Income Tax

INCOME TAX REGULATIONS, 1969

ARRANGEMENT OF REGULATIONS

REGULATION

PART I

Preliminary

1. Short title.
2. Interpretation.
3. *Spent.*

(Oath of fidelity and secrecy)

4. Oath of fidelity and secrecy.

PART II

Returns of Income

5. Returns of income.

PART III

Information Returns

6. Information returns.

PART IV

Basic Industries

7. Basic industries.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

REGULATION

PART V

Percentages of Capital Expenditure on Machinery or Plant Representing Usual Annual Wear and Tear

8. Annual wear and tear.

8A. Cash rebate.

PART VI

Double Taxation Relief

9. Interpretation.

10. Application.

11. Non-residents.

12. Reduction of tax.

13. Limit on credit.

14. Calculation.

15. Deduction.

16. Total limit.

17. Foreign tax not chargeable directly on dividend.

18. Idem.

19. *Revoked by 1975/106.*

20. Election.

21. Claims.

22. Adjustment of tax.

PART VII

Registered Retirement Plans: Superannuation Funds

23. Interpretation.

24. Application for registration.

25. Conditions subject to which registration may be granted.

REGULATION

26. General conditions governing fund.

27. Extent of registration and notice thereof.

28. Commissioner to be notified of any changes in rules etc. of fund.

29. Power of Commissioner to withdraw registration. Notice of withdrawal.

30. Commissioner to be notified of all payments made out of a fund and to be furnished with returns.

31. Trustees etc. of a fund to furnish Commissioner with information about fund.

32. Accounts of the fund to be kept in accordance with directions of Commissioners.

33. Disposal of assets of fund on winding up.

34. Funds approved under *Income Tax Act, 1921*.

PART VIII

Registered Retirement Plans: Provident Funds

35. Interpretation.

36. Application for registration.

37. Conditions subject to which registration may be granted.

38. General conditions governing fund.

39. Extent of registration and notice thereof.

40. Commissioner to be notified of any changes in rules etc. of fund.

41. Power of Commissioner to withdraw registration. Notice of withdrawal.

42. Commissioner to be notified of all payments made out of a fund and to be furnished with returns.

43. Trustees etc. of a fund to furnish Commissioner with information about fund.

44. Accounts of the fund to be kept in accordance with directions of Commissioner.

45. Disposal of assets of fund on winding up.

46. Funds approved under *Income Tax Act, 1921*.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

REGULATION

PART IX

Registered Retirement Plans: Annuity Contracts

47. Interpretation.

48. Application for registration.

49. Conditions subject to which registration may be granted.

50. Permitted provisions in annuity contracts.

51. Registration.

52. Changes in annuity contracts.

53. Withdrawal of registration.

54. Commissioner to be notified of payments under annuity contracts and to be provided with returns.

55. Annuity contracts approved under *Income Tax Act, 1921*.

PART IX A

Registered Retirement Savings Plans

55A. Interpretation.

55B. Application for registration.

55C. Conditions subject to which registration may be granted.

55D. Permitted provisions in registered retirement savings plans.

55E. Registration.

55F. Withdrawal of registration.

55G. Changes in conditions of plan.

55H. Commissioner to be notified of payments under plans and to be provided with returns.

PART X

Tax Deductions for Employed Persons

56. Interpretation.

57. Declarations by persons receiving emoluments.

58. Principal and immediate employers.

REGULATION

Deduction of Tax

59. Deduction of tax.

60. Bonuses and retroactive increases of emoluments.

61. Deduction of tax and other amounts in accordance with directions of Commissioner.

62. Death of employee.

63. Exempt emoluments.

64. Limit.

65. Determination by Commissioner.

Payment of Tax Deducted

66. Payment of tax deducted.

Accounting for Tax Deducted

67. Returns.

68. Prior years retroactivity returns.

69. Certificates.

70. Cessation of employment.

71. Cessation of business.

72. Death of employee.

73. Particulars to be furnished to employees.

74. Records.

Miscellaneous

75. Death of employer.

76. Changes in employer carrying on business.

77. Declarations.

78. Tax tables.

79. Inspection of records.

80. Complaints.

81. Idem.

.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

REGULATION

82. Publication.

83. Proceedings to recover unpaid amounts.

84. Offences.

85. Idem.

86. Idem.

87. Idem.

88. Certain actions barred and agreements void.

89. Special tables for self-assessment by individuals under section 52(5).

89A. *Revoked by 1987/4.*

PART XI

Tax Deductions on Payments to Non-Residents

90. Interest.

90A. Rents.

90B. Royalties.

91. Payments under settlements.

92. *Revoked by 1993/63.*

93. Dividends from untaxed profits.

93A. Payment of amounts on account or in satisfaction of management fees etc.

93B. Rate of withholding tax.

94. Payment of amounts deducted.

95. Returns.

PART XII

Withholding Tax on Dividends

96. Withholding tax on dividends.

Income Tax

Cap. 73.

INCOME TAX REGULATIONS, 1969

1969/109. 1970/154. 1972/31. 1975/106. 1978/52. 1980/53. 1981/141. 1981/142. 1983/165. 1984/59. 1985/136. 1987/4. 1988/66. 1990/88. 1993/63. 1996/62. 1998/155.

Authority: These Regulations were made on 31st May, 1969 by the Minister under section 84 of the *Income Tax Act*.

Commencement: 30th June, 1969.

PART I

Preliminary

1. These Regulations may be cited as the *Income Tax Regulations, 1969.* Short title.

2. In these Regulations Interpretation. Cap. 73.

"Act" means the *Income Tax Act;*

"section" means a section of the Act.

