

COOK ISLANDS

INCOME TAX ACT 1968-69

1968-69, No 24



\$2.40



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1968-69, No. 24

An Act to consolidate and amend the law relating to income tax

(21 April 1969)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title, commencement and division into Parts - (1) This Act may be cited as the Income Tax Act 1968-69.

(2) This Act shall come into force on the day of assent.

(3) This Act is divided into Parts, as follows:

Part I	- Interpretation	(Sections 2 to 5)
Part II	- Administration	(Sections 6 to 7)
Part III	- Returns and Assessments	(Sections 8 to 27)
Part IV	- Objections to Assessments	(Sections 28 to 38)
Part V	- Income Tax	(Sections 39 to 96)
Part VI	- Export Produce Income Tax	(Sections 97 to 111)
Part VII	- Dividend Tax	(Sections 112 to 129)
Part VIII	- Bonus Issue Tax	(Sections 130 to 136)
Part IX	- Agents and Non-residents	(Sections 137 to 163)
Part X	- Payment and Recovery of Tax	(Sections 164 to 176)
Part XI	- Refunds and Relief from Tax	(Sections 177 to 180)
Part XII	- Penalties	(Sections 181 to 190)
Part XIII	- General	(Sections 191 to 204)

PART I

INTERPRETATION

2. Interpretation - In this Act, unless the context otherwise requires -

"Additional tax" means additional tax charged under Section 166 of this Act:

"Agent" means any person declared by this Act to be an agent for the purposes of income tax:

"Annual rates" means the rates of income tax fixed for any year of assessment by the annual taxing Act for that year:

"Annual taxing" means the Act by which the rates of income tax are determined for any year:

"Assessable income" means income of any kind which is not exempted from income tax otherwise than by way of a "special exemption" expressly authorised as such by this Act:

"Banking company" means any person carrying on in the Cook Islands the business of banking:

"Basic rates" means the rates of income tax, bonus issue tax, and export produce income tax specified in the First Schedule to this Act:

"Bonus Issue" has the meaning assigned to it by Section 5 of this Act:

"Book and document" and "book or document" include all books, accounts, rolls, records, registers, papers and other documents:

"Business" includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit:

"Charitable purpose" includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community:

"Collector of Inland Revenue or "Collector" means the Collector of Inland Revenue appointed under this Act; and includes any person for the time being authorised to exercise or perform any of the powers or functions of the Collector:

"Company" means any body corporate whether incorporated in the Cook Islands or elsewhere, but does not include a local or public authority:

"Cook Islands Company" means a company incorporated in the Cook Islands:

"Debentures" includes debenture stock, and "debenture-holder" includes the owner of debenture stock:

"Department" means the Inland Revenue Department established by this Act:

"Dividends" has the meaning assigned to it by Section 4 of this Act:

"Income year" means in respect of the income of any person, the year in which that income has been derived by him:

"Lease" means any disposition whatever by which a leasehold estate is created:

"Leasehold estate" includes any estate howsoever created, other than a freehold estate:

"Local authority" means an Island Council, District Council or Village Committee, and includes any incorporated instruments of local government in the Cook Islands whether possessing rating powers or not:

"Minerals" includes all minerals, metals, coal, oil, clay, stone, gravel, sand and precious stones:

"Minister" means the Minister responsible for Finance:

"Non-assessable income" means income of any of the following cases -

- (a) Income derived from securities issued by the Government of the Cook Islands subject to the condition that the income derived therefrom shall be exempt from income tax:

- (b) Income derived from debentures issued by companies on terms providing for the payment of income tax by those companies, as provided by Section 66 of this Act;
- (c) Dividends derived by companies and exempt from Income Tax on such dividends under Section 120 of this Act;
- (d) Income that is exempted from income tax under Section 95 of this Act;

"Non-resident agent" means an agent within the meaning of the Act, who, being in the Cook Islands, has no fixed and permanent place of business or abode there;

"Non-resident trader" means any person who, being in the Cook Islands carries on business there without having any fixed and permanent place of business or abode there;

"Notice" means a notice in writing given by causing the same to be delivered to any person, or to be left at his usual or last known place of abode or business in the Cook Islands or elsewhere, or to be sent by post addressed to such usual or last known place of abode or business, or if there are several such places of business, then to any of them;

"Officer" includes any person employed in the Department;

"Overseas Company" means any company other than one incorporated in the Cook Islands;

"Patent rights" means the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent;

"Penal tax" means penal tax charged under Section 184 of this Act;

"Person" includes a company, a corporation sole and also a body of persons, whether incorporated or not, and a local or public authority;

"Prescribed" means prescribed by the Collector;

"Public authority" means every department or other instrument of the Executive Government of the Cook Islands;

"Shareholder" includes any member of a company whether the capital of that company is divided into shares or not; and "share" includes any interest in the capital of a company;

"Superannuation fund" means the New Zealand Government Superannuation Fund and any superannuation fund established for the benefit of the employees of any employer and approved for the time being by the Collector for the purposes of this Act;

"Tax" means income tax;

"Taxable income" means the residue of assessable income after deducting the amount of all special exemptions to which the taxpayer is entitled;

"Taxpayer" means a person chargeable with income tax, whether on his own account or as the agent or trustee of any other person, and includes the executor or administrator of a deceased taxpayer;

"Treasurer" means in respect of the Cook Islands account and all moneys attributable thereto, the person holding office as Treasurer of the Government of the Cook Islands;

"Trustee" includes an executor and administrator;

"Year" means a year commencing on the first day of April and ending on the thirty-first day of March, both of these days being included;

"Year of assessment" means the year for which income tax is payable.

3. Defining when a company is under the control of any persons, and when two companies consist substantially of the same shareholders - (1) For the purposes of this Act a company shall be deemed to be under the control of the

persons -

- (a) By whom more than one-half of the shares, or more than one-half of the nominal capital, or more than one-half of the paid-up capital, or more than one-half of the voting power is held; or
- (b) Who have by any other means whatsoever control of the company; or
- (c) Who, by reason of the shareholding at the end of any income year, would be entitled to more than one-half of the profits for that year if those profits were distributed by way of dividend at the end of that year.

(2) For the purposes of this Act two companies shall be deemed to consist substantially of the same shareholders if not less than one-half of the paid-up capital of each of them is held by shareholders in the other or if not less than one-half in nominal value of the allotted shares in each of them is held by shareholders in the other. Shares in one company is held by shareholders in the other. Shares in one company shall for this purpose be deemed to be held by the shareholders in the last-mentioned company.

(3) Where a nominee of any person holds any shares, nominal capital, paid-up capital, or voting power in a company, or has by any other means whatsoever any power of control in a company, or is entitled to a share of profits distributed by a company, then for the purposes of this section those shares or that capital or that voting power or that power of control or that title to profits, as the case may be, shall be deemed to be held by that person, and in every such case that person and his nominee or that person and all his nominees shall be deemed to be one person.

(4) In this section -

"Person" includes a company and a local or public authority;

"Nominee", in relation to any person, means any other person who may be required to exercise his voting power in relation to any company in accordance with

the direction of that person, or who holds shares or debentures directly or indirectly on behalf of that person; and includes the husband or wife of that person and any relative of that person by blood, marriage, or adoption.

4. Meaning of expression "dividends" - (1) For the purposes of this Act the expression "dividends", in relation to any company, shall be deemed to include -

- (a) All sums distributed in any manner and under any name among all or any of the shareholders of the company;
- (b) The value of any other property of any kind whatsoever distributed by the company to any of its shareholders as such;
- (c) All amounts received by any shareholder in respect of his shares (whether in money or money's worth) upon the winding up of the company in excess of the amount paid up on his shares;
- (d) Where any property of the company is sold or otherwise disposed of to a shareholder without consideration or for a consideration which in the opinion of the Collector is less than its market price or its true value, the excess of the market price of that property on the day it was sold or disposed of over the price (if any) realised on the sale or disposition or, if there is no market price, the excess of the price deemed to have been realised pursuant to a determination of the Collector under paragraph (b) of subsection (2) of section 70 of this Act over the price (if any) realised on the sale or disposition;
- (e) All interest received by debenture holders under debentures to which section 82 or section 83 of this Act applies:-

and shall also include any moneys advanced by the company to or for the benefit of any of its shareholders if, in the opinion of the Collector, the making of the advance was not a bona fide investment by the company but was virtually a distribution of profits, but shall not in any case include any payment or other transaction to such extent as that payment or transaction is, or is equivalent to, a return of share capital or constitutes a bonus issue or a return to shareholders of premiums paid to the company in respect of the issue of share capital by the company:

Provided that where any money advanced by a company to or for the benefit of any shareholder and deemed by virtue of this section to constitute a dividend is subsequently repaid to the company, the Collector may amend in such manner as may be thereby rendered necessary the assessment made in respect of income derived by that shareholder during the income year in which the advance was made, and may at any time refund any tax found to have been paid in excess of the amount properly payable, notwithstanding anything to the contrary in section 177 of this Act.

(2) Where any company that has reduced the amount of the paid-up capital of any shareholder by writing off losses incurred by the company is subsequently wound up and there is distributed to that shareholder upon the winding up an amount (whether in money or money's worth) in excess of the amount paid up on his shares in the company, the expression "dividends" shall, for the purposes of this Act, be deemed not to include the

amount so distributed to such extent as the Collector thinks just and reasonable, having regard to the amount of the paid-up capital lost by the shareholder and any other relevant consideration.

(3) Where -

- (a) Any capital asset of a company has been realised, whether voluntarily or involuntarily, and the Collector is satisfied that the whole or part of any profit arising from any such realisation in excess of the cost to the company of that asset (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section; or
- (b) The Collector is satisfied that a company has otherwise made a capital profit or a capital gain, including a capital gain by way of gift, and that the whole or part of any such profit or gain (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section -

the expression "dividends" shall, for the purposes of this Act, be deemed not to include that profit or gain to the extent to which that profit or gain exceeds any capital losses incurred in the income year (or, as the case may be, the accounting year of the company corresponding with that year) in which that profit or gain was made or in any subsequent year (being losses not already taken into account under this subsection or under subsection (3) of section 5 of this Act or in calculating the assessable income of the company for any year).

Provided that where any amount, being the whole or part of any increase arising from the writing up of any asset, has been excluded from -

- (i) The expression "dividends" in accordance with the provisions of this subsection; or
- (ii) The expression "bonus issue" in accordance with the provisions of subsection (3) of section 5 of this Act, -

the cost of that asset shall, for the purposes of this subsection, be deemed to be increased by that amount.

5. Meaning of expression "bonus issue" - (1) For the purposes of this Act the expression "bonus issue", in relation to a company, means a capitalisation of the whole or part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the company's profit and loss account or of the whole or part of any amount otherwise available for capitalisation, being in any such case a capitalisation by way of -

- (a) The allotment on or after the date of commencement of this Act, of fully paid-up or partly paid-up shares in the company; or
- (b) The giving on or after that date of credit in respect of the whole or part of the amount unpaid on any shares in the company.

(2) Where any company that has reduced the amount of the paid-up capital of any of its shareholders by writing off losses incurred by the company subsequently makes a capitalisation of the whole or part of any amount specified in subsection (1) of this section, being a capitalisation by way of -

- (a) The allotment to those shareholders of fully paid-up or partly paid-up shares in the company; or
- (b) The giving to those shareholders of credit in respect of the whole or part of the amount unpaid on any shares in the company;

the expression "bonus issue" shall, for the purposes of this Act, be deemed not to include the paid-up value of the shares so allotted or the credit so given, as the case may be, to such extent as the Collector thinks just and reasonable, having regard to the amount of the paid-up capital lost by those shareholders and any other relevant considerations.

(3) Where -

- (a) The Collector is satisfied that the whole or part of -

(i) Any profit (in excess of the cost to a company of an asset) as specified in paragraph (a) of subsection (3) of section 4 of this Act; or

(ii) Any capital profit or gain as specified in paragraph (b) of that subsection -

- (b) A company has written up any capital asset (other than goodwill), and the Collector is satisfied that the whole or part of any increase arising from any such writing up in excess of the cost to the company of that asset (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing income tax) is subsequently included in any transaction referred to in subsection (1) of this section, -

the expression "bonus issue" shall, for the purposes of this Act, be deemed not to include that profit or gain or increase to the extent to which that profit or gain or increase exceeds any capital losses incurred in the income year (or, as the case may be, the accounting year of the company corresponding with that year) in which that profit or gain or increase was made or in any subsequent year (being losses not already taken into account under this subsection or under subsection (3) of section 4 of this Act or in calculating the assessable income of the company for any year).

Provided that where any amount, being the whole or part of any increase arising from the writing up of any asset, has been excluded from -

- (i) The expression "bonus issue" in accordance with the provisions of this subsection; or
- (ii) The expression "dividends" in accordance with the provisions of subsection (3) of section 4 of this Act,

the cost of that asset shall, for the purposes of this subsection, be deemed to be increased by that amount.

(4) To the extent to which the Collector is satisfied that any transaction referred to in subsection (1) of this section includes any amount that constitutes premiums paid to a company in respect of the issue of share capital by the company, the transaction shall be deemed not to be included in the expression "bonus issue" for the purposes of this Act.

PART II

ADMINISTRATION

6. Inland Revenue Department - (1) There is hereby established a Department of State to be called the Inland Revenue Department.

(2) There shall from time to time be appointed under the provisions of the Public Service Act 1965, a Collector of Inland Revenue, who shall be head of the Department, and subject to the control of the Minister responsible for Finance, shall be charged with the administration of this Act and with such other functions as may from time to time be lawfully conferred upon him.

(3) On the occurrence from any cause of a vacancy in the office of Collector (whether by reason of death, resignation, or otherwise), or in case of the absence from duty of the Collector (from whatever cause arising), and so long as any such vacancy or absence continues, there shall be appointed some other fit person to have and to exercise all the powers, duties and functions of the Collector.

(4) There shall from time to time be appointed under the provisions of the Public Service Act 1965 such assessors, clerks, receivers, and other officers and employees as may be found necessary for the purpose of carrying out the functions of the Department.

(5) There shall be an official seal of the Inland Revenue Department, which shall be in the custody of the Collector.

(6) (i) Any certificate, notice, or other documents bearing the written, stamped, or printed signature of the Collector shall until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to have been signed.

(ii) Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds or has held the office of Collector.

7. Officers to maintain secrecy - (1) Every Officer of the Department, -

- (a) shall maintain and aid in maintaining the secrecy of all matters relating to this Act which come to his knowledge and shall not communicate any such matters to any person except for the purpose of carrying into effect this Act or any other enactment imposing taxes or duties payable to the Crown; and also
- (b) shall, before he begins to perform any official duty under this Act, take and subscribe an oath of fidelity and secrecy to maintain secrecy in conformity with this section

(2) Without limiting the generality of paragraph (a) of sub-section (1) of this section, it is hereby declared that no officer of the Department shall be required to produce in any Court any book or document or to divulge or communicate to any Court any matter or thing coming under his notice in the performance of his duties as an Officer of the Department, except when it is necessary to do so for the purpose of carrying into effect any provision of this Act or any other enactment imposing taxes or duties payable to the Crown.

(3) Every person who wilfully acts in contravention of the provisions of this section or in contravention of the true intent of any such oath shall be liable in conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred dollars.

PART III

RETURNS AND ASSESSMENT

8. Annual returns by taxpayers for purposes of income tax - (1) For the purpose of the assessment and levy of income tax every taxpayer shall in each year furnish to the Collector a return setting forth a complete statement of all the assessable income derived by him during the preceding year together with such other particulars as may be prescribed.

(2) Except as otherwise provided, every return of income under this Act shall -

- (a) Be made and furnished in such of the forms prescribed by the Collector for the purpose as is applicable;
- (b) Contain the information and particulars mentioned or referred to in that form;
- (c) Be verified by declaration as therein set forth;
- (d) Be accompanied by all such balance-sheets, profit and loss accounts, statements, and other documents as are mentioned in the form or are otherwise required by the Collector.

(3) Any further or other return which a person is required to make or furnish to the Collector in pursuance of section 14 or section 16 of this Act or in pursuance of any other statutory provision shall, unless, the form is prescribed by the statutory provision, be made and furnished in the form prescribed by the Collector.

(4) Annual returns of income shall be made -

- (a) By all companies and all persons in business whether for the whole or part of the income year irrespective of whether a profit has been made or a loss incurred.
 - (b) By all other persons, whether taxpayers or not, who derive income from salary, wages, interest, rent, annuity, dividend or other sources where the total income so derived exceeds four hundred dollars per annum.
- (5) (a) All returns of income and any other returns required by this Act to be furnished to the Collector shall be furnished by posting or delivering the same to the Collector or other authorised officer at such office of the Inland Revenue Department or at such other place as the Collector may direct.
- (b) Such direction may be given by the insertions of a general direction in any return form prescribed for use in any year of assessment or in such other manner as the Collector thinks fit.

(6) Wherever a person is required by this Act or the Collector to furnish a return to the Collector, it shall be the duty of that person to procure and make the required return and to take all steps necessary to ensure that the return is received at the place where or by the person to whom under this Act the return is required to be

- (7) (a) Every person who furnishes a return shall in the return, state his postal address, and shall, within one month of any change in his postal address, give to the Collector at the place where he furnished his return, notice in writing of the change, and of his new postal address.
- (b) The posting of any notice addressed to a person at the last address given by him pursuant to the Act shall be sufficient service of notice on him for the purposes of this Act.

9. Returns to annual balance date - (1) Instead of furnishing a return in accordance with the provisions of section 8 of this Act for any year ending with the thirty-first day of March, any taxpayer, may, with the consent of the Collector, elect to furnish a return for the year ending with the date of the annual balance of his accounts, and in any such case the income derived during that year shall for the purposes of this Act be deemed to have been derived during the year ending with the thirty-first day of March nearest to that date.

(2) For the purposes of this section and section 10 of this Act the thirtieth day of September in any year shall be deemed to be nearer to the last preceeding thirty-first day of March than to the next succeeding thirty-first day of March.

(3) Any election made by a taxpayer for the purposes of this section shall continue in force unless and until it is altered by the taxpayer with the prior approval in writing of the Collector.

10. Consequential adjustments on change in return date -

(1) In this section -

The expression "the return date" means the last day of the period for which a return of income is required to be made:

The expression "the original return date" means in the case of a taxpayer who has changed his return date, whether before or after the passing of this Act, the return date immediately prior to the new return date.

The expression "the new return date" means in the case of a taxpayer who has changed his return date whether before or after the passing of this Act, the date to which the change was made or, if he has made more than one change, means the date to which the last change was made.

(2) If in any case the new return date is an earlier date than the original return date, the taxpayer shall furnish a return for the period from the original return date up to and including the new return date in the succeeding year, and if the new return date is a later date than the original return date, the taxpayer shall furnish a return for the period from the original return date up to and including the new return date in the same year.

(3) All returns of income made in accordance with subsection (2) of this section shall be deemed to be returns of income derived during the year ending on the thirty-first day of March nearest to the new return date, and the income derived by a taxpayer during that period shall, for the purposes of assessment be added to any other income derived for the same year, and he shall be assessed and liable for income tax accordingly.

(4) If in any case to which this section applies the period from the original return date up to and including the new return date does not include the first day of October next succeeding the original return date, the taxpayer shall, notwithstanding anything to the contrary in section 79 of this Act, be entitled only -

- (a) To have any losses incurred by him in that period and deductible in accordance with that section deducted from or set off against his assessable income for the following years:
- (b) To have deducted from or set off against his assessable income derived during that period any deductible losses incurred by him during the last preceding years.

(5) Where, for the purposes of this section, a taxpayer is assessed for income tax on a return made for a period of less than a year, he shall be entitled, by way of special exemptions, only to an amount bearing to the total exemption to which he would be entitled for a full year the same proportion as the number of days in that period bears to the number of days in a year; and where a taxpayer is assessed on a return or returns for a period of more than a year, the deduction to which he shall be entitled by way of special exemptions shall be proportionately increased.

(6) Where, for the purposes of this section, a taxpayer is assessed for income tax on a return made for a period that is less or greater than a year, the rate of tax shall be determined as for a year, and for the purposes of this sub-section the taxable and non-assessable income of a taxpayer shall be deemed to have been derived at a uniform daily rate throughout the period for which the return has been made and where that period is less than a year that daily rate shall be deemed to have continued for a year.

(7) Where a taxpayer has been assessed for income tax on a return made to any date other than the thirty-first day of March in any year, the income derived by that taxpayer shall be deemed to have been assessed for tax to that date, and not to the thirty-first day of March nearest to that date.

(8) For the purpose of giving effect to the provisions of this section and to section 9 of this Act, the Collector may, for any year or years of assessment, make all such assessments or additional assessments as he may deem necessary, notwithstanding anything to the contrary in this Act.

11. Returns by partners, co-trustees and joint adventurers

(1) When income is derived by two or more persons jointly as partners, co-trustees or otherwise the following provisions shall apply:-

- (a) In the case of trustees, they shall make a return of that income, and shall be jointly assessable thereon and jointly and severally liable for the tax so assessed:

(b) In the case of partners -

- (i) They shall make a joint return of the income of the partnership, setting forth the amount of that income and the shares of the several partners therein:
- (ii) Each partner shall make a separate return of all income derived by him and not included in any such joint return:
- (iii) There shall be no joint assessment but each partner shall be separately assessed and liable for the tax payable on his total income, including his share of the income of any partnership in which he is a partner.

- (c) In any case other than that of co-trustees or partners, each person by whom income is so derived shall include in his return the amount of his share in the joint income, and shall be assessed and liable accordingly.

(2) For the purposes of this Act a husband and wife carrying on business together or deriving income jointly shall be deemed not to be carrying on business as partners or deriving income jointly and the whole of the income derived from the business or jointly shall be deemed to be that of the husband, unless in fact they are carrying on business or deriving the income jointly under a bona fide deed of partnership.

12. Returns by executors or administrators - (1) The executor or administrator of a deceased taxpayer shall in respect of all income derived by that taxpayer in his life time make the same returns as the taxpayer ought to have made or would have been bound to make if he had remained alive; and the Collector may from time to time require the executor or administrator to make such further returns relative to that income as the Collector thinks necessary, and may assess the executor or administrator for income tax on that income in the same manner in which the taxpayer might have been assessed had he remained alive.

