were first put into use by the enterprise; 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 subsection (1) may not be deferred.”;

(b) by repealing section 25A;

(c) by inserting after section 33, the following section:

“Application of Act 34. This Act shall apply only to an enterprise which was granted benefits under this Act prior to January 1st, 2006.”.

PART VIII **INCOME TAX (IN AID OF INDUSTRY)**

Chap. 85:04
amended

8. The Income Tax (In Aid of Industry) Act is amended-

(a) in section 24, by repealing subsection (2) and substituting the following:

“(2) The amount of the said allowance shall be the amount which results from applying twenty percent to the residue of expenditure.”;

(b) in section 63A-

- (i) in subsection (1), by including after the word “person” the words “carrying on production business”;
- (ii) by inserting after subsection (1) the following subsection:

“(1A) In computing the profits of a company other than a company carrying on production

business, the allowances for capital expenditure to which that company is entitled under this Act, shall be made in -

(a) the year of income in which the assets were first put into use by the company; and

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

(iii) by deleting subsection (3) and substituting the following subsection :

“(3) Where in any year of income, a person has not claimed an allowance to which he is entitled under this Act in accordance with section 11 of the Income Tax Act, the Board shall, for the purpose of calculating the residue of expenditure on which the annual allowance will be computed for that year or any subsequent years of income, include an amount equal to the allowances to which the person was entitled for that year and any subsequent years as if the person had in fact claimed the allowance or allowances in the respective years.”

(c) in section 63B(1)-

(i) by deleting the word “petroleum” occurring before the word “business” and substituting the word “”production””; and

(ii) by inserting after the words “financial year” the words “to allow so much of the unrelieved costs that may be set off against the chargeable profits of that person”.

PART IX **TOURISM DEVELOPMENT ACT**

Act No. 9 of
2000
amended

9. The Tourism Development Act is amended-

(a) in section 2, by deleting the definition of “approved loan”;

- (b) in section 3, by repealing subsection 4(b);
- (c) by repealing section 38 and by inserting the following section:

Saving of tax benefit
Under repealed section 38

“38A. Notwithstanding the repeal of section 38, where, on or before December 31st, 2005, a person would have been eligible to enjoy tax benefits in relation to an approved loan under the repealed section 38 as specified in an interim approval granted under section 13, the provisions of that repealed section together with other ancillary provisions of this Act shall continue to have effect as if section 38 had not been repealed.”;

- (d) in section 41, by repealing subsection (2).

PART X
FINANCE ACT, 2005

Act No. 21 of
2005 amended

10. Section 19 of the Finance Act, 2005 is amended by deleting the word “2004” and substituting the word “2005”.

PART XI
VALIDATION

Chap. 75:04

11. Every act or thing done by the Board of Inland Revenue prior to the coming into operation of the Finance Act, 2006 in relation to the collection of any penalty in excess of one hundred dollars from a person to whom Part I of the Petroleum Taxes Act applies and in respect of the failure, neglect or refusal by that person to furnish a return of income after six months from the time required to file the return, is hereby validated and declared to have been lawfully done by the Board.

PART XII
COMMENCEMENT

Commencement

12. (1) Subject to this section, this Act comes into operation on the date of its enactment.

(2) Notwithstanding any law to the contrary, the sections of this Act listed in the First Column shall come into effect on the dates set out in the Second Column:

First Column	Second Column
2	1 st January, 2006
3	-do-
4	-do-

5	1 st October, 2005
6	1 st January, 2006
7	1 st January, 2005
8	1 st January, 2005
9	1 st January, 2006
10	1 st January, 2005

|

| Passed in the House of Representatives this day of _____, 2006.

|

Clerk of the House

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

Speaker

| Passed in the Senate this day of _____, 2006.

|

Clerk of the Senate

I confirm the above.

President of the Senate.