3. *Spent.*

Oath of Fidelity and Secrecy

4. The oath of fidelity and secrecy to be taken and subscribed by the Commissioner, the members of the Income Tax Appeal Board and the officers and other persons employed to administer and enforce the *Income Tax Act*, and other laws relating to income tax shall be in the following form: Oath of fidelity and secrecy. Cap. 73.

I, ... being a person engaged in the administration and enforcement of the *Income Tax Act*, Cap. 73 and other laws relating to Income Tax, do swear that I will faithfully maintain and aid in maintaining the secrecy of all matters which shall come to my knowledge by reason of such engagement, and I will not communicate any such matter to any person except for the purpose of carrying into effect the provisions of the *Income Tax Act*, Cap. 73, any Act amending that Act, any other Act relating to Income Taxes or any other Act relating to the

the imposition of taxes or duties payable to the Crown or the Government of Barbados.

SO HELP ME GOD.

PART II

Returns of Income

Returns of income. 1978/52.

5. The information to be supplied in a return of income is such information as is demanded in the prescribed form of return of income, together with such additional information as is demanded, either orally or in writing, on behalf of the Commissioner, at the time when the prescribed form of return of income is delivered to the tax-payer.

PART III

Information Returns

Information returns.

6. (1) Every person who has paid or credited an amount in an income year as

(a) a dividend;

(b) interest on money lent or money on deposit, whether secured or not;

(c) an annuity;

1993/63. *(d)* a retirement plan benefit; or

1993/63. *(e)* a retiring allowance

shall make an information return in prescribed form to the Commissioner on or before 28th day of February of the year following that income year showing the name and address of the person to whom the amount was paid or credited and the amount that was paid or credited to that person in that income year.

(2) Every person, including every attorney-at-law or real estate agent, who has received or credited rents or interest on behalf of a client in an income year shall make an information return in prescribed form to the Commissioner on or before 28th day of February in the year following that income year showing the name and address of the client and the amount that

was received or credited on behalf of that client in that income year.

(3) Paragraph (1) does not apply where tax that is payable on interest by virtue of sections 48B, 64 and 64C has been withheld; but 1978/52. 1993/63. those persons charged with the withholding of the tax shall, not later than 28th February in the year following the income year in which the tax was withheld, make an information return to the Commissioner, and send a copy thereof to the person entitled to the interest, on a form prescribed under section 84(2) showing

(a) the name and address of the person to whom the interest was paid or credited;

(b) the amount of interest that was paid or credited during that income year; and

(c) the amount of tax that was withheld from that interest for that income year.

(4) The rate at which tax shall be withheld in pursuance of section 64C is 12.5% per annum, and shall be paid to the Commissioner not 1993/63. later than the 15th day of the month following the month in which the tax has been withheld; and each payment shall be accompanied by a return made out in such form as the Commissioner approves.

(5) The amount of tax to be withheld for the purpose of section 64 1984/59. in respect of the payment referred to in subsection (1)*(d)* is 25% and 1993/63. the tax so withheld shall be paid to the Commissioner within 7 days of making the payment and shall be accompanied by a return in such form as the Commissioner approves.

(6) The person withholding the tax under this regulation shall forward to the individual in respect of whom the payment is made 2 copies of the return which must contain the following particulars:

(a) the name and address of the individual to whom the payment is made;

(b) the amount of payment; and

(c) the amount of tax withheld in respect of the payment.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

PART IV

Basic Industries

Basic industries. Cap. 73.

7. The industries described below are hereby declared to be basic industries for the purposes of the *Income Tax Act*, namely,

(a) the manufacture and refining of sugar and its by-products;

(b) the distilling of rum;

(c) the manufacture of textiles, hats, shirts, suits, dresses, hosiery and clothes of every kind, leather goods and footwear, plastic and plastic goods, cement, bricks, tiles and concrete blocks for building purposes, nails, screws, bolts and metallic fasteners of all kinds, furniture and prefabricated houses and components thereof in wood or metal, radios, television sets, phonographs, refrigerators and stoves, glass, china and earthenware, paper, plywood, veneers, woodpulp, packages, crates, cans, bags and twine, watches, clocks and other scientific measuring devices, fertilizers, chemicals, paints, varnishes, lacquers, ice, condiments and preserves, edible oil, fats, soaps and allied products, spirit compounds, bay rum and perfumed spirits and methylated spirits;

(d) the manufacture, canning or other preserving and packaging of food products;

(e) the working of any mine, oil well or other mineral deposits and the manufacture, refining and processing of minerals or oil and their derivatives;

(f) the operation of an electricity undertaking;

(g) the operation of a natural gas undertaking;

(h) the operation of an oil refinery or petroleum distribution undertaking;

(i) the provision of warehouses or cold storage operated as an independent service;

(j) the operation of a dock undertaking including any dock for repairing ships; and

1985/136. *(k)* the assembling and testing of integrated circuits.

PART V

Percentages of Capital Expenditure on Machinery or Plant Representing Usual Annual Wear and Tear

1981/141.

Annual wear and tear.

1981/141.