(2) The tax so assessed shall be deemed to be a liability incurred by the deceased taxpayer in his lifetime, and the executor or administrator of the taxpayer shall be liable for the same accordingly.

13. Collector may in certain cases demand special returns and make special assessments - (1) This section

applies to the following persons:-

- (a) An agent:
- (b) A non-resident trader:
- (c) A person who is believed by the Collector to be about to leave the Cook Islands or to be about to discontinue the carrying on of business in the Cook Islands:
- (d) A person who has ceased to carry on business in the Cook Islands or to derive assessable income:
- (e) The executors or administrators of a deceased taxpayer in respect of income derived by him in his lifetime:
- (f) A person who has become bankrupt, or a company which is in course of being wound up.

(2) The Collector may, if he thinks fit, at any time during the income year or in any subsequent year, require any person to whom this section applies to make a return of income derived from any specified transaction or transactions, or during any specific period, and may assess him for income tax on the income so returned, or when default is made in making such a return, or the Collector is dissatisfied therewith, then on such sum as the Collector thinks reasonable, and shall give notice of the assessment to the person so assessed.

(3) Any person so assessed shall have the same right of objection as if he had been assessed in the ordinary course.

(4) Tax so assessed shall be payable on demand, which may be made in and by the notice of assessment, or at any later date, and the tax shall be recoverable in the same manner as income tax assessed in the ordinary course.

(5) If any such assessment of income derived in any year is made before the passing of the annual taxing Act by which the rate of tax payable on that income is fixed, the tax shall be assessed at the rate fixed by the annual taxing Act last passed before the date of the assessment.

(6) No assessment made under this section shall in any manner preclude a subsequent assessment of the same person in the ordinary course in respect of the whole of the income derived by him during the income year with respect to which the assessment under this section was made, but in such case the tax paid under the earlier assessment shall be credited in the subsequent assessment.

14. Other annual returns - In addition to the foregoing returns every person, whether a taxpayer or not, shall make to the Collector such annual returns as may from time to time be prescribed for the purposes of this Act.

15. Dates by which returns to be furnished - (1) The annual returns of income shall be made in each year on or before a date or dates of which the Collector gives public notice.

(2) Such notice shall be given by publishing the same in the Cook Islands Gazette or any newspaper published in the Cook Islands or in such other manner as the Collector may think necessary and sufficient.

16. Collector may require other returns to be made - In addition to the returns abovementioned every person, whether a taxpayer or not, shall, as and when required by the Collector make such further or other returns as the Collector requires for the purposes of this Act.

17. Presumption as to authority - A return 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.

18. Collector to make assessments - (1) From the returns made as aforesaid and from any other information in his possession the Collector shall in and for every year, and from time to time and at any time thereafter as may be necessary, make assessments in respect of every taxpayer, setting forth the amount upon which tax is payable and the amount of the tax.

(2) Every such assessment shall be made in such form and manner as the Collector thinks fit, and shall be signed by him.

19. Basic rates of income tax - (1) The Collector may in any year of assessment (whether before or after the passing of the annual taxing Act for that year) assess the income tax of any taxpayer at the basic rates. No such assessment shall be deemed to be invalid on the ground that it is made before the passing of the annual taxing Act.

(2) If the annual rates for any year of assessment are higher or lower than the basic rates, the amount of every assessment of income tax made under this section in respect of that year shall be deemed to be increased or reduced accordingly, and every such assessment shall have the same effect as if the amount thereof as so increased or reduced had been specified therein.

20. Arbitrary assessment where business controlled by non-residents appears to produce insufficient taxable income - (1) Where any business carried on in the Cook Islands:

- (a) Is controlled exclusively or principally by persons not resident in the Cook Islands; or
- (b) Is carried on by a company not resident in the Cook Islands, or by a company in which more than one half of the shares are held by persons not resident in the Cook Islands; or
- (c) Is carried on by a company which holds, or on behalf of which other persons hold, more than one half of the shares in a company not resident in the Cook Islands, - and it appears from the returns made to the Collector that the business produces no taxable income or less than the amount of taxable income which in the opinion of the Collector might be expected to arise from that business, the person carrying on the business in the Cook Islands shall, notwithstanding anything to the contrary in this Act, be assessable for and liable to pay income tax on a taxable income of such amount as the Collector determines, being at the option of the Collector either such proportion as he determines of the total receipts (whether cash or credit) of the business of such proportion as he determines of the total purchase moneys paid or payable (whether in cash or by the granting of credit) in the conduct of the business.

(2) For the purposes of this section the place of residence of any person other than a company, and the place of residence of any company, shall be determined in accordance with the provisions of section 92 of this Act.

21. Assessment made where default made in furnishing returns - If any person makes default in furnishing any return, or if the Collector is not satisfied with the return made by any person, or if the Collector has reason to suppose that any person although he has not made a return is a taxpayer, he may make an assessment of the amount on which in his judgment tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, save in so far as he establishes on objection that the assessment is excessive or that he is not chargeable with tax.

22. Amendment of assessments - (1) The Collector may from time to time and at any time make all such alterations in or additions to an assessment as he thinks necessary in order to ensure the correctness thereof notwithstanding that the tax already assessed may have been paid.

(2) If any such alteration or addition has the effect of imposing any fresh liability or increasing any existing liability, notice thereof shall be given by the Collector to the taxpayer affected.

23. Limitation of time for amendment of assessment - When any person has made returns and has been assessed for income tax for any year, it shall not be lawful for the Collector to alter the assessment so as to increase the amount thereof after the expiration of four years from the end of the year in which the assessment was made or (in any case where in the opinion of the Collector the returns so made are fraudulent or wilfully misleading or omit all mention of income which is of a particular nature or was derived from a particular source, and in respect of which a return is required to be made) after the expiration of ten years from the end of the year in which the assessment was made.

24. Validity of assessment not affected by failure to comply with Act - The validity of an assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

25. Except in proceedings on objection, assessments deemed correct - Except in proceedings on objection to an assessment under Part IV of this Act, no assessment made by the Collector shall be disputed in any Court or in any proceedings either on the ground that the person so assessed is not a taxpayer or on any other ground; and except as aforesaid, every assessment and all the particulars thereof shall be conclusively deemed and taken to be correct, and the liability of the person so assessed shall be determined accordingly.

26. Evidence of returns and assessments - The production of any documents under the hand of the Collector purporting to be a copy of or extract from any return or assessment shall in all Courts and in all proceedings be sufficient evidence of the original, and the production of the original shall not be necessary, and all Courts shall in all proceedings take judicial notice of the signature of the Collector either to the original or to any such copy or extract.

27. Notice of assessment to taxpayer - (1) As soon as conveniently may be after an assessment is made the Collector shall cause notice of the assessment to be given to the taxpayer.

(2) The omission to give any such notice shall not invalidate the assessment or in any manner affect the operation thereof.

PART IV

OBJECTIONS TO ASSESSMENTS

28. Objections to assessments, how originated - (1) Any person who has been assessed for income tax may object to that assessment by delivering or posting to the Collector a written notice of objection stating shortly the grounds of his objection so that it reaches the Collector within the time specified in that behalf in the notice of assessment not being less than four weeks after the date on which that notice of assessment is given.

(2) If the Collector is satisfied that there is no suitable mail by which a written notice of objection can reach him within the time so specified, radio advice to the Collector that the taxpayer objects to his assessment will constitute an effective notice of objection provided that -

(a) the radio advice is received by the Collector within the time so specified; and

(b) the taxpayer posts to the Collector by the first available mail a written statement setting out shortly the grounds of the objection.

(3) No notice of objection given after the time so specified shall be of any force or effect unless the Collector in his discretion accepts the same and gives notice to the objector accordingly.

29. Collector may amend assessment, or objection may be submitted to High Court - (1) The Collector shall consider all such objections and may alter the assessment pursuant thereto.

(2) If an objection is not allowed by the Collector, the objector may, within three months after the date on which notice of the disallowance is given to him by or on behalf of the Collector, by notice in writing to the Collector require that the objection be heard and determined by the High Court before a Judge thereof, and in that event the objection shall be heard and determined in the High Court; and the High Court shall for the purpose of hearing and determining the objection, whatever the amount involved, have all the powers vested in it, in its ordinary civil jurisdiction as if in an action between the objection taxpayer and the Collector.

(3) If the Collector, after considering the objection, has allowed the objection in part and has reduced the assessment, the reduced assessment shall be the assessment to be dealt with by the High Court.

30. Hearing of objections by High Court - (1) The procedure for the institution, hearing, and determination of such proceedings in the High Court shall be in accordance with the ordinary practice of that Court.

(2) No objection to an assessment of income tax shall be heard by a Judge in open Court.

31. Burden of proof on objector - On the hearing and determination of all objections to assessments of income tax the burden of proof shall be on the objector, and the Court may receive such evidence as it thinks fit, whether receivable in accordance with law in other proceedings or not.

32. Costs - On the determination of any objection the Court may award such costs as it deems just either against the Collector or against the objector.

33. Court may confirm, cancel or alter the assessment - On the determination of any such objection the High Court may either confirm or cancel the assessment, or increase or reduce the amount thereof, and the assessment shall be altered by the Collector, if necessary, so as to conform to that determination.

34. Appeals to Supreme Court of New Zealand - The determination of the High Court on any such objection shall be subject to appeal to the Supreme Court of New Zealand in accordance with Article 61 of the Constitution.

35. Appeals from assessments - (1) In this Act the term "appeal" means a proceeding in the High Court, or an appeal to the Discretionary Review Board, under Part IV of this Act, for the determination of an objection made under this Act to an assessment of income tax, and the term "appellant" means the person by whom any such objection has been made.

(2) The parties to the appeal shall be the appellant and the Collector as respondent.

(3) (a) For the purpose of every appeal the Collector shall state and sign a case setting forth the facts as alleged by him, the nature of the assessment made by him, the ground of objection thereto, and the question for the determination of the Court or Board as the case may be.

(b) The case, so stated and signed, shall be filed by the Collector in the High Court or with either member of the Board, as the case may be, and the filing of the case shall be deemed to be the institution of the appeal.

(c) A copy of the case so filed shall be sent by the Collector to the appellant, either through the post office or otherwise.

(4) Within fourteen days after the filing of the case by the Collector or within such further time as the Collector may allow the appellant may, if he thinks fit, file an answer to the case. The answer shall set forth the facts as alleged by the appellant and the grounds of his appeal.

(5) The case as stated and filed by the Collector shall not be conclusive as to the matters set forth therein, either against the appellant or the Collector, except so far as agreed to in writing by or on behalf of the Collector and the appellant.

(6) After the filing of the case by the Collector the Registrar of the Court, or a member of the Discretionary Board of Review, as the case may be, shall on the application of the Collector or of the appellant, appoint a time and place for the hearing of the appeal, that time not being earlier (except with the consent of the Collector and the appellant) than twenty-one days after the date of the filing of the case.

(7) Reasonable notice by post or otherwise of the time and place so appointed shall be given by the person on whose application the appointment has been made to the other party to the appeal.

(8) At the time and place so appointed, a Judge of the High Court or in the absence of a Judge, the Registrar of the Court or the Discretionary Review Board or a member of that Board in the absence of the other member, as the case may be, may adjourn the hearing to any other time or place, and so on from time to time.

(9) If either party fails to appear at the hearing, the Court or the Board, as the case may be, shall in its discretion either adjourn the hearing or determine the appeal in the same manner as if both parties were present.

(10) The procedure at the hearing of the appeal shall be the same, with all necessary modifications, as if the appeal were an action in which the appellant is the plaintiff and the Collector is the defendant.

36. Obligation to pay tax not suspended by objection or appeal - The obligation to pay and the right to receive and recover any tax shall not be suspended by any objection, or appeal, but if the objector succeeds the amount (if any) of the tax received by the Collector in excess of the amount which, according to the decision on the hearing of the objection, or appeal, was properly payable shall forthwith be refunded to him by the Collector.

37. Determination of objection not to affect other income - The determination of an objection under any of the foregoing provisions shall relate solely to the income which is the subject of the assessment objected to, and shall not affect the right of the Collector to assess any other income of the objector, or to amend the assessment objected to in any manner rendered necessary by the assessment of such other income.

38. Application of provisions as to objections, and appointment of Discretionary Review Board - (1) The foregoing provisions as to objections shall have no application to an objection relating to any matter which by this Act is left to the discretion, judgment, or determination of the Collector save as provided in subsection (2) of this section.

(2) (a) There is hereby established a board, to be known as the Discretionary Review Board, to consider, in accordance with this section, any appeal on the ground that an assessment of income made in respect, of any taxpayer pursuant to any provision of this Act whereby the Collector is required or empowered to exercise his discretion or his own judgment in such assessment, is unreasonable in the circumstances, and that the Collector on receiving an objection to such assessment has declined to allow the objection

- (b) The Board shall consist of two persons who shall be appointed by the Minister and who shall hold office during his pleasure:
- (c) Any appeal under the provisions of this section shall be made in writing to the Collector within twenty-one days of receipt of notice from the Collector that the objection has been disallowed. Upon receipt of any such appeal the Collector shall forward the same forthwith for the consideration of the Board:
- (d) If the Collector considers any appeal made under this section to be frivolous, he may by notice to the appellant require payment of the tax payable in accordance with the assessment appealed against before the appeal is considered, and in such case unless the tax is paid within fourteen days of receipt of such notice no appeal under this section shall be of any effect:
- (e) The Board shall consider all appeals made in accordance with this section, and in doing so shall have free access to all records under the control of the Collector relating to the taxpayer, and the same powers as are vested in the Collector for the administration of this Act, shall for the purposes of each appeal be vested in the Board:
- (f) If the members of the Board are unable to reach a unanimous decision on the matter appealed against the ruling of the Collector on the matter shall stand:
- (g) If the members of the Board are unanimous in their decision on the matter appealed against, they shall convey such decision to the Collector and the appellant and such ruling shall be final. The Collector shall then make such adjustments in the assessment appealed against as are necessary to give effect to the ruling of the Board:
- (h) No ruling or decision given by the Board in any particular case shall be binding on the Collector in any other case or matter wherein he is required or empowered to exercise his discretion or judgment under this Act.

PART V

INCOME TAX

39. Meaning of "Absentee" - "Absentee" means, in this Part of this Act, a person whose home has not been in the Cook Islands during any part of the income year.

Provided that a taxpayer shall not be deemed to be an absentee within the meaning of this Part of this Act if the Collector is satisfied that the absence of the taxpayer from the Cook Islands during the income year has been for the sake of his or her health, or of the health of the husband or wife, as the case may be, or of any child of the taxpayer.

Provided further that no person who is absent from the Cook Islands in the service in any capacity of the Government of the Cook Islands, nor the wife of any such person if she is absent from the Cook Islands with him, shall by reason of such absence be deemed to be an absentee within the meaning of this Part of this Act.

40. Income Tax Imposed - (1) Subject to the provisions of this Act, there shall be levied and paid for the use of Her Majesty, in and for the year commencing on the first day of April in each year, a tax herein referred to as income tax.

(2) Subject to the provisions of this Act, such tax shall be payable by every person on all income derived by him during the year preceding the year in and for which the tax is payable.

41. Rates to be fixed by annual taxing Act - (1) Income tax shall be assessed and levied on the taxable income of every taxpayer at such rate or rates as may be fixed from time to time by Acts to be passed for that purpose.

(2) The Act by which the rate of income tax is so fixed for any year is in this Act referred to as the annual taxing Act.

Special Exemptions

42. Special exemptions for absentees - (1) Every absentee shall, for the purpose of assessing income tax on the income derived by him from the Cook Islands in the income year, be entitled to a deduction by way of special exemption from his assessable income of four hundred dollars, if -

- (a) The absentee was not personally present in the Cook Islands at any time in the income year; or
- (b) The absentee was personally present in the Cook Islands for not more than thirty days in the income year, and satisfies the Collector either -

(i) That while so present he did not derive from any source in the Cook Islands any income from his personal services; or

(ii) That while so present he was the beneficial owner, either solely or partly, (otherwise than as a shareholder in a company) of a business (not being a business temporarily in the Cook Islands), an investment, an interest in a trust or deceased person's estate, or other like source of income from which he would have derived the income arising therefrom in the Cook Islands during the income year, or, as the case may be, his share of that income, without being present in the Cook Islands, and that he was so present for the sole or principal purpose of inspecting, overseeing, or supervising that business, and that in the income year he did not derive from any source in the Cook Islands other than that business, investment, interest, or other like source of income from his personal services.

- (2) Where any absentee -

- (a) Was personally present in the Cook Islands for more than thirty days in the year income; or
- (b) Derived income from his personal services while personally present in the Cook Islands in the income year and is not an absentee to whom subparagraph (ii) of paragraph (b) of subsection (1) of this section applies in respect of that year -

he shall, for the purposes of assessing income tax on that income derived by him from the Cook Islands in the income year,

be entitled to a deduction by way of special exemption from his assessable income of the aggregate of the following amounts:

- (i) An amount equal to the assessable income (if any) that he would have derived from the Cook Islands in the income year without being present in the Cook Islands, but not exceeding four hundred dollars;
- (ii) An amount equal to the same proportion of the excess of four hundred dollars over the amount (if any) deductible under paragraph (i) of this subsection as the proportion that the number of days for which he was personally present in the Cook Islands in the income year bears to the number of days in the income year;
- (iii) An amount equal to the same proportion of every deduction by way of special exemption to which he would have been entitled under sections 44 to 50, other than section 49, of this Act if he were not an absentee as the proportion that the number of days for which he was personally present in the Cook Islands in the income year bears to the number of days in the income year;
- (iv) Such allowance under section 49 of this Act as the Collector may consider appropriate.

43. Special exemption of four hundred dollars - From the yearly assessable income of every person, other than an absentee or a company or a public authority or an unincorporated body, there shall, for the purpose of assessing income tax on that income, be deducted by way of special exemption the sum of four hundred dollars.

44. Special exemption for married man - (1) Every taxpayer (other than an absentee) who at any time during the income year is a married man shall, subject to the provisions of this section, be entitled in respect of his wife to a deduction by way of special exemption from his assessable income of four hundred dollars diminished at the rate of one dollar for every complete dollar of the excess of the income derived by his wife during the income year over four hundred dollars.

(2) No exemption shall be allowed under this section in respect of a wife whose income in her own right derived from all sources in the income year amounted to or exceeded eight hundred dollars or who in fact has not during the income year been supported by her husband.

(3) A taxpayer whose marriage is terminated and who remarries during the income year shall not be entitled in respect of that income year to a special exemption in respect of more than one wife.

45. Special exemption for a married woman supporting husband - (1) Every taxpayer, (other than an absentee) who at any time during the income year, is a married woman, shall, subject to the provisions of this section, be entitled in respect of her husband to a deduction by way of special exemption from her assessable income of four hundred dollars diminished at the rate of one dollar for every complete dollar of the excess of the income derived by her husband during the income year over four hundred dollars.

(2) No exemption shall be allowed under this section in respect of a husband whose income in his own right derived from all sources in the income year amounted to or exceeded eight hundred dollars or who in fact has not during the income year been supported by his wife.

(3) A taxpayer whose marriage is terminated and who remarries during the income year shall not be entitled in respect of that income year to a special exemption in respect of more than one husband.

46. Special exemption in certain cases for a taxpayer employing a housekeeper - (1) For the purposes of this section the term "housekeeper" means a woman who is employed, either in the home or elsewhere, to have the care and control of any child or children who at any time during the income year was or were under the age of sixteen years or of any child who at any time during the income year was suffering from any permanent mental or physical infirmity and was thereby permanently incapacitated from earning his or her own living.

(2) Every taxpayer (other than an absentee) being a widow, a widower, a divorced person, an unmarried person or a separated person shall, subject to the provisions of this section, be entitled in respect of a housekeeper, as hereinbefore defined, employed by that taxpayer, to a deduction by way of special exemption from his or her assessable income of four hundred dollars.

Provided that in no case shall the special exemption allowed under this section in respect of any year exceed the aggregate amount paid by the taxpayer during that year by way of salary, wages or emolument of any kind to a housekeeper or housekeepers.

(3) Where a house keeper as hereinbefore defined is employed by the taxpayer during part only of the income year, the exemption to which the taxpayer would otherwise be entitled under this section shall be reduced by one twelfth for every month during which no housekeeper was so employed.

(4) A taxpayer whose marriage is terminated during any income year, whether by death or otherwise, shall not be entitled in respect of that income year to a special exemption in respect of a housekeeper under this section if the taxpayer is entitled in respect of that year to a special exemption under section 44 or section 45 of this Act, as the case may be.

47. Special exemption for dependent children - (1) Every taxpayer (other than an absentee) shall, subject to the provisions of this section, be entitled in respect of each child of his who is dependent upon him at any time during the income year, and who is under the age of sixteen years at the beginning of the income year or is born alive during the income year, to a deduction by way of special exemption from his assessable income of one hundred dollars.

(2) Where claims are made under this section by two or more taxpayers for deductions by way of special exemptions in respect of the same child, the Collector shall not allow a greater exemption in the aggregate than to which one of them would be entitled under this section if he were the only claimant; and, if in the circumstances the Collector thinks fit, he may allow the amount of the exemption to one only of those taxpayers to the exclusion of the other or others, or, if the Collector is satisfied that the amount of the exemption should be apportioned among any two or more of those taxpayers, he may apportion the amount of the exemption among the last-mentioned taxpayers in such manner as he thinks fit.

(3) No special exemption shall be allowed under this section in respect of any child if the Collector is satisfied that the child has sufficient income or capital available for his own support or that the contributions towards his support were not necessary.

(4) In this section the term "child" includes a stepchild or adopted child, but not a foster child or feeding child.

48. Special exemption for support of dependent relatives - (1) Every person (other than an absentee) shall be entitled to a deduction by way of special exemption from his assessable income of the amount (not exceeding in the aggregate one hundred dollars in respect of any one relative) contributed by him during the income year towards the support of any relative.