8. For the classifications of machinery or plant listed below, the percentage set out opposite the description of each classification is deemed to be the just and reasonable percentage of the capital expenditure of that machinery or plant that represents the annual wear and tear on that machinery or plant, unless in a particular case there is an exceptional circumstance that causes some other percentage to be more just and reasonable in that particular case:

	Percentage
Agriculture	
Electrical installation, including motors	10
Motor Lorries	20
Cultivators	20
Plough drawn by cultivators	15
Animal-drawn ploughs	10
Air-conditioning Plant	12½
Biscuit machinery and Plant	10
Bakery machinery and Plant	10
Bicycles	20
Bookbinding general machinery	10
Brick manufacture	
Conveyors, mixers, pumps, crushing plant, and kilns (excluding sheds)	10
Carts and spiders	5
Cigarette manufacturing machinery	10
Cinematograph	
Machinery	20
Seating	7½
Clothing Trade	
Steam boilers, engines and similar machinery and plant	5

		Percentage
	Electrical apparatus	10
	General machinery including sewing machines	10
1996/62.	Computer equipment	$33^1/_3$
	Cotton and copra crushing and refining plant	10
	Cranes	
	Steam and hand	5
	Electric	$7^1/_2$
	Creameries, dairies, ice factories	
	General machinery and plant	10
	Steam boilers and engines	5
	Refrigerators	20
	Diesel electric generating plant	$12^1/_2$
	Electric lighting	
	Underground cables	4
	Overhead mains	5
	Generating plant	$12^1/_2$
	Meters	20
	General plant	5
	Electric lifts	10
	Engineering Workshops	
	Heavy plant	5
	Electrical equipment	10
	Welding plant, tools and instruments	20
	Lathes and milling machines	10
	Furniture	
	Hotel	20
	Other	10
	Garages	
	Gasoline tanks plus electric pumps	10
	Gas	
	Stoves	20
	Gas holders	4
	Meters	20
	Other plant	5
	Laundry and dry cleaning	10
	Mineral water plant	
	Modern electrical	15
	Steam	5

	Percentage
Motor cars, lorries, omnibuses, vans, traction and hauling equipment	20
Neon signs	10
Office appliances	
Accounting, adding, calculating, cash registers and duplicating machines	12½
Typewriters	10
Oil boring machinery	20
Oil tank and pumps	5
Printing	
Steam engines and boilers	5
Plant	7½
Type	20
Linotype and monotype boiling	10
Photographic equipment	20
Pottery	
Steam engines and boilers	20
Conveyors, kilns, crushing plant and similar machinery and plant	10
Radio Equipment	
Amplifiers and receivers	20
Lines and speakers	10
Rum refining plant and breweries	
Boilers, vats and similar machinery and plant	5
Stills	7½
Pumps	10
Shipping	
Sailing	5
Lighters	5
Launches	
(i) Pleasure and deep sea fishing launches	10
(ii) flying fish launches	20
Sugar Manufacture	
Steam engines, boilers, mills, subsiders, tanks, evaporators, vacuum pans, crystalisers, pipes, hoists, cooling towers and molasses tanks	5

		Percentage
	Electrical machinery, pumps, sewing machines and fans	10
	Filters (Oliver Campbell) and centrifugals, scale beams and weighbridges	$7^1/_2$
	Timber merchants	
	Steam engines and boilers	5
	Saw milling machinery and electrical motors	10
1996/62.	Water saving devices	100
	Windmills	5

Cash rebate. 1981/141.

8A. For the purposes of section 12A, the amount to be allowed as a cash rebate shall be calculated in accordance with the following:

Basis of Calculation		*Percentage of Capital Expenditure*
(i)	In the case of all agricultural machinery or plant, except sugar chopper harvesters	18%
(ii)	In the case of sugar cane chopper harvesters bought by a harvesting company or harvesting co-operative that carries on business solely for the purpose of owning and operating sugar cane harvesting machinery and of using such machinery on at least 2 separately owned land holdings	15%
(iii)	In the case of a sugar cane chopper harvester bought by any other person	10%

PART VI

Double Taxation Relief

9. In this Part, the expression, Interpretation.

(a) "agreement" means an agreement of the type referred to in subsection (1) of section 83;

(b) "designated income" means income subject to both income tax and foreign tax and that is designated in an agreement as income, the tax, on which is to be allowed as a credit against income tax;

(c) "foreign tax" means the tax payable under the laws of a country or territory with which Barbados has made an agreement and that is to be allowed under the terms of the agreement as a credit against income tax; and

(d) "income tax" means tax payable under the Act.

10. This Part applies where foreign tax of a person is to be allowed as a credit against the income tax of that person under an agreement. Application.

11. No credit shall be allowed for an income year to a person who is a non-resident for that income year. Non-residents.

12. The amount of the income tax chargeable in respect of the income shall be reduced by the amount of the credit. Reduction of tax.

13. The credit shall not exceed the amount that would be the tax on the amount of the designated income if the designated income was calculated in accordance with the Act and if the designated income was charged to income tax at the rate obtained by dividing the income tax chargeable on the total assessable income, before allowance of credit in respect of double taxation, by the amount of the total assessable income. Limit on credit.

14. In calculating the amount of the designated income, and, for the purposes of regulation 13, in calculating the amount of the total assessable income, Calculation.

(a) no deduction shall be allowed in respect of foreign tax, whether in respect of the same or any other income;

Printed by the Government Printing Department, Bay Street, St. Michael, by the authority of the Government of Barbados

(b) where the income includes an amount described in paragraph *(c)* of section 17, that amount shall be increased by the amount of the foreign tax in respect of that amount;

and, only in calculating the amount of the designated income, but not in calculating the amount of the total assessable income;

(c) where the income includes an amount as a dividend and, under the agreement, foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and, if so, what credit is to be given against income tax in respect of the dividend, that amount shall be increased by the foreign tax not so chargeable which falls to be taken into account in computing the credit.

Deduction.

15. Notwithstanding regulation 14, in calculating the amount of the designated income for the purpose of determining the assessable income, the taxable income and the final amount of tax, but not in calculating the amount of the designated income for the purpose of regulation 13, a deduction shall be allowed of any amount by which the foreign tax in respect of the designated income exceeds the credit therefor.

Total limit.

16. The total credit for foreign tax to be allowed to a person in respect of any income year under all agreements to which this Part extends shall not exceed the total income tax payable by the person on his own behalf for that income year.

Foreign tax not chargeable directly on dividend.

17. (1) Where, in the case of any dividend, foreign tax not chargeable directly or by deduction in respect of the dividend is, under the agreement, to be taken into account in considering whether any, and, if so, what credit is to be given against income tax in respect of the dividend, the foreign tax not so chargeable which is to be taken into account shall be that borne by the company paying the dividend upon the relevant profits.

(2) In determining the relevant profits for the purpose of paragraph (1), the following rules apply:

(a) the relevant profits are the profits in relation to which the foreign tax is charged and out of which the dividend is paid;

(b) if the dividend is paid for a specified period, the relevant profits are the profits described in sub-paragraph *(a)* for the specified period;

(c) if the dividend is not paid for a specified period but is paid out of specified profits, the relevant profits are the profits described in sub-paragraph *(a)* that are the specified profits;

(d) if the dividend is paid neither for a specified period nor out of specified profits, the relevant profits are the profits for the last period for which the accounts of the company were made up and which ended before the dividend became payable and which are the profits described in sub-paragraph *(a)*; and

(e) if, in a case within sub-paragraph *(b)* or *(d)*, the total dividend exceeds the profits available for distribution for the periods mentioned in those sub-paragraphs, the relevant profits are the profits described in sub-paragraph *(a)* that were the profits for the periods mentioned in sub-paragraph *(b)* or *(d)*, as the case may be, plus so much of the profits available for distribution of preceding periods, other than profits previously distributed or previously treated as relevant for the purposes of this regulation, as is equal to the excess; and, for the purposes of this sub-paragraph, the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

18. Where, Idem.

(a) the agreement provides in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so, what credit is to be given against income tax in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the agreement so provides,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one half of the voting power of the company paying the dividend, credit shall be allowed as if the

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados

dividend were a dividend of a class in relation to which the agreement so provides.

1975/106.

19. *Revoked by S.I. 1975/106.*

Election.

20. If a person elects that no credit shall be allowed against his income tax for an income year then no credit shall be allowed for that income year.

Claims.

21. Any claim for a credit shall be made not later than 4 years after the end of the relevant income year, and in the event of any dispute as to the amount allowable, the claim shall be subject to objection and appeal in the same manner as an assessment.

Adjustment of tax.

22. Where the amount of any credit is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Barbados or elsewhere, nothing in the Act limiting the time for making an assessment or a claim for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than 3 years from the time when all such assessments, adjustments and other determinations have been made, whether in Barbados or elsewhere, as are material in determining whether any, and, if so, what credit falls to be given.

PART VII

Registered Retirement Plans; Superannuation Funds

Interpretation.

23. In this Part, the expression

(a) "contribution" means an annual contribution to a superannuation fund fixed in amount or computed by reference to the remuneration, contributions or number of the members of the fund;

(b) "employee" means an employee participating in a superannuation fund;

(c) "employer" means a person carrying on a trade, profession or undertaking wholly or partly in Barbados;

(d) "fund" means a superannuation fund;

(e) "remuneration" means any salary or emolument but does not include any bonus or overtime payment.

(f) "superannuation fund" means any superannuation fund or scheme which has been established by an employer for the payment of pensions, annuities and gratuities

(i) to his employees in respect of service with him on the retirement of such employee from his service; or

(ii) to dependants of such employees on the death of such employees.

Application for registration.

24. Application for the registration of a superannuation fund as a registered retirement plan shall be made to the Commissioner in writing by the employer in connection with whose trade, profession, or undertaking the fund is established or proposed to be established or by the trustees of the fund, and shall be accompanied by a copy of the deed under which the fund is established or proposed to be established and by a copy of the rules of the fund and such further information as the Commissioner may require.

Conditions subject to which registration may be granted.

25. Registration of a superannuation fund as a registered retirement plan shall not be granted unless it is shown to the satisfaction of the Commissioner that

(1)*(a)* the fund is *bona fide* established or proposed to be established under an irrevocable trust deed in connection with the trade, profession, or undertaking carried on wholly or partly in Barbados by the employer; or

(b) the benefits of the fund established or proposed to be established as aforesaid are or will be insured by a *bona fide* insurance company carrying on business in Barbados;

(2) the fund has as its main object the provision of pensions or annuities which may, subject to this Part, be commuted, for persons employed in the trade, profession, or undertaking in connection with which it has been or is proposed to be established, either on retirement from the service of the employer on or after attaining a specified age, or on earlier retirement on becoming incapacitated, or on the death of such persons, for their widows, children or dependants;

(3) the employer in the trade, profession or undertaking is a contributor to the fund;

Printed by the Government Printing Department, Bay Street, St. Michael, by the authority of the Government of Barbados

(4) the rules of the fund provide that

(a) no benefits payable under it shall be capable of surrender or assignment;

(b) the maximum pension or annuity shall not exceed two-thirds of the remuneration of the employee at the date of his retirement;

(c) not more than 25% of the benefits payable may be commuted and paid in the form of a tax free lump sum and where the benefits payable would not provide a pension or annuity exceeding $240 per annum such benefits may also be paid in the form of a tax free lump sum;

(d) in any case where the employer is a company, no director, other than a whole time service director of such company shall be entitled to any payment from such fund and no contribution shall be made to such fund in respect of his service as such a director; and, for the purpose of this rule a "whole time service director" is a director who is required to devote substantially the whole of his time to the service of the company;