(2) Where claims are made under this section by two or more taxpayers for deductions by way of special exemption exceeding one hundred dollars in the aggregate in respect of contributions towards the support of the same person the Collector shall not allow a greater exemption in the aggregate than one hundred dollars, to be apportioned among the several taxpayers in such manner as the Collector thinks fit.

(3) No special exemption shall be allowed under this section in respect of any relative if the Collector is satisfied that the relative has sufficient income or capital for his own support or that the contributions toward his support were not necessary.

(4) For the purposes of this section the term "relative" means:-

- (a) a child, step-child, or adopted child who at any time during the income year is over the age of sixteen years, is suffering from any permanent mental or physical infirmity and is thereby permanently incapacitated from earning his or her own living, or is attending fulltime a University or educational institution recognised by the Collector; and
- (b) any other person proved to the satisfaction of the Collector to be a relation of the taxpayer by blood, marriage, or adoption (not being the wife or husband of the taxpayer or a child, step-child or adopted child of the taxpayer to whom section 47 of this Act applies); and includes a former wife of the taxpayer; and also includes any child, not being a child, step-child or adopted child of the taxpayer, who is supported by the taxpayer as a foster-child or feeding-child.

Provided that -

- (i) where the wife of a taxpayer is not living with him she shall be deemed to be a relative of the taxpayer for the purposes of this section;
- (ii) a special exemption under this section in respect of the wife of a taxpayer shall be allowable only where the amount thereof exceeds the amount of the special exemption to which the taxpayer is entitled in respect of his wife under section 44 of this Act, and shall be allowable in substitution for the last mentioned exemption;
- (iii) for the purposes of this Act the wife of a taxpayer shall be deemed to be living with him unless the Collector is satisfied that she is in fact separated and living separate and apart from him, whether pursuant to a decree, order, or judgment of any Court, or pursuant to an agreement for separation, or by reasons of the

desertion of one of the parties by the other of them, or otherwise.

(5) No person shall be entitled to deductions under this section in respect of more than four relatives.

49. Special exemption for education of children - A person who satisfied the Collector that he is maintaining a child, adopted child, step-child, or foster-child, in respect of which he is entitled to an exemption under section 47 or 48 of this Act as a fulltime student at a University or educational institution recognised by the Collector and situated out of the Cook Islands may be allowed an additional deduction by way of special exemption from his assessable income of an amount of not more than four hundred dollars, provided that the amount of any deduction so made combined with the amount of any deduction made under section 47 or 48 of this Act in respect of the same child does not exceed the amount which the Collector considers has been reasonably expended by the taxpayer in maintaining that child at the University or educational institution.

50. Special exemption in respect of life insurance premiums, interest on loan, and other specified contributions - (1) For the purposes of this section -

- "Benefit", in relation to a policy of life insurance, means a benefit that is specified in or is ascertainable from the terms of the policy;
- "Child" includes a step-child, adopted-child and a foster-child;
- "Policy of life insurance", in relation to a taxpayer, means a policy of insurance -
- (a) which has been effected -
 - (i) On the life of the taxpayer; or
 - (ii) On the life of the spouse of the taxpayer; or
 - (iii) On the joint lives of the taxpayer and the spouse of the taxpayer; or
 - (iv) On the life of a child of the taxpayer; and
 - (b) which, except in the case of a whole of life policy, has a minimum term of -
 - (i) At least ten years in any case to which subparagraph (ii) of this paragraph does not apply; or
 - (ii) At least five years in any case where the maturity date of the policy is not earlier than the date on which the life assured, attains the age of sixty years, if male, or fifty-five years, if female; and
 - (c) Under the terms of which no benefits (other than benefits payable or distributable as a result of the death of the life assured or, in the case of a joint policy, of either of the lives assured) are payable or distributable earlier than the expiry of ten years after the commencement of the term of the policy or the maturity date of the policy, whichever is the sooner; and
 - (d) Which -
 - (1) Provides for the payment or distribution, as a result of the death of the life assured, or, in the case of a joint

policy, of either of the lives assured, of a benefit (not being a return of premiums with or without interest) which, in the opinion of the Collector, consists substantially of a capital benefit and is not, irrespective of the date of death during the currency of the policy, materially less than the total benefit payable or distributable under the policy otherwise than as a result of death as aforesaid; or

(ii) Is a child's deferred life assurance policy; or

(iii) The taxpayer proves, to the satisfaction of the Collector, is on the life of a person who, owing to ill health or physical disability is unable to effect at ordinary rates a policy of insurance of the kind referred to subparagraph (i) of this paragraph; -

and includes any policy of insurance effected before the date of the commencement of this Act.

"Specified fund" means -

- (a) The National Provident Fund; or
- (b) Any superannuation fund; or
- (c) Any insurance fund of a friendly Society; or

(d) Any fund which is approved by the Collector for the purposes of this section.

(2) For the purpose of assessing income tax every taxpayer (other than an absentee) who in any income year pays premiums in respect of a policy of life insurance for the taxpayer's own benefit, or for the benefit of the taxpayer's spouse or children, shall be entitled to a deduction by way of special exemption from his or her assessable income for that income year of the amount of those premiums.

(3) For the purpose of assessing income tax every taxpayer (other than an absentee) who is a contributor for the taxpayer's own benefit or for the benefit of the taxpayer's spouse or children to a specified fund, shall be entitled to a deduction by way of special exemption from his or her assessable income for any income year of the amount of his or her contributions during the same income year.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section, no deduction by way of special exemption shall be allowed in any income year in respect of the premiums paid by a taxpayer in respect of any policy of life insurance on the life of any child, or in respect of contributions for the benefit of any child to a specified fund unless the taxpayer is entitled to a deduction by way of special exemption under section 47 or section 48 of this Act in respect of that child in the same income year.

(5) The deductions by way of special exemption provided for in this section shall not in any year exceed in the aggregate the sum of six hundred dollars.

(6) The Collector may, in his discretion, disallow or decline to allow a deduction by way of special exemption -

- (a) Under subsection (2) of this section in respect of premiums paid in respect of any policy of life insurance which is surrendered within five years after the commencement of the term of that policy; or
- (b) Under subsection (3) of this section in respect of contributions to a specified fund which are withdrawn within five years after the date on which they were made, unless there is a regular pattern of contributions by the taxpayer to that fund over the whole of the period of five years immediately preceding the date on which the contributions are withdrawn -

and may accordingly make or amend any assessment or assessments of the taxpayer for any year without allowing that deduction. For the purpose of giving effect to this subsection, the Collector may amend any assessment or assessments of the taxpayer at any time, notwithstanding the provisions of section 23 of this Act.

51. Apportionment of special exemption in certain cases - Every person (other than an absentee) arriving in or departing from the Cook Islands during the income year, shall be entitled to a deduction by way of special exemption from his assessable income of -

- (a) An amount equal to the same proportion of every deduction by way of special exemption to which he would have been entitled under sections 43 to 50, other than section 49, of this Act if he were not arriving in or departing from the Cook Islands as the same proportion that the number of days during which the income is deemed to have been earned bears to the number of days in the income year; and
- (b) Such allowance under section 49 of this Act as the Collector may consider appropriate.

Exempt Income

52. Incomes wholly exempt from taxation - (1) The following incomes shall be exempt from taxation:-

- (a) The income, other than income received in trust, of a local authority, or of any public authority;
- (b) Income derived from sinking funds in respect of any public debt or of the debt of any local authority;
- (c) Income derived from the sale of any product of the Cook Islands by a producer of that product and on which export produce income tax under Part VI of this Act is payable or on which customs export duty is payable;
- (d) Income derived by any person from any pension or allowance granted by the Government of the Cook Islands or by any Government in respect of any war or in respect of any disability or disablement attributable to or aggravated by service in any naval, military, air or police forces;
- (e) Income derived by a person who is not (within the meaning of this Part of the Act) resident in the Cook Islands from -
 - (i) Stock or debentures which have been issued by the Government of the Cook Islands, or by any local or public authority, and the interest on which is payable out of the Cook Islands; or
 - (ii) Loans the interest on which is, pursuant to an agreement or arrangement made with the Government of the Cook Islands to be exempt from income tax in the Cook Islands.
- (f) Income derived by a person who is not (within the meaning of this Part of the Act) resident in the Cook Islands, from personal (including professional) services performed by that person within the Cook Islands during a visit to the Cook Islands if -
 - (i) That visit does not exceed a period of thirty days; and
 - (ii) In the country or territory in which that person is resident, that income, being exempt from income tax in the Cook Islands, is chargeable with any tax which in the opinion of the Collector is substantially of the same nature as income tax under this Act; and

(iii) Those services are performed for or on behalf of a person who is not (within the meaning of this Part of the Act) resident in the Cook Islands:

Provided that this paragraph shall not apply to the income derived in any income year by a person who is present within the Cook Islands for a period or periods exceeding the aggregate thirty days during that year;

- (g) Income derived by a woman in the form of payments in the nature of alimony or maintenance made to her by her husband or former husband out of income belonging to him;
- (h) Income derived by the trustees of a superannuation fund;
- (i) Income (not being income of the kind referred to in paragraph (j) hereof) derived by trustees in trust for charitable purposes, or derived by any society or institution established exclusively for such purposes and not carried on for private pecuniary profit of any individual;
- (j) Income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of trustees in trust for charitable purposes within the Cook Islands, or derived directly or indirectly from any business carried on by or on behalf of or for the benefit of any society or institution established exclusively for such purposes and not carried on for private pecuniary profits of any individual:

Provided that if the aforesaid purposes are not limited to the Cook Islands the Collector may apportion the income in such manner as he deems just and reasonable between such purposes within the Cook Islands and the like purposes out of the Cook Islands, and may allow to the trustees, society or institution a partial exemption accordingly.

- (k) Income derived by any society or association, whether incorporated or not, which is, in the opinion of the Collector, established substantially or primarily for the purpose of promoting any amateur game or sport if that game or sport is conducted for the recreation or entertainment of the general public, and if no part of the income or other funds of the society or association is used or available to be used for the private pecuniary profit of any proprietor, member or shareholder thereof;
- (l) Income derived by any society or association whether incorporated or not, which is in the opinion of the Collector, established substantially or primarily for the purpose of advertising, beautifying or developing any island, village or other district so as to attract trade, tourists, visitors, or population, or to create, increase, expand or develop amenities for the general public, if no part of the income or other funds of the society or association is used or is or may become available to be used for any other purpose, not being a charitable purpose;

- (m) Income derived by any person from any maintenance or allowance provided for or paid to him in respect of his attendance at an educational institution in terms of a scholarship or bursary;
- (n) Income derived by any person, in respect of any period of incapacity for work, from any sick pay or other allowances paid to him from any sick, accident or death benefit fund to which he was a contributor at the date of the commencement of that period of incapacity;
- (o) Income derived by any person, in respect of any period of incapacity for work, from any payment received by him by way of a benefit under a personal sickness or accident policy of insurance, not being a payment calculated according to loss of earnings or profits;
- (p) Income derived by any trustee in trust for any sick, accident, or death benefit fund, not being income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of that trustee;
- (q) Income derived by any person from any compensation received by him under the Workers Compensation Ordinance 1964 whether as a lump sum or by weekly payments;
- (r) Income derived by any life insurance company in so far as that income is derived from life insurance premiums.
- (s) Income derived from any bonds or securities issued exempt from tax by the Government of the Cook Islands or by any local or public authority;
- (t) Income of the South Pacific Commission and the income in so far as it is derived from the funds of the South Pacific Commission of persons employed by the Commission;
- (u) Income of the United Nations or of any specialised agency of the United Nations and the income in so far as it is derived from the funds of the United Nations or any such agency of persons employed by the United Nations or any such agency;
- (v) Income expressly exempted from income tax by any other Act or Ordinance to the extent of the exemption so provided;

(2) For the purposes of this section the expression "sick, accident, or death benefit fund" means any fund established for the benefit of the employees of any employer, or of the members of any incorporated society or for the benefit of the widows and dependents of any deceased employees of any employer, or of any deceased members of any incorporated society, and approved for the time being by the Collector.

53. Exemption from Income Tax of income and profits derived by any co-operative society registered under the Cook Islands Co-operative Societies Regulations 1953 - Provided that such income and profits are wholly derived either -

- (i) from transactions with members of the society; or
- (ii) from investment of the society's fund in other registered Co-operative Societies or in the Post Office Savings Bank or in bonds or securities issued by any local or public authority; or
- (iii) from processing or marketing of Cook Islands produce; or
- (iv) from a combination of the foregoing.

54. Exemption in respect of industries contributing to economic development - (1) Where any new industry or enterprise is established in the Cook Islands or where any industry or enterprise already existing in the Cook Islands is materially expanded and where the Minister is satisfied that such establishment or expansion as the case may be will contribute substantially to the economic development of the Cook Islands, he may declare that the person or persons contributing to the establishment or expansion of that industry or enterprise shall be entitled to such concessions in respect of taxation on the income derived whether directly or indirectly from that industry or enterprise as are specified in the declaration.

(2) The Minister shall refer all applications for concessions under this section to the Cabinet of the Cook Islands and shall have regard to any recommendations made by Cabinet when making or declining to make a declaration under this section.

(3) Concession granted by the Minister under the authority of this section may take the form of exemption of all or part of the income from taxation, reduction in the rates of taxation on all or part of the income, allowance of special deductions from assessable income, or may be in such other form as the Minister considers desirable and appropriate to the particular application.

(4) A declaration made under this section shall specify the period during which any concession is to apply and the period as specified may from time to time be extended by the Minister by a subsequent declaration.

(5) Any declaration made under this section may be made upon or subject to such conditions as the Minister thinks fit and may at any time be revoked by the Minister if the taxpayer fails to comply with any such conditions.

Assessable Income

55. Items included in assessable income - Without in any way limiting the meaning of the term, the assessable income of any person shall for the purposes of this Act be deemed to include, save so far as express provision is made in this Act to the contrary, -

(a) All profits or gains derived from any business (including any increase in the value of stock in hand at the time of the transfer or sale of the business, or on the reconstruction of a company);

(b) All salaries, wages, or allowances (whether in cash or otherwise), including all sums received or receivable by way of bonus, gratuity, extra salary, or emolument of any kind, in respect of or in relation to the employment or service of the taxpayer;

Provided that where any bonus, gratuity, or retiring allowance (not being moneys paid to any director of a company pursuant to its articles of association) is paid in a lump sum in respect of the employment or service of the taxpayer on the occasion of his retirement from such employment or service only five per cent of that lump sum shall be deemed to be income;

Provided also that, without limiting the meaning of the term "allowances" as used in this paragraph the said term shall be deemed to include (in the case of a taxpayer who in any income year has been provided in respect of any office or position held by him with board or lodging, or the use of a house or quarters, or has been paid an allowance in lieu of being so provided with board or lodging or with the use of a house or quarters) the value of such benefits, such value to be determined in case of dispute by the Collector; and

Provided also that the Collector may from time to time determine whether and to what extent any allowance in respect of or in relation to the employment or service of any person constitutes a reimbursement of expenditure exclusively incurred by him in the production of his assessable income, and the allowance shall to the extent so determined be exempt from income tax.

(c) All profits or gains derived from the sale or other disposition of any real or personal property or any interest therein, if the business of the taxpayer comprises dealing in such property, or if the property was acquired for the purpose of selling or otherwise disposing of it, and all profits or gains derived from the carrying on or carrying out of any undertaking or scheme entered or devised for the purpose of making a profit;

(d) All rents, fines, premiums, or other revenues (including payments for or in respect of the goodwill of any business, or the benefit of any statutory licence or privilege) derived by the owner of land from any lease, licence, or easement affecting the land or from the grant of any right of taking the profits thereof;

(e) All royalties or other like payments dependent upon production from or the use of any real or personal property, whether or not they are instalments of the purchase price of any property;

- (f) All interests, dividends, annuities and pensions:

Provided that where any securities have been acquired by purchase or otherwise during the income year, the Collector may, where he considers it equitable so to do, apportion between the transferor and the transferee any interest due or accruing due at the date of the transfer and not then paid:

- (g) Income derived from any other source whatsoever.

56. Income derived from use or occupation of land - (1)
The assessable income of any person shall, for the purposes of this Act, be deemed to include -

- (a) All profits or gains derived from the use or occupation of any land;
(b) All profits or gains derived in any income year from the extraction, removal, or sale of any minerals, or timber whether by the owner of the land from which they are obtained or by any other person, reduced by an amount equal to the cost of those minerals or of that timber:

Provided that in any case where profits or gains from any minerals or timber are derived in two or more income years and an estimated proportion of the total cost thereof is claimed as a deduction in respect of each of those years, the total amount of those deductions in respect of all those years shall not exceed the total cost of the minerals or timber.

(2) For the purposes of paragraph (b) of subsection (1) of this section the term "timber" shall be deemed to include any dispositions by way of a licence or easement, or the grant of any right of taking any profits or produce from land.

57. Income credited in account or otherwise dealt with -
For the purposes of this Act every person shall be deemed to have derived income although it has not been actually paid to or received by him, or already become due or receivable, but has been credited in account, or re-invested, or accumulated, or capitalised, or carried to any reserve, sinking or insurance fund, or otherwise dealt with in his interest or in his behalf.

58. Amounts remitted to be taken into account in computing income - (1) Where the amount of any expenditure or loss incurred by a taxpayer has been taken into account in calculating his assessable income for any income year, and subsequently the liability of the taxpayer in respect of that amount is remitted in whole or in part, the assessable income derived by the taxpayer during that year shall be deemed to be increased by the amount so remitted, and the taxpayer shall be assessable and liable for income tax accordingly.

(2) Where the amount of any expenditure or loss incurred by a taxpayer has been taken into account in calculating for the purposes of section 79 of this Act the amount of any loss incurred by him in any income year, and subsequently the liability of the taxpayer in respect of that amount has been remitted in whole or in part, the amount of the loss that may be carried forward under the said section 79 shall be deemed to be reduced by the amount so remitted.

(3) For the purposes of this section a liability in respect of any expenditure or loss shall be deemed to have been remitted to the extent to which the taxpayer has been discharged from that liability without fully adequate consideration in money or money's worth.

(4) For the purposes of giving effect to the provisions of this section, the Collector may at any time alter any assessment, notwithstanding anything to the contrary in section 23 of this Act.

59. Apportionment of income received in anticipation - (1)
When income is derived by any person in any year by way of fines, premiums, or payment for goodwill on the grant of a lease, or in any other like manner by way of anticipation, the Collector may, if he thinks fit in his discretion, at the request of that person during the next succeeding year, apportion that income between the income year and any number of subsequent years not exceeding five, and the part so apportioned to each of those years shall be deemed to have been derived in that year, and shall be assessable for income tax accordingly.

(2) Any such apportionment may be at any time cancelled by the Collector, and thereupon the income so apportioned or the part thereof on which income tax has not yet been paid shall become assessable for income tax as if derived during the year preceding that in which the apportionment was so cancelled.

60. Valuation of trading stock including livestock - (1)
For the purposes of this section the term "trading stock" includes anything produced or manufactured, and anything acquired or purchased for purpose of manufacture, sale or exchange; and also includes livestock; but does not include land.

(2) Where any taxpayer owns or carries on any business the value of his trading stock at the beginning and at the end of every income year shall be taken into account in ascertaining whether or not he has derived assessable income during that year.

(3) The value of the trading stock of any taxpayer to be taken into account at the beginning of any income year shall be its value as at the end of the last preceding income year.

Provided that where the taxpayer's business is commenced and his trading stock is acquired during the income year the value of the trading stock as at the beginning of the income year shall be deemed to be an amount equal to its cost price.

(4) The value of the trading stock of any taxpayer to be taken into account, at the end of any income year shall be, at the option of the taxpayer, its cost price, its market selling value, or the price at which it can be replaced.

(5) Where the value of the trading stock of any taxpayer at the end of any income year exceeds the value of his trading stock at the beginning of that year the amount of the excess shall be included in his assessable income for that year.

(6) Where the value of the trading stock of any taxpayer at the beginning of any income year exceeds the value of his trading stock at the end of that year the amount of the excess shall be allowed as a deduction in calculating the assessable income of the taxpayer for the year.

(7) Where in any income year the whole or any part of the assets of a business owned or carried on by any taxpayer is sold or otherwise disposed of (whether by way of exchange or gift, or distribution in terms of a will or on an intestacy, or otherwise however, and whether or not in the ordinary course of the business of the taxpayer or for the purpose of putting an end to that business or any part thereof), and the assets sold or otherwise disposed of consist of or include any trading stock, the consideration received or receivable for the trading stock or, as the case may be, the price which under this Act the trading stock is deemed to have realised shall be taken into account in calculating the taxpayer's assessable income for that year, and the person acquiring the trading stock shall, for the purpose of calculating his assessable income for that year or for any subsequent income year, be deemed to have purchased it at the amount of that consideration or price. The foregoing provisions of this subsection shall, with the necessary modifications, apply in any case where a share or interest in any trading stock is sold or otherwise disposed of by a taxpayer.

(8) Subject to the provisions of section 61 and 62 of this Act, the price specified in any contract of sale or arrangement as the price at which any trading stock is sold or otherwise disposed of as aforesaid shall be deemed for the purposes of this section to be the consideration received or receivable for the trading stock.

61. Income derived from disposal of trading stock - (1) Where any trading stock is sold together with other assets of a business the part of the consideration attributable to the trading stock shall, for the purposes of this Act, be determined by the Collector, and the part of the consideration so determined, shall be deemed to be the price paid for the trading stock by the purchaser.

(2) For the purpose of this section any trading stock which has been disposed of otherwise than by sale shall be deemed to have been sold, and any trading stock so disposed of and any trading stock which has been sold for a consideration other than cash shall be deemed to have realised the market price of the day on which it was so disposed of or sold, but, where there is no market price, trading stock shall be deemed to have realised such price as the Collector determines.

(3) The foregoing provisions of this section shall, with the necessary modifications, apply in any case where a share or interest in any trading stock is sold or otherwise disposed of together with other assets of a business or with a share or interest in other assets of a business.

(4) For the purposes of this section the expression "trading stock" includes anything produced or manufactured and anything acquired or purchased for purposes of manufacture, sale or exchange; and also includes any other real or personal property sold or disposed of by the taxpayer where the business of the taxpayer comprises dealing in such property or the property was acquired by him for the purpose of sale or other disposal; and also includes livestock.