(e) no pension or annuity shall be paid otherwise than on the retirement of such employees on or after attaining the age of 60 years in the case of males and 55 years in the case of females or on optional retirement within 5 years of the relevant age mentioned in this sub-paragraph or on being incapacitated at some earlier age;

(f) upon the termination of the service of an employee in circumstances in which he is not entitled to the employer's contribution or the benefits secured by the employer's contribution, such employee shall be refunded, with or without interest, the contributions paid by him or he may surrender for cash any policy of insurance or pension bond provided by his own contributions;

(g) upon the termination of the service of an employee before any of the ages specified in sub-paragraph *(e)* of this paragraph in circumstances in which he is entitled to not less than 50% of the employer's contributions or the benefits secured by the employer's contributions, such employee shall be refunded

(i) with or without interest the contributions paid by him or he may surrender for cash any policy of insurance or pension bond provided by his own contributions; and

(ii) the employer's contributions or the benefits secured by the employer's contributions; and

(h) no employee who is entitled to benefits from another approved superannuation fund shall contribute to, or receive any benefit from such fund without the approval in writing of the Commissioner who may attach such conditions thereto as he may think fit.

26. The fund shall be open to all employees or all of those in a defined category and the nature of the benefits shall be the same in relation to all employees to whom the fund relates.

General conditions governing fund.

27. (1) The Commissioner may register as a registered retirement plan, either wholly or in part, any superannuation fund which in his opinion, complies substantially with the conditions set out in this Part.

Extent of registration and notice thereof.

(2) The Commissioner shall as soon as practicable give to the applicant notice of his registration of the fund or of his refusal to register the fund and where he registers the fund the notice shall specify the date from which it is registered.

28. If any alteration in the rules, constitution or conditions of a fund, is made at any time after the date of application for registration thereof, the employer, trustees or persons having the management of the fund shall forthwith in writing notify the Commissioner of such alterations, and in default of such notification any registration granted shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date from which the alterations had effect.

Commissioner to be notified of any changes in rules etc. of a fund.

29. (1) The Commissioner may at any time withdraw his registration of a superannuation fund which in his opinion no longer complies substantially with the conditions set out in this Part.

Power of Commissioner to withdraw registration. Notice of withdrawal.

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados

(2) The Commissioner shall give to the employer, trustees or persons having management of the fund notice of such withdrawal and the date from which it is to take effect.

Commissioner to be notified of all payments made out of a fund and to be furnished with returns. 1987/4.

30. The employer or trustees or persons having management of any superannuation fund shall notify the Commissioner of all payments made out of any such fund and of all payments to an employee, who is or was a contributor to any such fund and shall not make any payment out of any such fund which is a return of contributions without the prior approval in writing of the Commissioner.

Trustees etc. of a fund to furnish Commissioner with information about fund.

31. The trustees and persons having the management of any superannuation fund and any employer who contributes to any such fund shall when required by notice from the Commissioner, within the time limited in the notice, being not less than 14 days, furnish the Commissioner with such information and particulars in connection with the fund as he may require.

Accounts of the fund to be kept in accordance with directions of Commissioner.

32. The accounts of a superannuation fund shall be maintained in such form and for such periods and shall contain such particulars as the Commissioner may direct.

Disposal of assets of fund on winding up.

33. Where a fund is wound up, the assets thereof shall be applied in the provision of benefits of a like nature to which the employee or his dependants was or were entitled under such fund immediately before it was wound up and if there are any surplus assets after such provision, in the provision of enhanced benefits of a like nature for such employee or his dependants.

Funds approved under Income Tax Act, 1921.

34. A superannuation fund approved under section 18A of the *Income Tax Act, 1921,* shall be deemed to be registered as a registered retirement plan for the purposes of the Act, unless or until the registration is withdrawn or cancelled.

PART VIII

Registered Retirement Plans: Provident Funds

Interpretation.

35. In this Part, the expression

(a) "contribution" means an annual contribution to a provident fund fixed in amount or computed by reference to the remuneration, contributions or number of the members of the fund;

(b) "employee" means an employee participating in a provident fund;

(c) "employer" means a person carrying on a trade, profession or undertaking wholly or partly in Barbados;

(d) "fund" means a provident fund;

(e) "provident fund' means any provident fund or scheme which has been established by an employer for the payment of lump sums and other benefits

(i) to his employees in respect of service with him, on such employees leaving his service after a specified period of service; or

(ii) to dependants of such employees on the death of such employees.

(f) "remuneration" means any salary, wage or emolument but does not include any bonus or overtime payment.

Application for registration.

36. Application for the registration of a provident fund as a registered retirement plan shall be made to the Commissioner in writing by the employer in connection with whose trade, profession or undertaking the fund is established or proposed to be established, or by the trustees of the fund and shall be accompanied by a copy of the deed under which the fund is established or proposed to be established and by a copy of the rules of the fund and such further information as the Commissioner may require.

Conditions subject to which registration may be granted.

37. Registration of a provident fund as a registered retirement plan shall not be granted unless it is shown to the satisfaction of the Commissioner that

(1)*(a)* the fund is *bona fide* established or proposed to be established under an irrevocable trust deed in connection with the trade, profession or undertaking carried on wholly or partly in Barbados by the employer; or

Printed by the Government Printing Department, Bay Street, St. Michael, by the authority of the Government of Barbados

(b) the benefits of the fund established or proposed to be established as aforesaid are or will be insured by a *bona fide* Insurance Company carrying on business in Barbados;

(2) the fund has as its main object the payment of lump sums or other benefits to persons employed in the trade, profession or undertaking in connection with which it has been or is proposed to be established on such employees leaving such service after a specified period of service or on such employees leaving such service prior to the expiry of such period or on the death of such employees to their widows, children or dependants;

(3) the employer in the trade, profession or undertaking is a contributor to the fund;

(4) the rules of the fund provide that

(a) no sum payable to any employee shall be capable of surrender or assignment;

(b) the employer shall not have any charge or lien on or right to any contribution to such fund by any employee or any interest therein;

(c) except where the contributions are by way of premiums paid to an Insurance Company, the contributions to the fund in respect of an employee shall be credited to the employee's individual account in the fund at intervals not exceeding one year;

(d) the fund shall only relate to employees remunerated at a rate of $3 600 a year or less or, where the benefits are insured, to employees whose benefits under the fund do not exceed 2 years' remuneration so however that the benefits payable do not exceed $7 200;

(e) except where the fund is insured such fund shall comprise only contributions by the employer in respect of his employees and contributions by the employees and any reasonable interest paid on such contributions, and any securities purchased out of the amount standing to the credit of such fund together with the interest paid on such securities;

(f) in any case where the employer is a company, no director, other than a whole time service director of such

Company shall be entitled to any payment from such fund and that no contribution shall be made to such fund in respect of his service as such a director; and for the purposes of this rule a "whole time service director" is a director who is required to devote substantially the whole of his time to the service of the company and is not the beneficial owner of, or able either directly or indirectly to control more than 5% of the share capital or voting power of such company;

(g) no employee who is entitled to benefits from another approved provident fund shall contribute to, or receive any benefits from such fund without the approval in writing of the Commissioner who may attach such conditions thereto as he may think fit;

(h) no sum shall be paid to any employee during his service with the employer;

(i) no sum contributed by the employer shall be paid to any employee otherwise than on the retirement of such employee on or after attaining the age of 60 years in the case of males and 55 years in the case of females or on optional retirement within 5 years of the relevant age mentioned in this sub-paragraph or on being incapacitated at some earlier age;

(j) in the event of the death of such employee no sum other than the sum standing to the credit of such employee in the fund at the time of his death or the amount insured shall be paid to the widow or any dependant of such employee;

(k) the contributions of such employee to the fund together with reasonable interest thereon, or, where the benefits are insured, the benefits secured by the employee's contributions shall be paid to such employee who has left the service of such employer in circumstances in which he is not entitled to the employer's contributions; and

(l) any sum due to such employee out of such fund shall be paid to him as soon as practicable after he leaves such service or in the event of his death shall be paid to the person entitled thereto as soon as practicable after such death.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

General conditions governing fund.

38. The fund shall be open to all employees or all of those in a defined category and the nature of the benefits shall be the same in relation to all employees to whom the fund relates.

Extent of registration and notice thereof.

39. (1) The Commissioner may register as a registered retirement plan, either wholly or in part, any provident fund which in his opinion, complies substantially with the conditions set out in this Part.

(2) The Commissioner shall, as soon as practicable, give to the applicant notice of his registration of the fund or of his refusal to register the fund and where he registers the fund the notice shall specify the date from which it is registered.

Commissioner to be notified of any changes in rules, etc. of fund.

40. If any alteration in the rules, constitution or conditions of a fund, is made at any time after the date of application for registration thereof, the employer, trustees or persons having the management of the fund shall forthwith in writing notify the Commissioner of such alterations, and in default of such notification any registration granted shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date from which the alterations had effect.

Power of Commissioner to withdraw registration. Notice of withdrawal.

41. (1) The Commissioner may at any time withdraw his registration of a provident fund which in his opinion no longer complies substantially with the conditions set out in this Part.

(2) The Commissioner shall as soon as practicable give to the employer, trustees or persons having management of the fund notice of such withdrawal and the date from which it is to take effect.

Commissioner to be notified of all payments made out of a fund and to be furnished with returns.

42. (1) The employer or trustees or persons having the management of any provident fund shall notify the Commissioner of all payments made out of such fund and of all payments to an employee who is or was a contributor to any such fund and shall not make any payment out of any such fund which is a return of contributions without the prior approval in writing of the Commissioner.

(2) Where any payment is made out of any such fund by way of pension or annuity to any person who was an employee and a contributor to such fund or to any dependent of such person, the employer, trustees or persons having the management of the fund shall render the returns required to be rendered by employers under Part X, and deduct income tax in accordance with the provisions of the said Part as if such persons were employers of the person to whom such payment is made.

(3) Where any payment is made by an Insurance Company by way of pension or annuity to a person who was an employee and a contributor to such fund or to any dependant of such person, the Company shall render to the Commissioner such returns as the Commissioner may require.

Trustees etc. of a fund to furnish Commissioner with information about fund.

43. The trustees and persons having the management of any provident fund and any employer who contributes to any such fund shall when required by notice from the Commissioner, within the time limited in the notice, being not less than 14 days, furnish the Commissioner with such information and particulars in connection with the fund as he may require.

Accounts of the fund to be kept in accordance with directions of Commissioner.

44. The accounts of a provident fund shall be maintained in such form and for such periods and shall contain such particulars, as the Commissioner may direct.

Disposal of assets of fund on winding up.

45. Where a fund is wound up, the assets thereof shall be applied in the provision of benefits of a like nature to which the employee or his dependants was or were entitled under such fund immediately before it was wound up and if there are any surplus assets after such provision, in the provision of enhanced benefits of a like nature for such employee or his dependants.

Funds approved under *Income Tax Act, 1921.*

46. A provident fund approved under section 18A of the *Income Tax Act*, 1921 shall be deemed to be registered as a registered retirement plan, unless or until the registration is withdrawn or cancelled.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

PART IX

Registered Retirement Plans: Annuity Contracts

Interpretation.