62. Sale of trading stock for inadequate consideration - (1) Where any trading stock is sold or otherwise disposed of without consideration in money or money's worth or for a consideration that is less than the market price or the true value thereof at the date of the sale or other disposition, the following provisions shall apply, namely:

- (a) The trading stock shall be deemed for the purposes of this Act to have been sold at and to have realised the market price thereof at the date of the sale or other disposition, but, where there is no market price, shall be deemed to have been sold at and to have realised such price as the Collector determines:
- (b) The price which under this section the trading stock is deemed to have realised shall be taken into account in calculating the assessable income of the person selling or otherwise disposing of the trading stock:
- (c) The person acquiring the trading stock shall, for the purpose of calculating his assessable income, be deemed to have purchased the trading stock at the price which under this section the trading stock is deemed to have realised.

(2) The foregoing provisions of this section shall, with the necessary modifications, apply in any case where a share or interest in any trading stock is sold or otherwise disposed of without consideration in money or money's worth or for a consideration that is less than the true value of the share or interest at the date (of the date) of the sale or other disposition.

(3) For the purposes of this section the term "trading stock" includes anything produced or manufactured, and anything acquired or purchased for purposes of manufacture, sale, or exchange; and also includes livestock; and also includes any other real or personal property where the business of the person by whom it is sold or disposed of comprises dealing in such property or the property was acquired by him for the purpose of sale or other disposal.

63. Sum received from sale of patent rights - (1) Where any taxpayer sells any patent rights, any sum received by him or owing to him in respect of the sale, after deducting the appropriate amount specified in subsection (2) of this section (so far as that amount has not been otherwise allowed as a deduction from his assessable income for that or any income year), shall be deemed to be assessable income and shall be deemed to be derived by the taxpayer during the income year in which the sum is received by or becomes owing to him.

(2) The total amount that may be deducted from any such sum shall, -

- (a) Where the taxpayer actually devised the invention to which the patent relates, be the amount of the expenditure incurred by the taxpayer in connection with the devising of the invention, or (where the sale does not include the whole of the patent rights in respect of that invention) such proportion of that expenditure as the Collector thinks just:
- (b) Where the taxpayer acquired the patent rights, be an amount bearing to the total cost of the patent rights to the taxpayer the same proportion as the unexpired term of the patent rights at the date of sale bears to the unexpired term thereof at the date of their acquisition by the taxpayer.

(3) For the purposes of this section the sum received by or owing to any taxpayer in respect of the sale of any patent rights shall be deemed to include the value of any consideration received or owing in respect of the sale otherwise than in cash; and the value of that consideration shall be determined in case of dispute by the Collector.

(4) The foregoing provisions of this section shall, as far as they are applicable and with the necessary modifications apply in any case where the sale is in respect of a share or interest in any patent rights.

64. Payment of excessive remuneration or share of profits to relatives employed by or in partnership with taxpayer -

Where -

- (a) Any taxpayer carries on any business or undertaking and employs or engages any relatives of a director or shareholder of the company, to perform services in connection with that business or undertaking; or
- (b) Any taxpayer carries on business in partnership with any person, whether or not any other person is a member of the partnership, and -
 - (i) Any relative of the taxpayer is employed or engaged by the partnership to perform services in connection with the business; or
 - (ii) Where one of the partners is a company, any relative of a director or shareholder of the company is employed or engaged by the partnership to perform services in connection with the business; or
- (c) Any taxpayer carries on business in partnership with any relative or with any company a director or shareholder of which is a relative of the taxpayer or, being a company, carries on business in partnership with any relative of a director or shareholder of the company whether or not any other person is a member of the partnership,-

and, the Collector is of opinion that the remuneration, salary, share of profits or other income payable to or for the benefit of that relative or company under the contract of employment or engagement or the terms of the partnership exceeds such an amount as is reasonable having regard to the nature and extent of the services rendered, the value of the contributions made by the respective partners by way of services or capital or otherwise, and any other relevant matters, the Collector may for the purposes of this Act allocate the total profits or income of the business or undertaking before deduction of any amount payable to that relative or company between the parties to the contract or the partners or any of them in such shares and proportions as he considers reasonable, and the amounts so allocated shall be deemed to be income derived by the persons to whom those amounts are so allocated and by no other person.

(2) Where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by any person who is a relative of a director or shareholder of the company, is allocated to that company in accordance with subsection (1) of this section, the amount so allocated to the company shall be deemed to be a dividend paid by the company to that person and received by him as a shareholder of the company.

(3) For the purposes of this section the term "relative" means a husband or wife or a relative by blood within the fourth degree of relationship (whether legitimate or illegitimate), or a relative by marriage or adoption; and includes a trustee for a relative.

(4) This section shall apply whether the contract of service or employment or the partnership was entered into before or after the coming into operation of this Act.

(5) This section shall not apply to a bona fide contract of employment or to a bona fide contract of partnership. For the purposes of this section a contract of employment or a contract of partnership shall be deemed to be bona fide if it complies with the following conditions:

- (a) The contract is in writing or by deed signed by all the parties thereto;
- (b) No partner and no person employed or engaged under the contract was under the age of twenty-one years at the date on which the contract was signed;
- (c) The contract is binding on the parties thereto for a term of not less than three years and is not capable of being terminated by any party thereto before the expiry of that term;
- (d) Each party to the contract has a real and effective control of the remuneration, salary, share of profits, or other income to which he is entitled under the contract;
- (e) The remuneration, salary, share of profits or other income payable to a relative, or to a company, a director or shareholder of which is a relative, is not of such an amount that the transaction would constitute in whole or in part a gift for gift duties purposes if the Estate and Gift Duties Act 1954 were in force in the Cook Islands.

65. Agreements purporting to alter incidence of taxation to be void - Every contract, agreement, or arrangement made or entered into, whether before or after the coming into operation of this Act, shall be absolutely void in so far as directly or indirectly, it has or purports to have the purpose or effect of in any way altering the incidence of income tax, or relieving any person from his liability to pay such tax.

66. Debentures issued free of income tax - (1) Nothing in the section 65 shall be so construed as to render void any contract, agreement, or arrangement made or entered into by any company (whether before or after the coming into operation of this Act) to the effect that the interest on any debentures issued by that company shall be free of income tax; and all such contracts, agreements and arrangements are hereby declared to be valid and effective in accordance with this section unless the company is expressly or impliedly prohibited, by its memorandum or articles of association from making or entering into any such contract, agreement, or arrangement.

(2) Where any debentures issued by a company purport to be issued free of income tax the company shall be liable for the payment of the income tax payable in respect thereof, and the debenture-holders shall be entitled to receive the full amount of interest payable pursuant to the debentures.

Deductions in Calculating Assessable Income

67. No deductions unless expressly provided - Except as expressly provided in this Act, no deduction shall be made in respect of any expenditure or loss of any kind for the purpose of calculating the assessable income of any taxpayer.

68. Expenditure or loss exclusively incurred in the production of assessable income - (1) In calculating the assessable income of any person deriving such income from one source only, any expenditure or loss exclusively incurred in the production of the assessable income for any income year may, except as otherwise provided in this Act, be deducted from the total income derived for that year.

(2) In calculating the assessable income of any person deriving assessable income from two or more sources, any expenditure or loss exclusively incurred in the production of assessable income for any income year may except as expressly provided in this Act be deducted from the total income derived by the taxpayer for that year from all such sources as aforesaid.

69. Certain deduction not permitted - Notwithstanding anything to the contrary in section 68 of this Act, in calculating the assessable income derived by any person from any source, no deduction shall, except as expressly provided in this Act, be made in respect of any of the following sums or matters:-

- (a) Investments, expenditure, loss, or withdrawal of capital; money used or intended to be used as capital; money used in the improvement of premises occupied; interest which might have been made on such capital or money if laid out at interest;
- (b) Bad debts, except debts which are proved to the satisfaction of the Collector to be in fact bad and to have been actually written off as bad debts by the taxpayer in the income year;

Provided that all amounts at any time received on account of any such bad debts shall be credited as income in the year in which they are received, and shall be subject to tax accordingly:

Provided further that if in the opinion of the Collector the amounts of debts written off as bad in any income year is excessive, he may, notwithstanding anything to the contrary contained in section 23 of this Act, reopen the assessments made in any previous year in which he considers that the debts had in fact become bad.

- (c) Any expenditure or loss recoverable under any insurance or contract of indemnity;
- (d) Payment of any kind made by a husband to his wife or by a wife to her husband;

Provided that, with the consent of the Collector granted before the deduction is claimed by the taxpayer, and subject to the provisions of section 64 of this Act, a deduction may be made in respect of any payment made by a husband to his wife or by a wife to her husband where the Collector is satisfied that the payment is for services rendered (not being domestic services or services performed at the home in connection with any business carried on wholly or partly at the home) or is otherwise a bona fide payment, and that the payment was exclusively incurred in the production of the assessable income of the husband or wife, as the case may be, for the income year:

- (e) Rent of any dwelling house or domestic offices, save that, so far as such dwelling house or offices are used in the production of the assessable income, the Collector may allow a deduction of such proportion of the rent as he may think just and reasonable;
- (f) Income tax;
- (g) Interest, except so far as the Collector is satisfied that it is payable on capital employed in the production of the assessable income.

70. Deductions for repairs, maintenance and depreciation -

(1) Notwithstanding anything to the contrary in section 68 of this Act, in calculating the assessable income derived by any person from any source no deduction shall, except as expressly provided in this Act, be made in respect of any of the following sums or matters namely, the repair of premises, or the repair of plant, machinery, or equipment used in the production of income beyond the amount expended in any year for those purposes:

Provided that in cases where depreciation of any such asset whether caused by fair wear and tear or by the fact of such asset becoming obsolete or useless, cannot be made good by repair, the Collector may allow such deduction as he thinks just up to but not exceeding the rates of depreciation as set out in the Second Schedule, to this Act, except that in the year in which any plant, machinery, or equipment are disposed of or discarded the Collector may allow such further deductions as he thinks just:

Provided also that where the Collector has, for any year of assessment (whether before or after the commencement of this Act), allowed a deduction in respect of the depreciation of any asset and the taxpayer at any time afterwards sells or otherwise disposes of that asset at a price or for a consideration in excess of the amount to which the value of the asset has been reduced by that allowance, the Collector may make a revised assessment for that or any subsequent year without allowing such deduction or without allowing such portion thereof as he thinks fit, and may recover the additional amount of income tax accordingly. For the purpose of giving effect to the provisions of this proviso, the Collector may at any time alter any assessments, notwithstanding anything to the contrary in section 23 of this Act:

Provided further that where the Collector is satisfied that any repairs of any such asset, do not increase the capital value of the asset, or that the repairs increase that value by an amount less than the cost of the repairs or alterations, he may allow such deductions as he thinks just.

(2) For the purposes of the second proviso to subsection (1) of this section -

- (a) Where any asset has been sold together with other assets of a business, the part of the consideration so determined shall be deemed to be the price at which that asset was sold by the vendor and purchased by the purchaser;
- (b) Where any property is sold, distributed, or otherwise disposed of without consideration or for a consideration which, in the opinion of the Collector, is less than the market price or the true value of the property at the day of sale, distribution, or other disposition, that property shall be deemed to have been sold at and to have realised that market price or, if there is no market price, shall be deemed to have been sold at and to have realised such price as the Collector determines.

(3) Without limiting the discretion of the Collector under subsection (1) of this section, it is hereby declared that he has power to refuse in whole or in part to allow any deduction under that subsection in any case where he is not satisfied that complete and satisfactory accounts have been kept by or on behalf of the taxpayer.

71. Deductions in respect of buildings on native lease-holds - (1) The Collector, in calculating the assessable income derived by any taxpayer during any income year, may allow such deductions as he thinks fit in respect of any sum expended by the taxpayer:

- (a) in acquiring or erecting any building on any native freehold land which the taxpayer holds on lease; or
- (b) in purchasing the unexpired period of any lease of native freehold land.

(2) In ascertaining the amount that may be deducted under this section in respect of any income year, the amount expended by the taxpayer in respect of the acquisition or erection of the building or in respect of the purchase of the lease shall be apportioned by the Collector over the unexpired period of the lease (including any period in respect of which a right of renewal exists) calculated from the date of the acquisition or erection or purchase as the case may be (whether that date falls before or after the commencement of this Act), and the amount deducted in respect of any income year shall not in any case exceed the amount apportioned to that year:

Provided however that in ascertaining the amount to be deducted the Collector shall take into account the amount by which the value of any building has already been reduced by the allowance of depreciation under the provisions of any previous legislation relating to the payment of income tax.

Provided further that where the unexpired portion of a lease is sold to any company over which the vendor has control as defined in section 3 of this Act or to any partnership over which the vendor has control the amount of the annual deductions shall be limited to the amount to which the vendor would have been entitled had the sale not taken place.

(3) Where the Collector has, for any year of assessment, allowed a deduction under the provisions of this section and the taxpayer at any time afterwards sells the unexpired period of the lease, the Collector may make a revised assessment in respect of that year of assessment without allowing that deduction or without allowing such portion thereof as he thinks fit, and may recover the additional amount of income tax accordingly.

(4) For the purpose of giving effect to the provisions of subsection (3) of this section the Collector may at any time alter any assessment, notwithstanding anything to the contrary in section 23 of this Act.

(5) For the purposes of this section, where the unexpired period of the lease has been sold together with other assets of a business the consideration attributable to the sale of the lease and of any buildings erected on the demised land shall be determined by the Collector, and the part of the consideration so determined shall be deemed to be the price at which the lease and buildings were sold by the vendor and purchased by the purchaser.

(6) A taxpayer to whom this section applies may elect whether he will claim a deduction hereunder or will claim a deduction for depreciation under section 70 of this Act, but any deduction made under this section shall be in substitution for any deduction for depreciation which may be allowable under the said section 70.

72. Expenditure incurred in borrowing money or obtaining lease - The Collector may, in calculating the assessable income of any taxpayer, allow such deduction as he thinks fit in respect of expenditure incurred by the taxpayer during the income year for the preparation, stamping, and registration of any lease of property used in the production of his assessable income, or of any renewal of such lease, or in borrowing of money employed by the taxpayer as capital in the production of assessable income.

73. Deduction in respect of premium paid on account of leased machinery - (1) The Collector may, in the calculation of the assessable income of any taxpayer, allow such deduction as he thinks fit in respect of any premium, fine, or forfeit, or any consideration in the nature of a premium, fine, or forfeit, paid by the taxpayer in respect of the lease of any machinery used by him in the production of income, or in respect of the renewal of any such lease, or in respect of the assignment or transfer of any such lease.

(2) In ascertaining the amount that may be deducted in any year under this section the total amount paid by the taxpayer as aforesaid shall be apportioned by the Collector over the period of the lease unexpired at the date of payment, and the amount deducted for any year shall not in any case exceed the amount apportioned to that year.

74. Deduction for sums expended on purchase of patent rights - (1) The Collector, in calculating the assessable income derived by any taxpayer during any income year, may allow such deduction as he thinks fit in respect of any sum expended by the taxpayer on the purchase of any patent rights used by him in the production of his assessable income for that income year.

(2) In ascertaining the amount that may be deducted under this section in respect of any income year, the total amount payable by the taxpayer in respect of the purchase of any patent rights shall be apportioned by the Collector over the term of the patent rights unexpired at the date of the purchase, and the amount deducted in respect of any income year shall not in any case exceed the amount apportioned to that year.

(3) Where, at any time before the expiry of any patent rights purchased by a taxpayer, the patent rights have come to an end without being subsequently revived or have been sold by the taxpayer, an amount bearing to the total sum expended by the taxpayer on the purchase of the patent rights the same proportion as the unexpired term of the patent rights at the date of their so coming to an end or being sold bears to their unexpired term at the date of their purchase by the taxpayer (so far as that amount has not been otherwise allowed as a deduction from his assessable income for that or any other income year) shall be allowed as a deduction from the assessable income derived by the taxpayer during the income year in which the patent rights have so come to an end or been sold.

(4) All references in this section to "the taxpayer", in relation to any taxpayer who has died after expending any sum on the purchase of any patent rights, shall be deemed to be references to his personal representatives and to the trustees of his estate and (so far as the Collector thinks just and equitable) to the beneficiaries of the taxpayer's estate.

75. Deduction for patent expenses - (1) In calculating the assessable income derived by any taxpayer during any income year, the Collector may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer during that year in connection with the grant, maintenance, or extension of a patent used by him in the production of his assessable income for that year.

(2) Where a patent has been granted in respect of any invention, the Collector, in calculating the assessable income derived during any income year by any taxpayer who has used the patent in the production of his assessable income for that year and who, whether alone or in conjunction with any other person, actually devised the invention, may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer in connection with the devising of the invention (not being expenditure in respect of which, or of assets representing which, a deduction is otherwise allowable).

76. Deduction for scientific research - In calculating the assessable income derived by any taxpayer during any income year, the Collector may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer during that year in connection with scientific research directly relating to the trade or business carried on by the taxpayer, except so far as the expenditure relates to an asset in respect of which a deduction for depreciation is allowable under subsection (1) of section 70 of this Act.

77. Deduction of testamentary annuities charged on property - (1) Notwithstanding anything to the contrary in this Act, where property has been devised or bequeathed by will subject to the payment of an annuity or has been made subject to the payment of an annuity by order of the High Court or by a deed of family arrangement, and that property or any property substituted therefor has been transferred to a beneficiary and is charged with payment of the annuity or any part thereof, any amount paid in any income year on account of that annuity by the owner of that property or substituted property shall be allowed as a deduction in calculating the income derived by the owner from that property or substituted property in that income year so far as that income extends:

Provided that no deduction shall be allowed under this section where the owner for the time being of the property or substituted property (not being a beneficiary) is a person who has acquired the same by purchase subject to the condition that he assumes the liability for the whole or any part of the annuity charged thereon:

Provided also that, to the extent that an annuity payable by the owner of the property or substituted property under a deed of family arrangement represents, in the opinion of the Collector, consideration for the purchase of the property or substituted property by the owner, the annuity shall not be allowed as a deduction under this section.

(2) In this section the term "beneficiary", in relation to any property, means a person to whom that property has been devised or bequeathed by will, or a person who is entitled, pursuant to a provision in a will, to purchase, subject to payment of an annuity, that property, being property that forms part of the estate of the testator; and includes a person who is entitled to the property pursuant to an order of the High Court or to a deed of family arrangement.

78. Contributions to employees' superannuation fund - (1) In calculating the taxable income of any employer the Collector may allow a deduction of any amount set aside or paid by the employer as or to a fund to provide individual personal benefits, pensions, or retiring allowances to employees of that employer:

Provided that a deduction shall not be allowed under this section unless the Collector is satisfied that the fund has been established or the payment made in such a manner that the rights of the employees to receive the benefits, pensions or retiring allowances have been fully secured.

(2) The Collector shall have absolute discretion as to whether or not a deduction should be allowed under this section of the whole or any part of any amount set aside or paid as aforesaid and there shall be no right of objection to any determination of the Collector under this section.

79. Losses incurred may be set off against future profits - (1) For the purposes of this section any loss incurred by a taxpayer shall be ascertained in accordance with the provisions of this Act for the calculation of assessable income.

(2) Any taxpayer who satisfies the Collector that he has in any year whether before or after the coming into operation of this Act incurred a loss shall be entitled to claim that such loss be carried forward, and, so far as may be, deducted from or set off against his assessable income for the following years.

Provided that no claim to a deduction or set-off will be allowed under this section in respect of any loss which has been deducted from or set-off against the assessable income of the taxpayer under the provisions of any previous legislation relating to income tax.

Provided also that any relief under this section shall be given so far as possible from the first succeeding assessment, and so far as it cannot then be given, shall be given from the next succeeding assessment, and so far as it cannot then be given, shall be given from the next succeeding assessment, and so on:

Provided also that, -

(a) Where, if a profit had been made from the transaction in which the loss was incurred, the amount of the profit would not have been assessable income, no relief shall be given under this section in respect of that loss:

(b) Where, if a profit had been made as aforesaid, the amount of the profit would have been assessable income, the amount of the loss carried forward to any year shall be deducted from or set off against the taxpayer's assessable income, for that year so far as that income extends.

(3) Notwithstanding anything in the foregoing provisions of this section, if in any year of assessment any taxpayer, being a company, claims to carry forward any loss made by it in any former income year, the claim shall not be allowed unless the Collector is satisfied that the shareholders of the Company on the balance date of the company for the year to which the loss claimed is to be carried forward were substantially the same as the shareholders of the company on the balance date of the company for the year

in which the loss was incurred. For the purposes of this subsection the shareholders of a company at any date shall not be deemed to be substantially the same as the shareholders on any other date unless, on both such dates, not less than forty percent of the paid up capital of the company was held by or on behalf of the same persons, or unless, on both such dates, not less than forty per cent in nominal value of the allotted shares in such company were held by or on behalf of the same persons. For the purposes of this subsection shares in a company held by or on behalf of another company shall be deemed to be held by the shareholders of such last mentioned company and shares held by or on behalf of the trustee of the estate of a deceased shareholder, or by or on behalf of the persons entitled to those shares as beneficiaries under the will or intestacy of a deceased shareholder, shall be deemed to be held by that deceased shareholder.

Companies and Associations

80. Excessive remuneration by company to shareholder, director or relative - Where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by any person who is a shareholder or director of the company or a relation of any such shareholder or director, exceeds such amount as in the opinion of the Collector is reasonable, the amount of the excess shall not be an allowable deduction in computing the assessable income of the company, and shall, for the purposes of this Act, be deemed to be a dividend paid by the company to that person and received by him as a shareholder of the company.

Provided that this section shall not apply in any case where the Collector is satisfied -

(1) That the person to whom the sum is paid or credited as aforesaid is an adult employed substantially fulltime in the business of the company and participating in the administration or management of the company; and

(2) That the determination by the company of the amount so paid or credited to that person was not influenced by the fact that he is a relative of a shareholder or director of the company.

81. Two or more companies with substantially the same shareholders or under the same control - If the Collector is satisfied with respect to two or more companies consisting substantially of the same shareholders or under control of the same persons, that the separate constitution or the separate continuance of those companies is not exclusively for the purposes of more effectively carrying out their objects but is wholly or partly for the purpose of reducing their taxation, the Collector may, for the purposes of income tax, treat those companies as if they were a single company, and in any such case those companies shall be jointly assessed and jointly and severally liable with such right of contribution or indemnity between themselves as is just.

82. Floating rate of interest on debentures - (1) Where in any debenture issued by a company, whether before or after the coming into operation of this Act, the rate of interest payable in respect thereof is not specifically determined, but is determinable from time to time by reference to the dividend payable by the company or otherwise nowsoever, no deduction shall be made, in calculating the assessable income of the company, in respect of any interest payable under the debenture or of any expenditure or loss incurred in connection with the debenture or in borrowing the money secured by or owing under the debenture.

(2) The provisions of section 150 of this Act shall not apply with respect to any such debenture or to the interest paid or payable thereunder.

83. Interest on debentures issued in substitution for shares - (1) For the purposes of this section -

- (a) The expression "the amount of the debenture" means, in respect of any debenture, the principal sum expressed to be secured by or owing under that debenture;
- (b) The expression "shareholder" includes, in respect of any company, a person by whom or on whose behalf shares in the company have at any time been held.

(2) Where, whether before or after the passing of this Act, a company has issued debentures to its shareholders or to any class of its shareholders, and the amount of the debenture or debentures issued to each shareholder of the company or of that class has been determined by reference to the number or to the nominal value or to the paid up value of, or by reference otherwise howsoever to the shares in that company or in any other company (whether or not that other company is being or has been wound up) that were held by or on behalf of the shareholder at the time the debentures were issued or at any earlier time no deduction shall be made, in calculating the assessable income of the company, in respect of any interest payable under the debenture or of any expenditure or loss incurred in connection with the debenture or in borrowing the money secured by or owing under the debenture.

(3) The provisions of the section 82 of this Act and of any other enactment shall apply with respect to all debentures to which subsection (2) of this section applies and to the interest payable thereunder in the same manner as if those debentures and that interest were debentures and interest of the kinds referred to in the said section 82.

84. Profits of mutual association in respect of

transactions with members - (1) Where an association enters into transactions with its members, or with its members and others, any profit or surplus arising from those transactions which would be included in the profits or gains of the association if the transactions were not of a mutual character shall be deemed to be profits or gains arising from those transactions and to be assessable income of the association except that, in computing the assessable income of the association the Collector shall allow as expenses any sums which -

- (a) Represent a discount, rebate, dividend, or bonus granted or paid by the association to members or other persons in respect of amounts paid or payable by or to them on account of their transactions with the association being transactions which are taken into account in computing the assessable income; and

- (b) Are calculated by reference to the said amounts or to the magnitude of the said transactions and not by reference to any share or interest in the capital of the association.

(2) Nothing in this section shall effect the extent of the exemption from income tax of any co-operative company to which the provisions of section 53 of this Act apply.

(3) Where any discount, rebate, dividend, or bonus is granted or paid to any person by an association, it shall form part of the assessable income of that person if the transaction from which it arises is of such a nature that any payment in respect thereof by that person to the association would be allowed as a deduction in computing the assessable income of that person.

(4) For the purposes of this section, a discount, rebate, dividend, or bonus shall be deemed to have been granted to or paid to a person when it has been credited in account or otherwise dealt with in his interest or on his behalf.

(5) In this section the term "association" includes any body or association of persons, whether incorporated or not.

85. Assessment of banking companies - Every banking company shall be assessable and liable for income tax in the same manner as if it were a company other than a banking company.

86. Overseas insurance companies other than life insurance companies - (1) For the purposes of this Act the assessable income of an overseas insurance company shall include the amount of gross premiums derived by the company in respect of business (other than life assurance business) transacted in the Cook Islands.

(2) Income tax on the assessable income of an overseas insurance company determined in accordance with subsection (1) of this section shall be assessed at the rate as set out in the First Schedule to this Act.

(3) "Overseas insurance company" for the purposes of this section means a company mainly carrying on the business of insurance or guarantee against loss, damage or risk of any kind whatever, whose main place of business is situated outside the Cook Islands.

87. Overseas shipping freight and passage money - (1) Notwithstanding anything to the contrary in this Act, where a ship belonging to or chartered by any person, being resident in a country or territory outside the Cook Islands and not being resident in the Cook Islands, carries outside the Cook Islands merchandise, goods, livestock, mails, or passengers shipped or embarked in the Cook Islands, five percent of the gross amount paid or payable to that person in respect of that carriage, whether that amount is payable in or outside the Cook Islands, shall be deemed to be taxable income derived by him from the Cook Islands. No person to whom this subsection applies shall, in respect of carriage as aforesaid, be assessable for income tax otherwise than as provided in this subsection.

(2) For the purposes of this section merchandise, goods, livestock, mails, or passengers shipped or embarked on any ship at any port in the Cook Islands for carriage outside the Cook Islands shall be deemed to be carried outside the Cook Islands from that port notwithstanding that the ship calls at any one or more other ports in the Cook Islands before finally leaving the Cook Islands on the voyage.

Income Derived by Trustees

88. Special provisions with respect to trustees - With respect to income derived by a trustee the following provisions shall apply:-

- (a) If and so far as the income of the trustee is also income derived by a beneficiary in possession to the receipt thereof under the trust during the same income year, the trustee shall in respect thereof be deemed to be the agent of that beneficiary, and shall be assessable and liable for income tax thereon accordingly, and all the provisions of this Act as to agents shall, so far as applicable, apply accordingly. Where any income is derived by a beneficiary as aforesaid subject to a condition, obligation, or trust requiring him to maintain or support any other person (whether out of the income derived or otherwise) and that beneficiary would, apart from that condition or trust, be entitled to a special exemption in respect of the maintenance and support provided by him for that other person, that beneficiary shall be assessed for income tax and shall be entitled to the same special exemptions as if he were beneficially entitled to the income from any such condition, obligation, or trust:
- (b) If and so far as the income of the trustee is not also income derived by any beneficiary as aforesaid, the trustee shall be assessable and liable for income tax on that income in the same manner as if he was beneficially entitled thereto, save that the rate of tax shall be computed by reference to that income alone, and that the trustee shall not be entitled to any deduction by way of special exemption.

Provided that in any case where a trustee is required or is empowered at his discretion to pay or apply income derived by him to or for the benefit of specified beneficiaries or to or for the benefit of some one or more of a number of specified beneficiaries, or of a specified class of beneficiaries, a beneficiary in whose favour the trustee so pays or applies income shall be deemed to be entitled in possession to the receipt of the amount paid to him or applied for his benefit during the income year by the trustee under the trust:

Provided also that where the income of the trustee is also income derived by any beneficiary who is an infant but whose interest in that income is vested, the beneficiary shall for the purpose of this section be deemed to be entitled in possession to the receipt of that income under the trust during the income year:

- (c) Where a trustee furnishes a return of income under section 9 of this Act for an accounting year ending with an amount balance date other than the thirty-first day of March, and any income derived by the trustee in that accounting year is also income derived by a beneficiary entitled or deemed to be entitled in possession to the receipt thereof under the trust during the same accounting year the beneficiary shall, for the purposes of this Act, be deemed to have derived that income and to be entitled in possession to the receipt thereof under the trust during the same income year as that during which the trustee is under section 9 of this Act, deemed to have derived that income:
- (d) The trustee shall in every case make a return of the whole income so derived by him as trustee, and each such return shall be separate and distinct from any return of income derived by him under any other trust or in his own right:
- (e) Nothing in this section shall be so construed as to exempt a beneficiary from any income tax which would be payable by him had he derived the income to which he is entitled under the trust directly instead of through a trustee:
- (f) Where any company or corporation is a trustee any income assessable to the trustee under paragraph (b) of this section shall be assessable at the rate applicable to a trustee other than a company or a corporation:
- (g) Where two or more trusts have been credited by the same person, or the whole or substantially the whole of the property subject to the two or more trusts has been received from the same person, and in either case the terms of the separate trusts are such that the whole of the income of trusts whenever derived is derived by or will ultimately be derived by or accrue to the same beneficiary or beneficiaries or the same group or class of beneficiaries, whether the separate trusts are administered by the same or different trustees, then, for the purposes of this Act, the separate trusts shall be deemed to be one trust of which the income is the total income of the separate trusts and of which the trustees are all the trustees of the separate trusts.

89. Income received by trustee after death of deceased person - It is hereby declared that any amount received in any income year by the trustee of the estate of a deceased person shall be deemed to be assessable or (as the case may require) non-assessable income derived by the trustee in that year if it does not represent assessable or non-assessable income derived by the deceased person during his lifetime, but would have included in his assessable or non-assessable income if he had been alive when it was received.

90. Deduction from estate income of irrecoverable book debts of deceased taxpayer - Where the amount of any debt owing to a deceased taxpayer at the date of his death has been included in the assessable income of the taxpayer or of the trustee of his estate for any income year, and the debt or any part of it is proved to the satisfaction of the Collector to be irrecoverable and to have been actually written off by the trustee as a bad debt, the amount so written off shall be deemed to be a loss incurred by the trustee in the income year in which the amount was written off, and shall be allowable as a deduction first against any income derived by the trustee in that income year which is assessable to the trustee as income not derived by a beneficiary entitled in possession to the receipt thereof under the trust during that year, and then, as to any balance, against any income derived in that year by or in trust for a beneficiary who has a vested interest in the capital of the estate to the extent that the loss is chargeable against the capital of that beneficiary; and any balance not allowed as a deduction in that year shall, so far as it extends, be allowable as a deduction in the same manner successively during the following years.

Country of Derivation of Income

91. Liability for assessment of income derived from the Cook Islands and abroad - (1) Subject to the provisions of this Act, all income derived by any person who is resident in the Cook Islands at the time when he derives that income shall be assessable for income tax whether it is derived from the Cook Islands or from elsewhere.

(2) Subject to the provisions of this Act, all income derived from the Cook Islands shall be assessable for income tax, whether the person deriving that income is resident in the Cook Islands or elsewhere.

(3) Subject to the provisions of this Act, no income which is neither derived from the Cook Islands nor derived by a person then resident in the Cook Islands shall be assessable for income tax.

92. Place of residence, how determined - (1) A person other than a company shall be deemed to be resident in the Cook Islands within the meaning of this Part of this Act if his home is in the Cook Islands.

(2) A company shall be deemed to be resident in the Cook Islands within the meaning of this Part of this Act if it -

- (a) Is incorporated in the Cook Islands; or
- (b) Has its head office in the Cook Islands.

(3) For the purposes of this Act the head office of a company means the centre of its administrative management.

93. Classes of income deemed to be derived from the Cook Islands - Subject to the provisions of the section 94 of this Act, the following classes of income shall be deemed to be derived from the Cook Islands:-

- (a) Income derived from any business carried on in the Cook Islands;
- (b) All salaries, wages, allowances and emoluments of any kind earned in the Cook Islands in the service of any employer or principal, whether resident in the Cook Islands or elsewhere;
- (c) Income derived by any person as the owner of land in the Cook Islands;
- (d) Income derived by any person from money lent or used in the Cook Islands (whether on security or otherwise);
- (e) Income derived from shares in or membership of a Cook Islands company, or from debentures issued by a Cook Islands company or by a local or public authority;
- (f) Income derived from debentures or other securities issued by the Government of the Cook Islands, or from any contract made with that Government of the Cook Islands;
- (g) Any pension or annuity payable by the Government of the Cook Islands, or out of any superannuation fund established in the Cook Islands;
- (h) Income derived from the sale or other disposition of any property, corporeal or incorporeal, situated in the Cook Islands;
- (i) Income derived by a beneficiary under any trust, so far as the income of the trust fund is derived from the Cook Islands;
- (j) Income derived from contracts made or wholly or partly performed in the Cook Islands;
- (k) Income derived from the carriage by sea or by air of merchandise goods, livestock, mails, or passengers shipped or embarked in the Cook Islands;
- (l) Income derived directly or indirectly from any other source in the Cook Islands.

94. Apportionment where income derived partly in the Cook Islands and partly elsewhere - Whenever by reason of the manufacture, production or purchase of goods in one country and their sale in another, or by reason of successive steps of production or manufacture in different countries, or by reason of the making of contracts in one country and their performance in another, or for any other reason whatever the source of any income is not exclusively in the Cook Islands, that income shall be apportioned between its source in the Cook Islands and its source elsewhere, or attributed to one of such sources to the exclusion of the other in such manner as the Collector thinks just and reasonable, having regard to the nature and relative importance of the sources of that income; and the income so far as so apportioned or attributed to a source in the Cook Islands, shall be deemed to be derived from the Cook Islands and shall be assessable for income tax accordingly.

Relief from Double Taxation

95. Exemption of income chargeable with tax in another country or territory - (1) Income derived by a person resident in the Cook Islands but not derived from the Cook Islands shall be exempt from income tax if and so far as the Collector is satisfied that it is derived from some other country or territory and that it is chargeable with income tax in that country or territory.

(2) In determining the country or territory from which income is derived the Collector shall apply the same rules, with the necessary modifications, as are applicable in determining whether income is derived from the Cook Islands.

(3) In this section "income tax" means in respect of any country or territory other than the Cook Islands, any tax which in the opinion of the Collector is substantially of the same nature as income tax under this Act.

96. Arrangements for relief from double taxation - (1) The Minister may from time to time enter into arrangements with the Government of any country or territory outside the Cook Islands with a view to affording relief from double taxation in relation to income tax or any taxes of a similar character imposed by the laws of the country or territory, and such arrangements shall, notwithstanding anything to the contrary in this Act or any other enactment, have effect in relation to income tax and every such arrangement shall, subject to the provisions of this section, have effect according to its tenor.

(2) Without limiting the generality of the foregoing provisions it is hereby declared that any arrangements to which effect is given under this section may contain provision, in relation to any of those taxes -

- (a) For relief from tax;
- (b) For charging the income derived from any sources in the Cook Islands to persons not resident in the Cook Islands;
- (c) For determining the income to be attributed to persons not resident in the Cook Islands and their agencies, branches or establishment in the Cook Islands;

- (d) For determining the income to be attributed to persons resident in the Cook Islands who have special relationships with persons not so resident.
- (3) Any such arrangements may include provision for relief from tax for periods before the commencement of this Act or before the making of the arrangements, and provisions as to income which is not itself subject to double taxation.
- (4) Any such arrangements under this section may be at any time amended or revoked by a subsequent arrangement; and any such amending or revoking arrangement may contain such transitional provisions as appear to the Minister to be necessary or expedient.
- (5) Where any arrangements are made under this section the obligation as to secrecy imposed by this Act shall not prevent the Collector from disclosing to any authorised officer of the Government with which the arrangements are made such information as is required to be disclosed under the arrangements.

PART VI

EXPORT PRODUCE INCOME TAX

97. Interpretation - In this part of this Act, unless the context otherwise requires, -

"Export agricultural produce" means any fruit, vegetable, herb or spice, except copra, grown in the Cook Islands which is sold outside the Cook Islands, whether in its original, treated or processed form;

"Export agricultural produce payment" means a payment made for export agricultural produce;

"Marketing agent" means a person who pays or is liable to pay export agricultural produce payment and includes -

- (a) The manager or other principal officer of the Cook Islands Marketing Board, or similar authority;
- (b) Every person, or agent who purchases or consigns export agricultural produce;
- (c) Every planter who sells overseas on his own behalf export agricultural produce;
- (d) Every food processor who purchases export agricultural produce;

"Planter" means a person engaged in the production of export agricultural produce whether or not such occupation is the principal source of income of that person.

98. Application of this Part - (1) This Part of this Act shall apply notwithstanding anything to the contrary in any other Part of this Act.

(2) This Part of this Act shall apply to export agricultural produce payments, for any period on or after the first day of April nineteen hundred and sixty-nine.

Export Produce Income Tax Deductions

99. Export Produce income tax deduction made by marketing agent - For the purpose of enabling the collection of income tax from planters by instalments, where a planter receives an export agricultural produce payment, the marketing agent or other person by whom the payment is made shall, at the time of making the payment, make an export produce income tax deduction therefrom in accordance with this Part of this Act.

100. Export Produce income tax deduction from amounts credited to or applied for planters - Where a payment, though not actually paid, is credited to or applied on account of any planter thereto, the amount so credited or applied shall, for the purposes of this Part of this Act be deemed to be paid when it is so credited or applied, and an export produce income tax deduction shall be made accordingly.

101. Amounts of Export Produce income tax deductions - (1) Subject to the provisions of this Act every export produce income tax deduction shall be of such amount as may be fixed by an annual taxing Act.

Provided that for any period for which the amount of the income tax levy deduction is not fixed by an annual taxing Act, the export produce income tax deduction shall be of such amount as is fixed by the basic export produce income tax specified in the First Schedule to this Act.

(2) The annual taxing Act for any year may fix the amounts of Export produce income tax deductions for periods throughout that year or during any part of that year or during any part of the next succeeding year, or indefinitely until the amounts are varied by a subsequent annual taxing Act.

Assessment and Payment of Export Produce Income Tax

102. Export Produce income tax to be final tax - Notwithstanding anything to the contrary in this Act, export agricultural produce payments shall not be included in the assessable income of a person, and the amount of income tax for which a person is liable in respect of the amount of those export agricultural produce payments derived by him in any income year shall be determined exclusively and finally by the total amount of export produce income tax deductions for which that person is liable in accordance with section 101 of this Act in respect of those export agricultural produce payments.

103. Payment of deductions of export produce income tax to Collector - (1) Every person who makes deductions of export produce income tax from export agricultural produce payments shall not later than the twentieth day of the month next after the month in which he has made any such deductions, pay to the Collector the amount of the deductions.

(2) The Collector may extend the time for payment of any amount of export produce income tax in such cases and to such extent as he thinks fit.

Recovery of Export Produce Income Tax

104. Person deriving export agricultural produce payments to pay export produce income tax to Collector - Where for any reason -

- (a) A deduction of export produce income tax is not made or is not made in full in accordance with this Part of this Act from any payment consisting of export agricultural produce payments;
- or

- (b) A payment that is required to be made to the Collector, in accordance with section 100 of this Act, of an amount equal to the export produce income tax in relation to those payments has, in contravention of that section, not been made or not been made in full to the Collector, -

the person who derives the export agricultural produce payments shall pay to the Collector an amount equal to the amount of the deduction or, as the case may be, the payment that should have been made and was not made, and that amount shall be due and payable to the Collector on the twentieth day of the month next after the month in which the deduction was required to be made, or, as the case may be, the payment was paid, or in either case, on such later date as the Collector, in his discretion, may in any case allow.

105. Failure to make deductions of export produce income tax or to make payments to Collector - (1) Where a person fails to make any deduction of export produce income tax from any export agricultural produce payment in accordance with his obligations under section 99 of this Act, the amount in respect of which default has been made shall constitute a debt payable by that person to the Collector, and shall be deemed to have become due and payable to the Collector on the twentieth day of the month next after the month in which the export agricultural produce payment was made.

(2) Where a person has in contravention of section 100 of this Act, paid export agricultural produce payments without payment to the Collector of an amount equal to the export produce income tax in relation to those payments, that amount or, as the case may be, so much thereof as has not been paid to the Collector shall constitute a debt payable by that person to the Collector, and shall be deemed to have become due and payable to the Collector on the day on which those payments were made.

(3) The right of the Collector to recover the amount in respect of which default has been made in the manner referred to in subsection (1) or subsection (2) of this section from a person who has made default shall be in addition to any right of the Collector to recover that amount from the person chargeable with export produce income tax to which that amount relates; and nothing in this Part of this Act shall be construed as preventing the Collector from taking such steps as he thinks fit to recover that amount from both of those persons concurrently, or from recovering that amount wholly from one of those persons, or partly from one and partly from the other of those persons.

(4) Where any amount recoverable in accordance with this Part of this Act from the person chargeable with the export produce income tax to which that amount relates is in fact paid by another person, the amount so paid may be recovered by that other person from that first-mentioned person.

106. Assessment of export produce income tax and of amounts to be accounted for or paid under this Part - (1) The Collector may, in respect of any person who is chargeable with export produce income tax, make an assessment of the amount of export agricultural produce payments on which in his judgement export produce income tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, except so far as he establishes on objection that the

assessment is excessive or that he is not chargeable with the tax so assessed.

(2) The Collector may make an assessment of any amount which in his judgement any person is liable to account for or pay to the Collector under this Part of this Act, and any person who is so assessed shall be liable to pay the amount so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not liable to account for or pay the amount so assessed.

(3) Sections 22, 24, 25, 26, and 27 of this Act shall apply, so far as may be, with respect to every assessment made under subsection (1) or subsection (2) of this section, as if -

- (a) The expression "tax already assessed" used in the said section 22 included export produce income tax already assessed under subsection (1) of this section or, as the case may be, an amount already assessed under subsection (2) of this section; and

- (b) The term "taxpayer" used in the said section 22, 25, and 27 included a person who is chargeable with export produce income tax or, as the case may be a person who is assessed or is liable to be assessed under subsection (2) of this section.

(4) An assessment made under this section shall be subject to objection in the same manner as an assessment of income tax levied under section 40 of this Act, and the provisions of Part IV of this Act shall apply, so far as may be, to an objection to an assessment made under this section as if the terms "income tax" and "tax" used in that Part included export produce incomes tax or, as the case may be, an amount assessed under subsection (2) of this section.

Penalties and Offences

107. Additional tax for default in making or paying deductions of export produce income tax - (1) Where

- (a) Any person, being a person under an obligation under this Part of this Act to make a deduction of export produce income tax from an export agricultural produce payment, fails wholly or in part to make the deduction; or

- (b) Any person who has made a deduction of export produce income tax fails wholly or in part within the prescribed time to pay the amount of the deduction to the Collector;
- or
- (c) Any person who is liable to pay any amount to the Collector under this Part of this Act fails to pay the amount on the due date for payment thereof, -

that person shall, unless the Collector is satisfied that he has not been guilty of wilful neglect or default, be liable, without conviction, in addition to any other penalty to which he may be liable, to a penalty equal to ten per cent of the amount in respect of which default has been made.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of export produce income tax shall be deemed to have been made if and when payment is made of the net amount of export agricultural produce payment.