47. In this Part, the expression

(a) "annuitant" means an individual to whom, under an annuity contract, any annuity for life is agreed to be paid or provided;

(b) "annuity contract" means a contract between an individual and a person authorised to carry on in Barbados the business of granting annuities on human life under the terms of which an annuity for life is agreed to be paid or provided;

1972/31.

(c) "individual" means an employee or a person who is in receipt of income derived from a business carried on by him as an individual, or in the case of a partnership, as a partner personally acting therein;

(d) "maturity" means the date fixed under an annuity contract for the commencement of any annuity the payment of which is provided for by the contract; and

(e) "premium" means any periodic amount paid or payable as consideration under an annuity contract.

Application for registration.

48. Application for the registration of an annuity contract as a registered retirement plan shall be made to the Commissioner in writing by one of the parties to the contract and shall be accompanied by a copy of the contract and such other information as the Commissioner may require.

Conditions subject to which registration may be granted.

49. Registration of an annuity contract as a registered retirement plan shall not be granted unless it is shown to the satisfaction of the Commissioner that

(a) the premiums under the annuity contract are to be paid by the annuitant;

(b) subject to regulation 50, the annuity contract does not

(i) provide for the payment during the life of the annuitant of any sum, other than a premium, except

sums payable by way of annuity to the annuitant or to a widow or widower of the annuitant;

(ii) provide for the annuity payable to the annuitant to commence before retirement or maturity;

(iii) provide for the payment by the person carrying on the business of granting annuities of any other sums except sums payable by way of annuity to the annuitant's widow or widower and any sums which, in the event of no annuity becoming payable either to the annuitants or to a widow or widower of the annuitant, are payable to the annuitant's legal representatives by way of return of premiums or of reasonable interest on such premiums or of bonuses out of profits;

(iv) provide for the annuity, if any, payable to the widow or widower of the annuitant to be of a greater annual amount than that paid or payable to the annuitant; or

(v) provide for the payment of an annuity otherwise than for the life of the annuitant or of the widow or widower of the annuitant; and

(c) the annuity contract includes a provision stipulating that no annuity payable under it shall be capable, either in whole or in part, of surrender, commutation or assignment.

Permitted provisions in annuity contracts.

50. The Commissioner may register an annuity contract as a registered retirement plan, which otherwise satisfies the conditions of regulation 49, notwithstanding that the annuity contract

(a) provides for the payment after the annuitant's death of an annuity to a dependant who is not the widow or widower of the annuitant;

(b) provides for the payment to the annuitant of an annuity commencing before retirement or maturity if the annuity is payable on his becoming incapable through infirmity of mind or body of carrying on his own profession, vocation, trade or business of a similar nature for which he is trained or fitted;

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados

(c) provides for the continuation of the payment of the annuity to any person for a term certain, not exceeding 10 years, notwithstanding his death within that term, or for the termination or suspension on marriage or remarriage or in other circumstances, of the payment to any person of the annuity; or

(d) in the case of an annuity which is to continue for a term certain, provides for the annuity to be assignable by will, or in the event of the death of any person to whom such annuity is payable, to be assignable by the legal representatives of such person in the distribution of his estate so as to give effect to a testamentary disposition, or to the rights of any person entitled on intestacy, or to its appropriation to a legacy or to a share or interest in the estate.

Registration.

51. (1) The Commissioner may register as a registered retirement plan any annuity contract that complies with the conditions of this Part.

(2) The Commissioner shall, as soon as practicable, give to the applicant notice of his registration of the annuity contract or of his refusal to register the annuity contract and where he registers the annuity contract the notice shall specify the date from which it is registered.

Changes in annuity contracts.

52. If an alteration is made to an annuity contract after the date of application for registration of the contract, the annuitant shall forthwith in writing notify the Commissioner of the alteration, and in default of such notification any registration granted shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date from which the alteration had effect.

Withdrawal of registration.

53. (1) The Commissioner may at any time withdraw his registration of an annuity contract which in his opinion no longer complies with the conditions set out in this Part.

(2) The Commissioner shall as soon as practicable give to the parties to the annuity contract notice of such withdrawal and the date from which it is to take effect.

54. (1) A person granting an annuity under an annuity contract shall notify the Commissioner of all payments made under the contract.

Commissioner to be notified of payments under annuity contracts and to be provided with returns.

(2) A person granting an annuity under an annuity contract shall render the returns required to be rendered by employers under Part X and deduct income tax in accordance with the provisions of the said Part as if such person was an employer of the person to whom the annuity payment is made.

55. An annuity contract approved under section 18B of the *Income Tax Act, 1921* shall be deemed to be registered as a registered retirement plan, unless or until the registration is withdrawn or cancelled.

Annuity contracts approved under *Income Tax Act, 1921*.

PART IXA

Registered Retirement Savings Plans

55A. In this Part

Interpretation. 1998/155.

(a) "approved institution" means an institution regulated by the Central Bank or by the Supervisor of Insurance and also includes a commercial bank, life insurance company, credit union or trust company;

(b) "contribution" means a fixed contribution paid periodically but at least annually to a plan;

(c) "plan" means a registered retirement savings plan which has been established by an approved institution, under which payment of a contribution is made by an individual

(i) in trust to an approved institution under a trust; or

(ii) in trust to an approved institution that is authorised in law to issue investment contracts providing for the payment to, or to the credit of, the holder thereof of a fixed or determinable amount at maturity of any periodic or other amount as a contribution under any such contract between the individual and that approved institution,

to be used, invested or otherwise applied by the approved institution, as the case may be, for the purpose of providing to the individual, commencing at maturity, an annuity for life.

Application for registration. 1998/155.