(3) A penalty imposed under this section shall for all purposes be deemed to be of the same nature as the amount or part thereof in respect of which it is imposed, and shall be recoverable accordingly.

(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the amount of every penalty imposed under this section as if it were additional tax under section 166 of this Act and as if the person liable to the penalty were the taxpayer.

108. Penal tax for default in making or paying deductions of export produce income tax - (1) Where

- (a) Any person, being a person under an obligation under this Part of this Act to make a deduction of export produce income tax from a payment of export agricultural produce, fails wholly or in part to make the deduction;
- or
- (b) Any person knowingly applies or permits to be applied the amount of any export produce income tax or any part thereof for any purpose other than the payment thereof to the Collector, -

that person shall be chargeable by way of penalty, in addition to any other penalty to which he may be liable, with an additional amount (hereinafter referred to as penal tax) not exceeding an amount equal to treble the amount in respect of which default has been made (hereinafter referred to as the deficient deduction).

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of export produce income tax shall be deemed to have been made if and when payment is made of the net amount of any export agricultural produce payment, and the amount of any tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Collector:

Provided that no person shall be chargeable with penal tax under paragraph (b) of subsection (1) of this section if he satisfies the Collector that the amount of the export produce income tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

(3) Penal tax imposed by this section shall for all purposes be deemed to be of the same nature as the deficient deduction, and shall be recoverable accordingly.

(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to all penal tax imposed under this section as if -

- (a) It were penal tax under section 184 of this Act; and
- (b) The person chargeable with the penal tax imposed under this section were the taxpayer; and
- (c) The deficient deduction were deficient tax payable for the same year of assessment as that in which the deficient deduction became due and payable to the Collector.

109. Offences - (1) Without limiting the application of section 181 of this Act, it is hereby declared that every person commits an offence against this Act who -

- (a) Being a person under an obligation under this Part of this Act to make a deduction of export produce income tax from an export agricultural produce payment, fails wholly or in part to make the deduction; or
- (b) Knowingly applies or permits to be applied the amount of any export produce income tax or any part thereof for any purpose other than the payment thereof to the Collector.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of export produce income tax shall be deemed to have been made if and when payment is made of the net amount of any export agricultural produce payment, and the amount of any export produce income tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Collector:

Provided that no person shall be convicted of an offence under paragraph (b) of subsection (1) of this section if he satisfies the Court that the amount of the export produce income tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

Miscellaneous Provisions110. Deductions of export produce income tax deemed to be received by person entitled to payment -

Where any export produce income tax has been deducted from an export agricultural produce payment, the amount so deducted -

- (a) As between the person by whom the deduction was made and the person entitled to the export agricultural produce payment from which the deduction was made, shall be deemed to have been received by the person entitled to that payment;
- (b) For the purposes of this Act (including this Part), shall be deemed to have been derived by the person entitled to the export agricultural produce payment at the same time and in the same manner as the residue of that payment.

111. Application of other Parts of this Act - Subject to the provisions of this Part of this Act, the provision of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to export produce income tax as if it were income tax levied under section 40 of this Act.

PART VIIDIVIDEND TAX

112. Interpretation - In this Part of this Act, unless the context otherwise requires, -

"Paid", in relation to dividend income, includes distributed, credited, or dealt with in the interest of or on behalf of a person; and "pay" and "payment" have corresponding meanings; "Resident in the Cook Islands" means deemed to be resident in the Cook Islands within the meaning Part V of this Act.

113. Application of this Part - (1) This Part of this Act shall apply notwithstanding anything to the contrary in any other Part of this Act.

(2) This Part of this Act shall apply to dividend income, being income that is deemed under this Act to be derived from the Cook Islands.

(3) This Part of the Act shall apply to Dividend income paid on or after the first day of April nineteen hundred and sixty-nine.

114. Dividend tax imposed - Every person who derives dividend income shall be liable to pay tax upon that income at the rate of fifteen percent of the gross amount of that income.

Deduction of Dividend Tax

115. Deduction of dividend tax - (1) Where a person makes a payment consisting of dividend income, he shall, at the time of making the payment, make a deduction of dividend tax therefrom of an amount determined in accordance with section 114 of this Act.

(2) Where -

- (a) A payment consisting of dividend income has been made to an agent or other person in the Cook Islands for or on behalf of the person entitled to the payment; and
- (b) The dividend tax payable in respect of that dividend income has not been deducted, or has not been deducted in full, under subsection (1) of this section -

that agent or other person shall, at the time of receiving the payment, make a deduction therefrom of the amount of the dividend tax or, as the case may be, of the amount of the deficiency in that tax.

(3) Where -

- (a) A person makes a deduction of dividend tax under subsection (1) of this section from a payment consisting of dividend income; and
- (b) The payment of that dividend income is made by him to an agent or other person in the Cook Islands for or on behalf of the person entitled to the payment, -

that first-mentioned person shall, at the time of making the payment, advise that agent or other person in writing of the amount of the deduction made by him from the payment.

(4) This section shall not apply where the dividend income consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (d) of subsection (1) of section 4 of this Act.

116. Dividend tax on dividends not paid in money - (1) Where -

- (a) Any dividend income that consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (d) of subsection (1) of section 4 of this Act is to be paid by a company to a person; and
 - (b) The Company would, but for subsection (4) of section 115 of this Act, be required to make a deduction of dividend tax under that section from the dividend, -
- the company shall not pay the dividend to or in the interest of or on behalf of any person until an amount equal to the amount dividend tax that, but for the lastmentioned subsection, would have been required to be deducted has been paid to the Collector in respect of the dividend.

(2) Where -

- (a) Any dividend income that consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (d) of subsection (1) of section 4 of this Act is paid to an agent or other person in the Cook Islands for or on behalf of the person entitled to the dividend; and

- (b) That agent or other person would, but for subsection (4) of section 115 of this Act, be required to make a deduction of dividend tax under that section from the dividend, -

that agent or other person shall not pay the dividend to or in the interest of or on behalf of any person until an amount equal to the amount of dividend tax that, but for that last mentioned subsection, would have been required to be deducted has been paid to the Collector in respect of that dividend.

(3) A person who has paid to the Collector an amount equal to the dividend tax in relation to a dividend in accordance with this section may, in writing, request the Collector to inform the company by which the dividend is to be paid, or any person to whom the dividend has been paid, that that amount has been so paid in respect of that dividend, and, upon receipt of such a request, the Collector shall, in writing, inform that other person accordingly.

Payment of Dividend Tax

117. Payment of deductions of dividend tax to Collector - (1) Every person who makes deductions of dividend tax from payments consisting of dividend income, shall, not later than the twentieth day of the month next after the month in which he has made any such deductions, pay to the Collector the amount of the deductions.

(2) The Collector may extend the time for payment of any amount of dividend tax in such cases and to such extent as he thinks fit.

118. Statements to be delivered to Collector - Every person who in any year makes deductions of dividend tax from payments consisting of dividend income, or pays to the Collector any amounts in respect of the dividend tax in relation to dividends in accordance with section 116 of this Act, shall, not later than the fifteenth day of June next after the end of that year, deliver to the Collector a statement showing particulars of the dividend income and of the dividend tax relating thereto.

Assessment of Dividend Tax

119. Dividend tax to be final tax - Notwithstanding anything to the contrary in this Act dividend income shall not be included in the assessable income of a person, and the amount of income tax for which a person is liable in respect of the amount of that dividend income derived by him in any income year shall be determined exclusively and finally by the total amount of tax for which that person is liable in accordance with section 114 of this Act in respect of that income.

120. Credit for dividend tax on dividends derived by certain companies - Against the income tax assessed on a company resident in the Cook Islands and deriving dividends which have been subject to dividend tax under Section 114 of this Act, there shall be allowed a credit of an amount equal to the dividend tax (but not including any additional tax or penal tax) deducted from the dividend income.

Recovery and Assessment of Dividend Tax

121. Person deriving dividend income to pay dividend tax to Collector - Where for any reason -

- (a) A deduction of dividend tax is not made or is not made in full in accordance with this Part of this Act from any payment consisting of dividend income; or
- (b) A payment that is required to be made to the Collector, in accordance with section 116 of this Act, of an amount equal to the tax in relation to a dividend has, in contravention of that section, not been made or not been made in full to the Collector -

the person who derives the dividend income shall pay to the Collector an amount equal to the amount of the deduction or, as the case may be, the payment that should have been made and was not made, and that amount shall be due and payable to the Collector on the twentieth day of the month next after the month in which the deduction was required to be made, or, as the case may be, the dividend was paid, or in either case, on such later date as the Collector, in his discretion, may in any case allow.

122. Failure to make deductions of dividend tax or to make payments to Collector - (1) Where

a person fails to make any deduction of dividend tax from any payment consisting of dividend income in accordance with his obligations under section 115 of this Act, the amount in respect of which default has been made shall constitute a debt payable by that person to the Collector, and shall be deemed to have become due and payable to the Collector on the twentieth day of the month next after the month in which the payment consisting of that dividend income was made.

(2) Where a person has, in contravention of section 116 of this Act, paid dividend income consisting of a dividend without payment to the Collector of an amount equal to the dividend tax in relation to the dividend, that amount or, as the case may be, so much thereof as has not been paid to the Collector shall constitute a debt payable by that person to the Collector, and shall be deemed to have become due and payable to the Collector on the day on which the dividend was paid.

(3) The right of the Collector to recover the amount in respect of which default has been made in the manner referred to in subsection (1) of subsection (2) of this section from a person who has made default shall be in addition to any right of the Collector to recover that amount from the person chargeable with the dividend tax to which that amount relates; and nothing in this Part of this Act shall be construed as preventing the Collector from taking such steps as he thinks fit to recover that amount from both of those persons concurrently, or from recovering that amount wholly from one of those persons, or partly from one and partly from the other of those persons.

(4) Where any amount recoverable in accordance with this Part of this Act from the person chargeable with the dividend tax to which that amount relates is in fact paid by another person, the amount so paid may be recovered by that other person from that first-mentioned person.

123. Assessment of dividend tax and of amounts to be accounted for or paid under this Part - (1)

The Collector may, in respect of any person who is chargeable with dividend tax, make an assessment of the amount of income on which in his judgment dividend tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not chargeable with the tax so assessed.

(2) The Collector may make an assessment of any amount which in his judgment any person is liable to account for or pay to the Collector under this Part of this Act, and any person who is so assessed shall be liable to pay the amount so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not liable to account for or pay the amount so assessed.

(3) Sections 22, 24, 25, 26 and 27 of this Act shall apply, so far as may be, with respect to every assessment made under subsection (1) or subsection (2) of this section, as if -

(a) The expression "tax already assessed" used in the said section 22 included dividend tax already assessed under subsection (1) of this section or, as the case may be, an amount already assessed under subsection (2) of this section; and

(b) The term "taxpayer" used in the said sections 22, 25 and 27 included a person who is chargeable with dividend tax or, as the case may be, a person who is assessed or is liable to be assessed under subsection (2) of this section.

(4) An assessment made under this section shall be subject to objection in the same manner as an assessment of income tax levied under section 40 of this Act, and the provisions of Part IV of this Act shall apply, so far as may be, to an objection to an assessment made under this section as if the terms "income tax" and "tax" used that Part included dividend tax or, as the case may be, an amount assessed under subsection (2) of this section.

Penalties and Offences

124. Additional tax for default in making or paying deductions of dividend tax - (1) Where -

- (a) Any person, being a person under an obligation under this Part of this Act to make a deduction of dividend tax from a payment consisting of dividend income, fails wholly or in part to make the deduction; or
- (b) Any person who has made a deduction of dividend tax fails wholly or in part within the prescribed time to pay the amount of the deduction to the Collector; or
- (c) Any person who is liable to pay any amount to the Collector under this Part of this Act fails to pay the amount on the due date for payment thereof, -

that person shall, unless the Collector is satisfied that he has not been guilty of wilful neglect or default, be liable, without conviction, in addition to any other penalty to which he may be liable, to a penalty equal to ten percent of the amount in respect of which default has been made.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of dividend tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of dividend income.

(3) A penalty imposed under this section shall for all purposes be deemed to be of the same nature as the amount or part thereof in respect of which it is imposed, and shall be recoverable accordingly.

(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the amount of every penalty imposed under this section as if it were additional tax under section 166 of this Act and as if the person liable to the penalty were the taxpayer.

125. Penal tax for default in making or paying deductions of dividend tax - (1) Where -

- (a) Any person, being a person under an obligation under this Part of this Act to make a deduction of dividend tax from a payment consisting of dividend income, fails wholly or in part to make the deduction; or
- (b) Any person knowingly applies or permits to be applied the amount of any dividend tax or any part thereof for any purpose other than the payment thereof to the Collector, -

that person shall be chargeable by way of penalty, in addition to any other penalty to which he may be liable, with an additional amount (hereinafter referred to as penal tax) not exceeding an amount equal to treble the amount in respect of which default has been made (hereinafter referred to as the deficient deduction).

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of dividend tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of dividend income, and the amount of any dividend tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Collector:

Provided that no person shall be chargeable with penal tax under paragraph (b) of subsection (1) of this section if he satisfies the Collector that the amount of the dividend tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

(3) Penal tax imposed by this section shall for all purposes be deemed to be of the same nature as the deficient deduction, and shall be recoverable accordingly.

(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to all penal tax imposed under this section as if -

- (a) It were penal tax under section 184 of this Act; and
- (b) The person chargeable with the penal tax imposed under this section were the taxpayer; and
- (c) The deficient deduction were deficient tax payable for the same year of assessment as that in which the deficient deduction became due and payable to the Collector.

126. Offences - (1) Without limiting the application of section 184 of this Act, it is hereby declared that every person commits an offence against this Act who -

- (a) Being a person under an obligation under this Part of this Act to make a deduction of dividend tax from a payment consisting of dividend income, fails wholly or in part to make the deduction; or
- (b) Knowingly applies or permits to be applied the amount of any dividend tax or any part thereof for any purpose other than the payment thereof to the Collector.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of dividend tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of dividend income, and the amount of any dividend tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Collector:

Provided that no person shall be convicted of an offence under paragraph (b) of subsection (1) of this section if he satisfies the Court that the amount of the dividend tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

Miscellaneous Provisions

127. Dividend tax on dividends paid to company under control of non-resident - where -

- (a) Shares in a company that is resident in the Cook Islands were formerly held by a person not resident in the Cook Islands and while those shares were so held the company was under the control of that person or was deemed under this Act to be under the control of persons of whom that person was one; and
- (b) That person has sold or otherwise disposed of those shares to another company that is resident in the Cook Islands and is under the control of that person or is deemed under this Act to be under the control of persons of whom that person is one; and
- (c) Any part of the price at which that other company acquired those shares remained unpaid after the acquisition by that other company of those shares or thereafter remained owing in any way directly or indirectly to that person and whether or not secured by mortgage or otherwise -

any dividends paid in respect of those shares to that other company while any part of that price remains unpaid or owing as aforesaid shall, to the extent to which that price is unpaid or owing at the time when the dividends are paid to that other company, be deemed to have been paid to that person and to have been derived as dividends by that person at that time, and the provisions of this Act (including this Part of this Act) shall apply accordingly.

128. Deductions of dividend tax deemed to be received by person entitled to payment -

Where any dividend tax has been deducted from a payment consisting of dividend income, the amount so deducted -

- (a) As between the person by whom the deduction was made and the person entitled to the payment consisting of the dividend income from which the deduction was made, shall be deemed to have been received by the person entitled to that payment -

(i) In any case where the deduction was made under subsection (1) of section 115 of this Act, at the time at which the payment consisting of the dividend income was made:

(ii) In any case where the deduction was made under subsection (2) of section 115 of this Act, at the time at which the payment consisting of the dividend income was received, for or on behalf of the person entitled to that payment, by an agent or other person in the Cook Islands:

- (b) For the purposes of this Act (including this Part), shall be deemed to have been derived by the person entitled to the payment consisting of the dividend income at the same time and in the same manner as the residue of that payment.

129. Application of other Parts of this Act - Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to dividend tax as if it were income tax levied under section 40 of this Act.

PART VIII

BONUS ISSUE TAX

130. Companies to which this Part applies - This Part of this Act shall apply to every company that is deemed to be resident in the Cook Islands within the meaning of Part V of this Act.

131. Bonus issue tax imposed - (1) There shall be levied and paid in accordance with this Part of this Act for the year of assessment that commenced on the first day of April, nineteen hundred and sixty-nine, and for every subsequent year, a special tax by way of an income tax to be known as bonus issue tax, which tax shall be distinct from and in addition to income tax levied under section 40 of this Act.

(2) Bonus issue tax shall be levied and paid at such rate or rates as may be fixed from time to time by an annual taxing Act.

132. Bonus issues to be liable for bonus issue tax - Where a company to which this Part of this Act applies makes a bonus issue, the company shall be assessable with and liable for bonus issue tax on the amount of the bonus issue in accordance with this Part of this Act.

133. Year for which bonus issue tax payable - Bonus issue tax shall be payable for any year of assessment by every company to which this Part of this Act applies on the amount of any bonus issue made by the company in the income year (or, as the case may be, the accounting year corresponding with that income year) immediately preceding the year for which the tax is payable.

134. Date for payment of bonus issue tax - All bonus issue tax payable by a company under an assessment of tax shall be due and payable on the twenty-first day of January in the year for which the tax is payable.

135. Distribution of capitalised amount - Where a company to which this Part of this Act applies has made a bonus issue, and -

- (a) At any time within three years after making the bonus issue the company makes a distribution of any amount (whether in money or money's worth) that, in the opinion of the Collector, is either directly or indirectly a distribution of any amount capitalised by the bonus issue; and
- (b) The Collector is not satisfied that the distribution was not pursuant to any arrangement, scheme, or intention in existence at the time when the bonus issue was made, -

the distribution shall be deemed to be a further bonus issue made by the company at the time of the distribution and the provisions of this Part of this Act shall apply accordingly.

136. Application of other provisions to bonus issue tax - Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable with the necessary modifications, shall apply with respect to bonus issue tax and the assessment, recovery, and payment thereof as if it were income tax levied under section 40 of this Act; but nothing in this Part of this Act shall be so construed as to include bonus issue tax in the terms "income tax" or "tax" for the purposes of Part V of this Act.

PART IX

AGENTS AND NON-RESIDENTS

Interpretation

137. "Absentee" defined - In this Part of the Act the terms "absentee" means -

- (a) Any person (other than a company) who is for the time being out of the Cook Islands;
- (b) Any overseas company unless it has a fixed and permanent place of business in the Cook Islands at which it carries on business in its own name;
- (c) Any overseas company which is declared by the Collector to be an absentee for the purposes of this Act by notice given to that company or to its agent or attorney in the Cook Islands, so long as that declaration remains unrevoked.

Agents Generally

138. Agent to make returns and be assessed as principal - (1) Every agent shall make returns of the income in respect of which he is an agent, and shall be assessed thereon in the same manner as if he was the principal, save that he shall be entitled to no special exemption other than such exemption (if any) as his principal may be entitled to.

(2) Every person liable to furnish a return as agent for any person shall furnish a separate return for each person for whom he is agent, in addition to his own individual return.

139. Rate and amount of tax payable by agent - Except where otherwise expressly provided by this Act the rate of tax for which an agent shall be so assessed and liable shall be determined by reference to the total taxable income of the principal, but it shall be charged and payable only on the income in respect of which the agency exists, and in the same proportion which that income bears to the total taxable income of the principal.

140. Liability of principal not affected - (1) Nothing in this Act relating to an agent shall be so construed as to release the principal from liability to make returns and to be assessed and chargeable with tax.

(2) No assessment of the agent shall preclude an assessment of the principal for the same tax, nor shall an assessment of the principal preclude an assessment of the agent for the same tax, and the principal and agent shall be jointly and severally liable for all tax for which the agent is liable.

(3) When two or more persons are liable to be assessed as agents in respect of the same tax, they shall be jointly and severally liable therefore.

141. Agents may recover tax from principal - When an agent pays any tax he may recover the amount so paid from his principal, or may deduct the amount from any moneys in his hands belonging or payable to his principal.

142. Agent may retain from money of principal amount required for tax - An agent may from time to time during the income year or at any later time, retain out of any money belonging or payable to his principal such sums as may reasonably be deemed sufficient to pay the tax for which the agent is or may become liable.

143. Assessment deemed authority for payment of tax by agent - An assessment made by the Collector shall, as between an agent and his principal, be a sufficient authority for the payment by the agent of the tax so assessed, and the agent shall be entitled as against his principal to reimbursement accordingly.

144. Agent to be personally liable for payment of tax - (1) Every agent shall be personally liable for the tax on income in respect of which he is an agent.

(2) When the Collector is satisfied that an agent has no money of his principal with which he can pay the tax, and that he has not paid away any such money after notice of assessment of the tax, or that immediate enforcement of payment by the agent would be a cause of hardship, the Collector may allow the agent such further period for the payment thereof, not exceeding six months after the date of the notice of assessment, as he thinks necessary and the additional tax imposed by section 166 of this Act on taxpayers in default shall not accrue until the expiry of the period so allowed.

145. Relation of principal and agent arising in effect - When the Collector is satisfied that any person carrying on business in the Cook Islands (herein called the agent) is so far under the control of any other person carrying on business in the Cook Islands or elsewhere (herein called the principal) that the relation between them is in effect that of agent and principal, he may treat the first mentioned business as that of the principal, and as being carried on by the agent on his behalf, and may require returns to be made, and may make assessments accordingly, and the principal and the agent shall be liable for income tax accordingly.

Special Cases of Agency

146. Liability of mortgagee in possession - For the purposes of this Act, a mortgagee in possession of any land or other property shall be deemed to be the agent of the mortgagor in respect of any income derived by that mortgagee from that land or other property on behalf of or for the benefit of the mortgagor, and the mortgagee shall make returns and be assessable and liable for tax on that income accordingly.

147. Guardian of person under disability to be his agent - Every person who, as guardian, committee, or otherwise has the receipt, control or disposition of any income derived by a person under any legal disability shall for the purposes of this Act be the agent of that person in respect of that income, and shall make returns and be assessable and liable for income tax accordingly.

148. Person having control of land or of rents and profits to be agent of absentee or person under disability - Every person who on the thirty-first day of March in any year has the control or management of any land, or the receipt, control or disposal of the rents or profits thereof, on behalf of an owner of that land who is an absentee or is under any legal disability, shall for the purposes of this Act be the agent of the owner and shall make returns of those rents and profits received and be assessable and liable for income tax on those rents and profits accordingly.

149. Liability of new companies for tax payable by former companies with substantially the same shareholders or under the same control -

(1) In this section -

"Company" means a Cook Islands company or an overseas company within the meaning of this Act;

"New Company" means a company carrying on business in the Cook Islands and consisting substantially of the same shareholders as an original company or being under the control of the same persons as an original company;

"Original company" means a company which having at any time carried on business in the Cook Islands, has whether before or after the passing of this Act, ceased to carry on business in the Cook Islands, and includes any such company that has been wound up.

(2) Where an original company within the meaning of this section has been wound up its shareholders and directors, as on the commencement of its winding up, shall respectively be deemed to be the shareholders and the persons having the control of the company for the purposes of this section.

(3) Where an original company as hereinbefore defined was, when it ceased to carry on business in the Cook Islands liable under this Act for any income tax or was liable to be assessed for any such tax, and that tax has not been paid, the new company shall, for the purposes of this Act, be deemed to be the agent of the original company and shall be liable for all tax payable by the original company. It shall also be liable for all tax for which the original company would have been liable if it had continued to carry on business in the Cook Islands.

150. Companies deemed agent of debenture holders - Save as otherwise provided in sections 149 and 151 of this Act, every company which has issued debentures, whether charged on the property of the company where appropriate or not, shall for the purposes of this Act be the agent of all debenture-holders, whether absentees or not, in respect of all income derived by them from those debentures, and shall make returns and be assessable and liable for income tax on that income accordingly.

151. Modification of agency provisions in respect of income from company debentures - (1) The duty to act as the agents of debenture-holders imposed on companies by subsection 150 of this Act shall not apply with respect to debentures issued to any person resident in the Cook Islands if the company that has issued such debentures has supplied to the Collector, before it has been assessed in any year for income tax in respect of the income derived from those debentures, a certified list specifying the numbers of the debentures or other particulars sufficient to identify them, the names, addresses, and descriptions of the persons to whom the debentures have been issued, the interest derived or derivable therefrom, and such other particulars as may be prescribed.

(2) Where any such list is supplied the person named therein as the holder of any debentures shall be personally responsible for the making of returns, and shall be assessable and liable for income tax (though not to the exclusion of any other person) in respect of the income derived from those debentures at the rate fixed in respect thereof, unless and until he satisfies the Collector, before he has been assessed for income tax in any year, that he has transferred or assigned the debentures, and has given notice to the Collector in the prescribed form of the name, address, and description of the transferee or assignee.

(3) Every person being the transferee or assignee of any debentures shall in like manner remain personally liable in respect thereof (though not to the exclusion of any other person) unless and until he has given notice to the Collector in the prescribed form of the transfer or assignment of the same.

(4) Any tax paid by the former holder of any debentures in respect of the income derived therefrom by a subsequent holder shall be deemed to be paid on behalf of that subsequent holder so far as it does not exceed the tax to which the subsequent holder might himself have been liable in respect of such debentures, and may be recovered by the former holder from such subsequent holder accordingly.

152. Recovery of income tax payable in respect of alimony or maintenance - (1) This section applies with respect to any income tax that may hereafter become payable in respect of income received by or on behalf to any person as alimony or maintenance, pursuant to the order of any Court or pursuant to any deed or agreement (whether such order, deed, or agreement has been made or entered into before or after the commencement of this Act).

(2) In any case to which this section applies, the person bound by any such order, deed, or agreement to pay any money as alimony or as maintenance as aforesaid, shall for the purpose of the payment of the income tax thereon, be deemed to be the agent of the person to whom or on whose behalf such money has been paid or is payable, and all the provisions of this Act as to the liability of agents shall apply with respect to him accordingly.

(3) It shall be no defence in any proceedings against an agent for the recovery of any income tax to which this section relates that any amount in respect of income tax has been paid by him to the person entitled to receive any money as alimony or maintenance.

Agents of Absentees and Non-residents

153. Liability of agent of absentee principal for returns and tax - Every person who in the Cook Islands carries on any business for and on behalf of a principal who is an absentee shall for the purposes of this Act be the agent of that principal in respect of all income derived by the principal through the business so carried on in the Cook Islands by means of that agent, and shall make returns and be assessable and liable for income tax on that income accordingly, whether the income comes to the hands of the agent or not.

154. Partner of absentee deemed agent - Every person who in the Cook Islands carries on business in partnership with an absentee shall for the purposes of this Act be the agent of that absentee in respect of his share of the income of the business, and shall make returns and be assessable and liable for income tax accordingly.

155. Master of ship or captain of aircraft deemed agent of absentee owner - (1) When an absentee, by means of any ship or aircraft owned by him or under charter to him, carries on the business of the carriage of merchandise, mails, or passengers, the master of that ship, or the captain of that aircraft, as the case may be, shall (though not to the exclusion of any other agent) be the agent of that absentee for the purposes of this Act in respect of all assessable income so derived by the absentee, and shall be assessable and liable for income tax accordingly.

(2) Pending the payment of any tax assessed against such an absentee or against any person who is his agent for the purposes of this Act, the Collector of Customs shall, on the requisition of the Collector of Inland Revenue, withhold the clearance of the ship or aircraft in respect of which the tax is payable.

156. Tenant, mortgagor or other debtor, to be agent of absentee landlord mortgagee or other creditor -

(1) Any tenant, mortgagor, or other person who transmits from the Cook Islands to any landlord, mortgagee or other creditor, being an absentee, any rent, interest, or other money being income derived by that absentee from the Cook Islands, shall for the purposes of this Act be the agent of that absentee in respect of all money so transmitted by him at any time, and he shall in respect of all such money make returns and be assessable and liable for income tax accordingly.

(2) For the purposes of this section any money paid by or on account of a person resident in the Cook Islands from a fund situated out of the Cook Islands shall be deemed to be money transmitted by that person from the Cook Islands.

157. Person having disposal of income deemed agent - Every person who in the Cook Islands has the receipt, control or disposal of any income derived by a principal who is an absentee shall for the purposes of this Act be the agent of the principal in respect of that income, and shall make returns and be assessable and liable for income tax on that income accordingly.

158. Company to be agent of absentee shareholders - A Cook Island company shall be the agent of all absentee shareholders and of all absentee holders of debentures to which section 82 or 83 of this Act applies, and the company shall make returns and be assessable accordingly on all income paid or credited by the company to any such shareholder or debenture-holder while he is an absentee.

159. Banking company to be agent of absentee depositors - Every banking company, and every other company, local or public authority, or other person, who in the course of business receives or holds money by way of deposit and allows interest thereon shall for the purposes of this Act be the agent of all depositors who are absentees, and shall make returns and be assessable and liable for income tax accordingly on any interest which is paid or credited to a depositor while he is an absentee, if that interest exceeds one hundred dollars in any year.

160. Premiums on insurance effected with persons not carrying on business in the Cook Islands -

(1) Where any person in the Cook Islands enters into a contract of insurance or guarantee against loss, damage, or risk of any kind whatever (not being a contract of life insurance) with any insurer, and the insurer does not carry on business in the Cook Islands, such insurer shall be liable to income tax at the rate as set out in the First Schedule to this Act as being applicable to insurance companies on the amount of premium paid or payable by the first mentioned person in respect of such contract.

(2) Where the amount of premium paid or payable in respect of any such contract is not disclosed, the amount shall be deemed to be the same amount as would be chargeable in respect of a similar contract of insurance or guarantee effected with a company carrying on business in the Cook Islands.

(3) Every person who enters into a contract of insurance or guarantee as aforesaid shall for the purposes of this Act be deemed to be the agent of the insurer with whom such contract is made, and shall make returns and be assessable and liable for income tax accordingly.

(4) Every person who exports any goods from the Cook Islands shall notify the Inland Revenue Department if such goods are insured, and, if so, the name and description of the person or company with whom such goods are insured, and the amount of the premium payable in respect thereof.

161. Liability as agent of employer of non-resident taxpayer and employer's agent - (1) The employer

or the agent of the employer of every non-resident taxpayer shall, for the purposes of this Act, be the agent of such non-resident taxpayer in respect of the salary, wages, or other emoluments received by him, and shall make returns and be assessable and liable for income tax thereon accordingly.

(2) Where any such non-resident taxpayer has made default in the payment of any income tax payable by him in respect of his salary, wages, or other emoluments as aforesaid, the amount of such tax shall, on application by the Collector be deducted by the employer or his agent from any salary, wages or other emoluments thereafter to be paid, and shall be paid to the Collector on behalf of the taxpayer.

(3) Where any non-resident taxpayer is in receipt of any pension or annuity payable out of any superannuation fund established in the Cook Islands, any income tax that may hereafter become payable by such non-resident taxpayer in respect of such pension or annuity shall, on application by the Collector, be deducted from any instalment or instalments of such pension or annuity thereafter to be paid, and shall be paid to the Collector on behalf of the taxpayer.

(4) For the purposes of this section the term "non-resident taxpayer" means any person who, being liable for income tax in respect of salary, wages, or other emoluments derived from the Cook Islands, or in respect of any annuity or pension derived from the Cook Islands, has no fixed or permanent residence or place of abode in the Cook Islands.

162. Non-resident trader to be agent of employees in the Cook Islands - Every non-resident trader shall for the purposes of this Act be the agent of all persons in his employment in the Cook Islands in respect of the salary, wages or other emoluments received by them, and shall make returns and be assessable and liable for income tax thereon accordingly. The agent in the Cook Islands of a non-resident trader shall, for the purposes of this section, be under the same obligations as his principal.

163. Agents in the Cook Islands of principal resident abroad - When any person in the Cook Islands, on behalf of a principal who is resident in a country or territory outside of the Cook Islands and is not resident in the Cook Islands is instrumental in procuring the purchase from that principal of goods or merchandise which are in the Cook Islands or are to be imported into the Cook Islands in pursuance or in consequence of such purchase, whether the contract or purchase is made in the Cook Islands or elsewhere, the principal shall in respect of the sale by him of such goods or merchandise be deemed to be carrying on business in the Cook Islands through the agency of that person; and the income derived from such business shall be deemed to be derived from the Cook Islands, in the same manner and to the same extent as if the contract had been made in the Cook Islands, and shall be assessable for income tax accordingly and the agent shall make returns and pay tax accordingly.

PART X

PAYMENT AND RECOVERY OF TAX

164. Due date for payment of tax - (1) Income tax shall, except where otherwise expressly made payable by any provision of this Act, be due and payable on the twenty-first day of January in the year for which the tax is payable or on such later date as may be fixed by the Collector in the said notice.

(2) In any case where a notice of assessment in respect of any year has not been issued, and the delay is, in the opinion of the Collector, due to any neglect, default or omission of the taxpayer, then the Collector when issuing such notice of assessment, may fix a date which may be before the date of issue of such assessment, which shall be considered to be the date on which the tax payable under that assessment became due and payable.

165. Payment of tax - Payment of taxes and other money payable under this Act shall be effected at the Cook Islands Treasury or at the office of any Resident Agent or Clerk in Charge.

166. If default made in payment of tax, additional tax to be charged - (1) Subject to the provisions of this section, if any tax remains unpaid at the expiration of one month after the due date thereof, (whether already assessed or not) or after the date of demand, as the case may be, ten per cent on the amount of the tax unpaid shall be and be deemed to be added thereto by way of additional tax, and shall be payable accordingly.

(2) In any case in which an assessment is increased after the due date of tax, and the Collector is satisfied that the taxpayer has not been guilty of wilful neglect or default in making due and complete returns for the purposes of that tax the Collector shall in his notice to the taxpayer of the assessment or amended assessment, or in any subsequent notice, fix a new date for the payment of the tax, or of the increase, as the case may be, and the date so fixed shall be deemed to be the due date of that tax or increase for the purposes of the subsection (1) of this section.

(3) Where the taxpayer is resident beyond the Cook Islands and has no agent in the Cook Islands the Collector shall, before charging the additional tax as aforesaid, grant such further time, not exceeding six months after the due date of the tax, as he may deem necessary.

167. Mode of recovery of unpaid tax - All unpaid tax shall be recoverable by the Collector on behalf of the Crown by suit in his official name as a debt, whatever the amount involved, in the High Court.

168. Deduction of income tax from payment due to defaulters - (1) Where any taxpayer has made default in the payment of any income tax payable by him for any year of assessment, the Collector may from time to time by notice in writing require any person to deduct from any amount payable or to become payable by that person to the taxpayer such sum as may be specified in the notice, and to pay every sum so deducted to the Collector to the credit of the taxpayer within such time as may be specified in the notice.

(2) This section shall bind the Crown.

(3) Where any notice under this section relates to any wages or salary, the sums required to be deducted therefrom shall be computed so as not to exceed a deduction at the rate of one twentieth per week of the tax due and payable by the taxpayer at the date of the notice, or at the rate of twenty per cent of the wages of salary, whichever rate is the less.

(4) Any notice under this section may be at any time revoked by the Collector by a subsequent notice to the person to whom the original notice was given (hereinafter referred to as the debtor), and shall be so revoked at the request of the taxpayer at any time when the Collector is satisfied that all income tax then due and payable by the taxpayer has been paid, and that the Collector holds to the credit of the taxpayer an amount not less than the amount of the income tax (if any) to become due and payable by him during the then current year of assessment.

(5) A copy of every notice given under this section in respect of any taxpayer and of the revocation of any such notice shall be given to the taxpayer by the Collector.

(6) Whenever pursuant to a notice under this section any deduction is made from any amount payable to any taxpayer the taxpayer shall be entitled to receive from the debtor a statement in writing of the fact of the deduction and of the purpose for which it was made.

(7) The sum deducted from any amount pursuant to a notice under this section shall be deemed to be held in trust for the Crown, and, without prejudice to any other remedies against the debtor or any other person, shall be recoverable in the same manner in all respects as if it were income tax payable by the debtor.

(8) Every person commits an offence and shall be liable on conviction to a fine not exceeding two hundred dollars who -

- (a) Fails to make any deduction required by a notice under this section to be made from any amount payable by him to a taxpayer;
- (b) Fails after making any such deduction to pay the sum deducted to the Collector within the time specified in that behalf in the notice.

169. Procedure in High Court where defendant absent from the Cook Islands - In any action in the High Court for the recovery of tax, if the defendant is absent from the Cook Islands or cannot after reasonable inquiry be found, service of the summons may with the leave of a Judge be affected by posting a duplicate or sealed copy thereof in a letter addressed to the defendant at his present or last known place of abode or business, whether in the Cook Islands or elsewhere.

170. Particulars of claim or demand - In an action in any Court for the recovery of tax it shall be sufficient if the particulars of claim or demand state the amount sought to be recovered and the date on which same became payable, and such further particulars (if any) as the Collector thinks necessary in order fully to inform the defendant of the nature of the claim.

171. Collector may appear in legal proceedings by Officer of the Public Service - In any action in the High Court for the recovery of tax, the Collector may, if he thinks fit, appear by some officer in the Cook Islands Public Service, and the authority in writing of the Collector stating that any person so appearing is such an officer and that he appears for the Collector shall be sufficient evidence of the facts so stated and of his authority in that behalf.

172. Costs against Collector - In all proceedings in any Court for the recovery of tax, costs may be awarded to or against the Collector in the same manner as in other cases, but all costs so awarded against the Collector shall be payable out of money appropriated by Legislative Assembly and not otherwise.

173. Proceedings not affected by vacancy or change in office of Collector - No action instituted by the Collector for the recovery of tax, and no proceedings on objection to an assessment of tax, shall abate by reason of any vacancy in the office of the Collector, or shall be deemed defectively constituted by reason of any change in the holder of that office, and every such action or proceeding shall be continued in the ordinary course as if the Collector and his successors in office, were a corporation sole.

174. Crown Proceedings Act not affected - Nothing in this Act shall be so construed as to limit or affect the operation of the Crown Proceedings Act, 1950 and all rights and remedies conferred upon the Crown in respect of the Government of the Cook Islands by that Act and by this Act shall coexist, and may be exercised independently of one another, and tax may be recovered accordingly.

175. Recovery of tax paid by one person on behalf of another - Every person who in pursuance of this Act pays any tax for or on behalf of any other person shall be entitled to recover the same from that other person as a debt, or to retain or deduct the same out of or from any money which is or becomes payable by him to that other person; and if he has paid the same as mortgagee, then, until repaid, it shall be deemed to form part of the money secured by the mortgage, and shall bear interest at the same rate accordingly.

176. Payment of income tax by persons leaving the Cook Islands - (1) Upon the application of any person about to leave the Cook Islands if the Collector is satisfied -

- (a) That that person is not liable to pay any income tax; or
- (b) That all income tax payable by that person has been paid; or
- (c) That satisfactory arrangements have been or will be made for the payment of all income tax that is or may become payable by that person, -

the Collector shall issue a certificate to the effect that that person is not under any liability for income tax requiring to be discharged before he leaves the Cook Islands.

(2) Every certificate under this section shall remain in force for such period or until such date as may be specified in that behalf in the certificate.

(3) No ticket or other authority to travel from the Cook Islands by any ship or aircraft shall be issued to or in respect of any person by the owner or charterer, or by any representative or employee of the owner or charterer, of the ship or aircraft nor shall any person be permitted to sign on or be engaged as a member of the crew of any ship or aircraft leaving the Cook Islands unless and until a certificate issued under this section in respect of that person and not expiring before the date of the departure of the ship or aircraft from the Cook Islands is presented to the owner or charterer, or to his representative or employee.

(4) On the first working day after the departure of any ship or aircraft from any port or place at which it takes on board passengers or crew for any destination beyond the Cook Islands, the owner or charterer of the ship or aircraft or the representative or employee of the owner or charterer at that port or place, shall deliver or forward by post to the Collector all certificates so presented by persons travelling by the ship or aircraft, together with a list showing the names and last known address in the Cook Islands of every person who so travelled (not including, unless the Collector in any case otherwise requires, any member of the crew of or staff of the ship or aircraft not signing on or being engaged as a member of the crew at that port or place).

(5) If any person travels from the Cook Islands by any ship or aircraft pursuant to a ticket or other authority issued at any port or place or signs on or is engaged as a member of the crew in contravention of this section, the owner or charterer and the representative or employee (if any) of the owner or charterer at that port or place shall be personally liable jointly and severally to pay the amount of income tax (if any) that is or may become due and payable by that person in respect of income derived in the income year in which he leaves the Cook Islands or in any earlier year.

(6) Every person who acts in contravention of or fails to comply with the provisions of this section or who makes a false declaration or furnishes false information for the purpose of obtaining a certificate or who having obtained a certificate transfers it to any other person, commits an offence against this Act.

PART XI

REFUNDS AND RELIEF FROM TAX

177. Refund of excess tax - (1) In any case where the Collector is satisfied that tax has been paid in excess of the amount properly payable he shall advise the person concerned of the excess payment and shall refund the amount paid in excess if written application for the refund is made by or on behalf of the taxpayer -

- (a) In any case where the assessment of that tax has not been altered, within six years immediately after the end of the year in which the assessment was made:

- (b) In any case where the original assessment has been altered, (whether once or more than once), within six years after the end of the year in which the original assessment was made.

(2) In any case where an assessment has been altered so as to increase the amount of tax payable and the Collector is satisfied that by reason of that alteration tax has been paid in excess of the amount properly payable, he shall advise the person concerned of the excess payment and shall refund the amount so paid in excess by reason of that alteration if written application for the refund is made by or on behalf of the taxpayer within six years immediately after the end of the year in which the alteration was made, notwithstanding that the application may be made after the time allowed by subsection (1) of this section.

178. Power of Collector in respect of small amounts - Notwithstanding anything to the contrary in this Act, the Collector may in his discretion, refrain from either issuing a notice of assessment or collecting or refunding tax in any case where, as the case may be -

- (a) The balance of any tax payable does not exceed one dollar; or
(b) The tax paid exceeds the amount of the tax for which the taxpayer is liable by an amount not exceeding fifty cents.

179. Relief from additional tax - (1) On application for relief made in writing by or on behalf of any taxpayer who (whether before or after the commencement of this Act) has become liable for the payment of any additional tax under section 166 of this Act, the Collector, if having regard to the circumstances of the case he thinks it equitable so to do, may subject to the provisions of this section, grant relief to the taxpayer -

- (a) By the remission of the whole or part of such additional tax; or
(b) Where such additional tax has been paid in whole or in part, by the refund to the taxpayer of the whole or any part of such tax that has been paid, with or without the remission of any part of such additional tax that has not been paid.

(2) No amount of tax in excess of two hundred dollars shall be remitted or refunded in any year under this section except with the approval of the Minister.

180. Relief in case of serious hardship - (1) In any case where it is shown to the satisfaction of the Collector -

- (a) That any taxpayer has suffered such loss or is in such circumstances that the exaction of the full amount of the tax has entailed or would entail serious hardship; or

- (b) That, owing to the death of any person who if he had not died would have been liable to pay tax, the dependents of that person are in such circumstances that the exaction of the full amount of the tax has entailed or would entail serious hardship-
he may, subject to the provisions of this section, release the taxpayer or the executor or administrator of the deceased taxpayer (as the case may be) wholly or in part from his liability, and may make such alterations in the assessment as are necessary for that purpose; and may if the tax as previously assessed or any part thereof has been already paid, refund any tax paid in excess of the amount of the assessment as altered pursuant to this section.
- (2) No amount of tax in excess of two hundred dollars shall be remitted or refunded in any one year under this section except with the approval of the Minister.

PART XII

PENALTIES

181. Penalty for failure to furnish returns, etc. -
(1) Every person commits any offence against this Act, who -

- (a) Refuses or fails to furnish any return or information as and when required by this Act, or by the Collector; or
- (b) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the Collector, in relation to any matter or thing affecting his own or any other person's liability to taxation; or
- (c) Refuses or fails without lawful justification to duly attend and give evidence when required by the Collector, or to truly and fully answer any question put to him or to produce any book or paper required of him; or
- (d) Obstructs any officer acting in the discharge of his duties or in the exercise of his powers under this Act; or
- (e) Commits any other breach of this Act for which no other penalty is expressly provided; or
- (f) Aids, abets, or incites any other person to commit any offence against this Act.

(2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable to a fine not exceeding two hundred dollars and not less than five dollars.

(3) In any proceedings against a person for refusing or failing to furnish any return or information as and when required by the Act, or by the Collector a certificate in writing signed by the Collector certifying that the return or information so required has not been received from that person at the place where or by the person to whom the return or information should have been furnished, shall, in the absence of proof to the contrary, be sufficient evidence that the defendant has refused or failed to furnish the return or information.

182. Proceedings for offences - All proceedings for offences against this Act shall be taken by way of prosecution in the High Court and only upon the information of the Collector, or of some person authorised in writing by the Collector in that behalf; and the signature of the Collector to any warrant of authority under this section shall be judicially noted.

183. Information may be laid within ten years - Notwithstanding anything in any other Act or Ordinance to the contrary any information in respect of any offence against this Act may be laid at any time within ten years after the termination of the year in which the offence was committed.

184. Penal tax in case of evasion - If any taxpayer evades, or attempts to evade, or does any act with intent to evade, or makes default in the performance of any duty imposed upon him by this Act with intent to evade, the assessment or payment of any sum which is or may become chargeable against him by way of tax (which sum is hereinafter referred to as the deficient tax) he shall be chargeable, by way of penalty for that offence, with additional tax (hereinafter called penal tax) not exceeding an amount equal to treble the amount of the deficient tax.

185. Nature of penal tax - Subject to the provisions of this Part of this Act, penal tax shall for all purposes be deemed to be tax of the same nature as the deficient tax, and shall be deemed to be payable in and for the same year of assessment as the deficient tax.

186. Assessment of penal tax - (1) The penal tax shall be assessed by the Collector in the same manner so far as may be, as the deficient tax but separately therefrom.
(2) An assessment of penal tax may be amended from time to time in the same manner as any other assessment.
(3) No assessment of penal tax shall be made or increased at any time after the expiration of ten years after the year of assessment of the deficient tax.

187. Objections to penal tax - (1) Any such assessment of penal tax shall be subject in the same manner as any other assessment of tax, to objection on the ground that the person so assessed is not chargeable with penal tax, or on the ground that the amount so assessed is excessive.

(2) All the provisions of this Act as to objections shall apply to an objection to an assessment of penal tax, save that the burden of proving the offence in respect of which penal tax is chargeable shall lie upon the Collector.

188. Recovery of penal tax - An assessment of penal tax may be made and the tax so assessed shall be recoverable at any time whether before or after the deficient tax has been assessed or has become assessable or payable, or has been paid.

189. Recoverable of penal tax from executors or administrators - (1) Penal tax shall be assessable against and recoverable from the executors or administrators of a deceased taxpayer, but if so assessed, the amount thereof shall be recoverable only as a debt incurred by the deceased in his lifetime.

(2) No penal tax shall be recoverable from any person other than the taxpayer himself, or his executors or administrators.

190. Recovery of penal tax not affected by conviction of taxpayer - The assessment of recovery of penal tax in respect of any offence shall not be in any manner barred or affected by the fact that the taxpayer has been convicted under this Act of the same or any other offence; but no person who has paid the penal tax assessed against him for any offence shall be thereafter convicted of the same offence.

PART XIII

GENERAL

191. Keeping of business records - (1) Subject to subsection (2) of this section every person carrying on business or deriving income other than salary or wages shall keep sufficient records in the English or Maori language to enable his assessable income and allowable deductions to be readily ascertained by the Collector or any officer authorised by him in that behalf and shall retain all such records so kept, and all records relating to the business in existence at the date of the passing of this Act, for a period of at least ten years after the completion of the transactions, acts, or operations to which they relate.

(2) This section shall not require the retention of any records -

(a) In respect of which the Collector has notified the taxpayer in writing that retention is not required;

(b) Of a company which has been wound up and finally dissolved.

(3) For the purposes of this section the term "records" includes books of account recording receipts or payments or income or expenditure or purchases or sales, and also includes vouchers, invoices, receipts, and such other documents as are necessary to verify the entries in any such books of account and in the case of an agent, records of all transactions carried out on behalf of his principal.

(4) Every person who fails to comply with this section commits an offence against this Act.

192. Collector to have power to inspect books and documents - Notwithstanding anything to the contrary in any other Act, the Collector or any officer of the Department authorised by him in that behalf shall at all times have full and free access to all books and documents, whether in the custody or under the control of a public officer or a body corporate or any other person whatsoever, for the purpose of inspecting any books and documents which the Collector or officer considers necessary or relevant for the purpose of collecting any tax or duty which the Collector is authorised to collect, or considers likely to provide any information otherwise required for any such purpose, and may, without fee or reward make extracts from or copies of any such books or documents.

(2) The Collector or any officer of the Department authorised by him in that behalf, may for the purpose of any investigation under this section require the owner or manager of any property or business, to give him all reasonable assistance in the investigation and to answer all proper questions relating to any such investigation either orally, or, if the Collector or officer so requires, in writing, or by statutory declaration, and for that purpose may require the owner or manager or, in the case of a company, any officer of the company to attend at the premises with him.

193. Information to be furnished on request of Collector - (1) Every person (including any officer employed in or in connection with any Department of the Government or by any public authority, and any other public officer) shall, if required by the Collector or by any officer of the Department authorised by him in that behalf furnish in writing any information and produce any books and documents which the Collector or officer considers necessary or relevant for any purpose relating to the administration or enforcement of this Act or any other Act administered by the Collector, and which may be in the knowledge, possession, or control of that person.

(2) Without limiting the foregoing provisions of this section, it is hereby declared that the information in writing which may be required under this section shall include lists of shareholders of companies, with the amount of capital contributed by and dividends paid to each shareholder, copies of balance sheets and of profit and loss accounts and other accounts and statements of assets and liabilities of any person.

(3) The Collector or any officer of the Department authorised by him in that behalf may require that any written information or particulars furnished under this section shall be verified by statutory declaration or otherwise.

194. Inquiry before a Judge or Commissioner of the High Court - (1) In any case in which the

Collector deems it necessary to hold an inquiry for the purpose of obtaining any information with respect to the liability of any person for any tax or duty which the Collector is authorised to collect or any other information required for the purposes of the administration or enforcement of this Act or any other Act administered by the Collector, he may apply in writing to a Judge or Commissioner of the High Court to hold an enquiry under this section.

(2) For the purposes of any such inquiry the Judge or Commissioner of the High Court may summon before him and examine on oath touching any matter which is relevant to the subject matter of the inquiry, all persons whom the Collector or any other person interested requires to be so called and examined.

(3) The Judge or Commissioner of the High Court shall have all such jurisdiction and authority touching the summoning and examination of any such person as he would have in respect of a witness in a civil action within his ordinary jurisdiction and the person so summoned and examined shall, subject to this Act, have all such rights and be subject to all such liabilities as he would have and be subject to if he were such a witness as aforesaid.

(4) The Collector and every person who is interested in the subject matter of the inquiry may be represented by a barrister or solicitor, or, with the leave of the Court, by any other person, who may examine, cross-examine, and re-examine, in accordance with the ordinary practice, any person so summoned.

Provided that every person so summoned may be cross-examined by the Collector or by the Collector's barrister or solicitor.

(5) Every examination under this section shall take place in Chambers.

(6) The statement of every person so examined shall be taken down in writing, and signed by him in the presence of the Judge or Commissioner of the High Court and delivered to the Collector and shall not form part of the records of the Court.

(7) No person summoned or examined under this section shall be excused from answering any question on the ground that the answer may incriminate him or render him liable to any penalty or forfeiture.

(8) No statement made by any such person in answer to any question put to him shall in criminal proceedings be admissible in evidence against him, except upon a charge of perjury against him in respect of his testimony upon that examination.

(9) A person summoned under this section may receive such sum on account of travelling expenses and loss of time as the Judge or Commissioner of the High Court thinks reasonable and orders accordingly.

195. Inquiry by Collector - (1) The Collector may, for the purpose of obtaining any information with respect to the liability of any person for any tax or duty which the Collector is authorised to collect or any other information required for the purposes of the administration or enforcement of any Act administered by the Collector, by notice in writing, require any person to attend and give evidence before him or before any officer of the Department authorised by him in that behalf and to produce all books and documents in the custody or under the control of that person which contain or which the Collector or the authorised officer considers likely to contain any such information.

(2) The Collector may require any such evidence to be given on oath and either orally or in writing, and for that purpose he or the officer authorised as aforesaid may administer an oath.

(3) If any person required to give evidence under this section refuses or wilfully neglects to appear before the Collector or authorised officer or to take an oath as witness or if any person being sworn as a witness at any such inquiry refuses or wilfully neglects to answer any question put to him touching the subject matter of the inquiry or to produce to the Collector or authorised officer any such document as aforesaid, that person shall be liable on conviction to a fine not exceeding two hundred dollars.

(4) If any person wilfully gives false evidence at any inquiry under this section he shall be guilty of perjury within the meaning of the Crimes Act 1968.

(5) A person required to attend before the Collector or an authorised officer may receive such sum on account of travelling expenses and loss of time as the Collector thinks reasonable and orders accordingly.

196. Offences - (1) Every person commits an offence against any one of sections 192 to 195 of this Act who -

(a) Acts in contravention of or, without lawful justification or excuse, fails to comply in any respect with any provision of those sections or any requirement imposed thereunder;

(b) Wilfully deceives or attempts to deceive the Collector or any officer of the department in the exercise of any powers or functions under those sections;

(c) With intent to deceive makes any false or misleading statement or any material omission, in any information given to the Collector or any officer of the department for the purposes of those sections;

(d) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under those sections.

(2) Every person who commits an offence against any one of these four sections for which no other penalty is prescribed shall be liable on conviction to a fine not exceeding one hundred dollars.

197. Employers to make returns as to employees - Every person shall from time to time as required by the Collector make a return of all persons employed by him during any year, and of all salaries, wages, allowances and other emoluments received during that year by each persons so employed.

198. Return of interest paid on deposits - Every bank, local or public authority, or other company, or person who in the course of business holds money by way of deposit and allows interest thereon shall from time to time, as required by the Collector, make a return of all interest so allowed during the year or other period to which the requisition of the Collector relates, together with the names, addresses, and occupations of the persons to whom such interest has been allowed.

199. Returns as to debentures and interest thereon - Every company or local or public authority shall from time to time as required by the Collector, make a return giving such particulars as the Collector requires relative to debentures issued by that company or local or public authority, the holders thereof, and the interest paid or payable thereon.

200. Power to extend time - Notwithstanding anything to the contrary elsewhere in this Act where any person within the Cook Islands is residing temporarily or permanently on some island other than the Island of Rarotonga, and by reason of a lack of or a delay in air and sea communication between that island and the Island of Rarotonga, is unable to assert his rights or to fulfil his obligations under this Act within the proper time, then the Collector shall have power to grant the said taxpayer such further extension or extensions of time as the Collector may deem necessary.

201. Annual Report - (1) The Collector shall as soon as practicable after the thirty-first day of March in each year furnish to the Minister a report on the administration of this Act for the year ending on that date.

(2) A copy of the report shall be laid before the Legislative Assembly within twenty-eight days after it has been furnished to the Minister if the Legislative Assembly is then in session and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the commencement of the next ensuing session.

202. Regulations - (1) The High Commissioner may from time to time, by Order in Executive Council, make all such regulations as, in his opinion may be deemed necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the making thereof, if the Legislative Assembly is then in session, and if not, shall be laid before the Legislative Assembly within twenty-eight days after the commencement of the next ensuing session.

203. Application of Act - Except as otherwise provided herein, this Act shall apply with respect to the tax for the year of assessment commencing on the date of the commencement of this Act and for every subsequent year.

204. Repeals and savings - (1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(3) For all purposes whatsoever in respect of any tax which at the commencement of this Act has been already assessed or paid or is still assessable or payable in or for the year ending with the thirty-first day of March, nineteen hundred and sixty-nine, or in or for any previous year, in accordance with the provisions of any enactment hereby repealed, that enactment and all the provisions thereof, including its penal provisions, and other acts of authority originating thereunder, shall, notwithstanding the repeal thereof, be deemed to remain in full force and effect; and all proceedings under any such enactment, including proceedings for the recovery of any fine or penalty in respect of any offence committed, whether before or after the commencement of this Act, may be instituted or continued accordingly as if the enactment concerned had not been repealed.

(4) All proceedings in respect of offences committed or alleged to be committed against any enactment hereby repealed before the commencement of this Act may be instituted or continued as if this Act had not been passed.

SCHEDULESFIRST SCHEDULE

Section 2

Basic Rates of Income Tax and Bonus Issue TaxPART AIncome Tax

1. Interpretation - For the purposes of clauses 2 to 5 of this Part of this Schedule -

"Taxable income" means income on which income tax is payable.
 2. Debentures issued free of income tax by companies - On income derived from debentures issued by a company on terms providing for the payment of income tax by the company, as provided in section 66 of this Act, the basic rate of income tax for every \$1 of the taxable income shall be 37½c.
 3. Overseas insurance companies - On all income assessable to an overseas insurance company under sections 86 and 162 of this Act the basic rate of income tax for every \$1 of that amount shall be 5c.
 4. Companies - (1) For the purposes of this clause, the effective rate of tax for any income shall -
 - (a) In the case of a company that is deemed to be resident in the Cook Islands within the meaning of Part V of this Act, be ascertained by calculating tax on that income in accordance with the rates of tax specified in Part B of this Schedule and dividing the tax so calculated by the number of dollars included in that income;
 - (b) In the case of a company that is not deemed to be resident in the Cook Islands within the meaning of Part V of this Act, be ascertained by calculating tax on that income in accordance with the rate of tax specified in clause 3 of Part B of this Schedule and dividing the tax so calculated by the number of dollars included in that income.
- (2) On all income not included in clause 2 of this Part of this Schedule the basic rates of income tax shall, in the case of companies be as provided in this clause.
- (3) Where the total income derived by the company during the income year did not include any non-assessable income, the basic rate for every dollar of the taxable income shall be a rate equal to the effective rate of tax for the taxable income.

FIRST SCHEDULE - continued

(4) Where the total income derived by the company during the income year included non-assessable income the basic rate for every dollar of the taxable income shall be a rate equal to the effective rate of tax for an income equal in amount to the total of the taxable income and of that non-assessable income.

5. Other taxpayers - (1) For the purposes of this clause, the effective rate of tax for any income shall be ascertained by calculating tax on that income in accordance with the rates of tax specified in Part C of this Schedule and dividing the tax so calculated by the number of dollars included in that income.

(2) On all income not included in clause 2 of this Part of this Schedule the basic rates of income tax shall in the case of all taxpayers other than companies be as provided in this clause.

(3) Where the total income derived by the taxpayer during the income year did not include any non-assessable income, the basic rate for every dollar of the taxable income shall be a rate equal to the effective rate of tax for the taxable income.

Provided that should the taxpayer be a working visitor present in the Cook Islands for a period less than fifteen months, the basic rate for every \$1 of the taxable income shall be a rate equal to the effective rate of tax for the taxable income increased by 100%.

(4) Where the total income derived by the taxpayer during the income year included non-assessable income, the basic rate for every dollar of the taxable income shall be a rate equal to the effective rate of tax for an income equal in amount to the total of the taxable income and of that non-assessable income.

Provided that should the taxpayer be a working visitor present in the Cook Islands for a period less than fifteen months, the basic rate for every \$1 of the taxable income shall be a rate equal to the effective rate of tax for the taxable income increased by 100%.

Export Produce Income Tax

6. All taxpayers - On the amount of all the income assessable to any taxpayer under Part VI of this Act, the basic rate of export produce income tax shall be two and one half per cent of that income.

Bonus Issue Tax

7. Companies - On the amount of a bonus issue assessable to a company under Part VIII of this Act, the basic rate of bonus issue tax for every \$1 of that amount shall be 15c.

FIRST SCHEDULE - continuedPART B

Rates Referred to in Subclause (1) of Clause 4 of Part A.

1. Where the income does not exceed \$5000 the rate of tax for every \$1 shall be 20c.
2. Where the income does not exceed \$10,000 the rate of tax for every \$1 shall be 30c.
3. Where the income exceeds \$10,000, the rate of tax for every \$1 shall be 37½c.

PART C

Rates Referred to in Subclause (1) of Clause 5 of Part A.

On so much of the income as -

The Rate of tax
for every \$1
shall be -

Does not exceed \$200		c
Exceeds \$200 but does not exceed \$ 400		3.
" \$ 400 " " " "	\$ 600	3.75
" \$ 600 " " " "	\$ 800	4.5
" \$ 800 " " " "	\$ 1000	5.25
" \$ 1000 " " " "	\$ 1200	6.00
" \$ 1200 " " " "	\$ 1400	6.75
" \$ 1400 " " " "	\$ 1600	7.5
" \$ 1600 " " " "	\$ 1800	8.25
" \$ 1800 " " " "	\$ 2000	9.00
" \$ 2000 " " " "	\$ 2200	9.75
" \$ 2200 " " " "	\$ 2400	10.5
" \$ 2400 " " " "	\$ 2600	11.25
" \$ 2600 " " " "	\$ 2800	12.00
" \$ 2800 " " " "	\$ 3000	12.75
" \$ 3000 " " " "	\$ 3200	13.5
" \$ 3200 " " " "	\$ 3400	14.25
" \$ 3400 " " " "	\$ 3600	15.00
" \$ 3600 " " " "	\$ 3800	15.75
" \$ 3800 " " " "	\$ 4000	16.5
" \$ 4000 " " " "	\$ 4200	17.25
" \$ 4200 " " " "	\$ 4400	18.00
" \$ 4400 " " " "	\$ 4600	18.75
" \$ 4600 " " " "	\$ 4800	19.5
" \$ 4800 " " " "	\$ 5000	20.25
" \$ 5000 " " " "	\$ 5200	21.00
" \$ 5200 " " " "	\$ 5400	21.75
" \$ 5400 " " " "	\$ 5600	22.5
" \$ 5600 " " " "	\$ 5800	23.25
" \$ 5800 " " " "	\$ 6000	24.00
" \$ 6000 " " " "	\$ 6200	24.75
" \$ 6200 " " " "	\$ 6400	25.5
" \$ 6400 " " " "	\$ 6600	26.25
" \$ 6600 " " " "	\$ 6800	27.00
		27.75

FIRST SCHEDULE - continued

Exceeds \$6800	"	"	"	"	\$7000	28.5
" \$7000	"	"	"	"	\$7200	29.25
" \$7200	"	"	"	"	\$7400	30.00
" \$7400	"	"	"	"	\$7600	30.75
" \$7600	"	"	"	"	\$7800	31.5
" \$7800	"	"	"	"	\$8000	32.25
" \$8000	"	"	"	"	\$8200	33.00
" \$8200	"	"	"	"	\$8400	33.75
" \$8400	"	"	"	"	\$8600	34.5
" \$8600	"	"	"	"	\$8800	35.25
" \$8800	"	"	"	"	\$9000	36.00
" \$9000	"	"	"	"	\$9200	36.75
" \$9200	"	"	"	"	\$9400	37.5
" \$9400	"	"	"	"	\$9600	38.25
" \$9600	"	"	"	"	\$9800	39.00
" \$9800	"	"	"	"	\$10000	39.75
" \$10000	"	"	"	"	\$10200	40.5
" \$10200	"	"	"	"	\$10400	41.25
" \$10400	"	"	"	"	\$10600	42.00
" \$10600	"	"	"	"	\$10800	42.75
" \$10800	"	"	"	"	\$11000	43.5
" \$11000	"	"	"	"	\$11200	44.25
" \$11200	"	"	"	"	\$11400	45.00
" \$11400	"	"	"	"	\$11600	45.75
" \$11600	"	"	"	"	\$11800	46.5
" \$11800	"	"	"	"	\$12000	47.25
" \$12000	"	"	"	"		48.00

SECOND SCHEDULERates of depreciation referred to in section 70 of this Act1. BUILDINGS

Reinforced concrete throughout	1% of cost price
Brick, stone, or concrete walled	1½% of cost price
Wooden-framed	2½% of cost price
Steel-framed	1% of cost price

Other buildings which cannot be classified under any of the preceeding headings .. Such rate as may be fixed by the Collector in the particular case.

2. ASSETS OTHER THAN BUILDINGS

Plant, machinery, vehicles, etc., other than those listed hereunder 20% of the diminishing value.

Containers (casks, crates, drums, cans, bottles, and other containers)	Cost of replacements each year.
Dies	
Fences	
Libraries in the case of professional men, but not salaried taxpayers	
Loose Tools	
Moulds	
Machine tools	
Patterns	
Pipelines	
Printing type	
Sacks	
Small articles requiring frequent renewal (crookery, cutlery, linen, etc).	

The Collector may from time to time specify that the replacement costs of any other items not particularly mentioned above may be allowed as a deduction in any year.

THIRD SCHEDULE

Section 204

ENACTMENTS REPEALED

1956, No. 2	Income Tax Ordinance 1956
1957, No. 5	Cook Islands Income Tax Amendment Ordinance 1957
1958, No. 3	Cook Islands Income Tax Amendment Ordinance 1958
1960, No. 3	Income Tax Amendment Ordinance 1960
1961, No. 7	Income Tax Amendment Ordinance 1961
1962, No. 2	Income Tax Amendment Ordinance 1962
1963, No. 3	Income Tax Amendment Ordinance 1963
1964, No. 3	Income Tax Amendment Ordinance 1964
1965, No. 8	Income Tax Amendment Act 1965
1966, No.12	Income Tax Ordinance Amendment Act 1966
1967, No.16	Income Tax Ordinance Amendment Act 1967
1968, No.10	Income Tax Ordinance Amendment Act 1968