55B. Application for the registration of a plan shall be made to the Commissioner in writing by

(a) an approved institution in connection with whose trade, profession or undertaking the plan is established; or

(b) the trustees of the plan

and shall be accompanied by a copy of the contract and such further information as the Commissioner may require.

Conditions subject to which registration may be granted. 1998/155.

55C. (1) Registration of the plan shall not be granted unless it is shown to the satisfaction of the Commissioner that

(a) the plan shall not provide in whole or in part for the payment of any benefit before maturity except by way of

(i) a refund of contributions;

(ii) a payment to the annuitant; or

(iii) the withdrawal of contributions;

(b) no premiums will be paid after the maturity of the plan which shall occur in the year in which the annuitant attains the age of 65 years;

(c) the retirement income payable under the plan shall not be assigned or surrendered in whole or part except where the premiums are transferred from the plan directly to another retirement plan; and

(d) the maturity of the plan will not occur before the age of 55 years.

(2) For the purposes of this regulation "refund of contributions" means any amount paid to a spouse or beneficiary out of or under the registered retirement savings plan of the annuitant where the annuitant died before the maturity of the plan and the amount was paid as a consequence of the death.

Permitted provisions in registered retirement savings plans. 1998/155.

55D. The Commissioner may register the plan notwithstanding that the plan

(a) is adjoined to a contract or other arrangement that is not a retirement savings plan;

(b) provides for the payment of a benefit after maturity by way of dividend;

(c) provides for the payment to the annuitant of an annuity commencing before retirement or maturity if the annuity is payable on the annuitant becoming incapable through infirmity of mind or body of carrying on his own profession, vocation, trade or business of a similar nature for which he is trained or fitted;

(d) provides for the continuation of the payment of the annuity to any person for a term certain, not exceeding 15 years, notwithstanding the death of that person within that term or for the termination or suspension on marriage or re-marriage or in other circumstances, of the payment to any person of the annuity;

(e) in the case of an annuity which is to continue for a term certain, provides for the annuity to be assignable by will or, in the event of the death of any person to whom such annuity is payable, to be assignable by the legal representatives of that person in the distribution of the estate of that person so as to give effect to a testamentary disposition, or to the rights of any person entitled on intestacy, or to its appropriation to a legacy or to a share or interest in the estate;

(f) provides for the direct transfer of funds from a plan to another retirement plan without incurring any tax liability;

(g) provides for the reinstatement of the plan at any time within 2 years of the date of default;

(h) provides for the payment of unscheduled lump sum premiums;

(i) provides that not more than 25 per cent of the benefits payable may be commuted and paid in the form of a tax-free lump sum minus any previous withdrawals; and

(j) contains such other terms and provisions as are not inconsistent with what is mandatory or permitted.

Registration. 1998/155.

55E. (1) The Commissioner may register a plan which complies with the conditions of this Part.

(2) The Commissioner shall, as soon as practicable, give to the applicant notice of registration of the plan or of the refusal to register the plan and, where the Commissioner registers the plan, the notice shall specify the date from which it is registered.

Withdrawal of registration. 1998/155.

55F. (1) The Commissioner may at any time withdraw the registration of a plan which in his opinion no longer complies with the conditions set out in this Part.

(2) The Commissioner shall as soon as practicable give to the parties to the plan notice of any withdrawal of registration under paragraph (1) and the date from which it is to take effect.

Changes in conditions of plan. 1998/155.

55G. (1) Where it is necessary to alter the conditions of a plan, the approved institution

(a) shall make application to the Commissioner for permission to alter the plan; and

(b) shall not alter the plan until the permission sought has been granted.

(2) Where no application is made pursuant to paragraph (1) and alterations are made to a plan, any registration made to that plan shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date from which the alteration had effect.

55H. (1) Where an approved institution grants an annuity under a plan, that institution shall notify the Commissioner of all payments made under the contract.

Commissioner to be notified of payments under plans and to be provided with returns. 1998/155.

(2) The approved institution which grants the annuity under paragraph (1) shall render to the Commissioner all returns required to be rendered by employers under Part X, and deduct income tax in accordance with the provisions of the said Part as if that institution was an employer of the person to whom the annuity payment is made.

PART X

Tax Deduction for Employed Persons

56. In this Part, the expression

Interpretation. 1987/4.

(a) "appropriate form" means a form approved by the Commissioner for use in any particular case authorised by this Part;

(b) "declaration" means the declaration referred to in regulation 57;

(c) "employee" means any person in receipt of emoluments;

(d) "employer" means any person paying emoluments whether on his own account or on behalf of another person; and

(e) "total allowances" in relation to an individual means the aggregate of the deductions to which the individual is entitled under Divisions L to P of Part II of the Act.

1980-12. 1987/4.

57. (1) Subject to paragraphs (2) and (3), any person to whom emoluments are paid may, for the purposes of enabling the deductions to be made from those emoluments to be calculated with reference to the total allowances of that person, file with the person making the payment a declaration in appropriate form containing prescribed information.

Declarations by persons receiving emoluments. 1984/59.

(2) No declaration may be filed by

1985/136.

(a) a non-resident,

(b) a person who is specified in, or who complies with any conditions set out in a notice of the Commissioner, unless he is specifically authorised by the Commissioner to file a declaration.

(3) Where a person who is entitled to file a declaration under this regulation is in receipt of emoluments from 2 separate employers he may file a declaration with only one of those employers, to be selected by him.

Principal and immediate employers.

58. (1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to hereafter in this regulation as the "principal employer") shall be deemed to be the employer for the purpose of this Part, and the immediate employer shall furnish the principal employer with such particulars of the employee's emoluments as may be necessary to enable the principal employer to comply with the provisions of this Part.

(2) If the employee's emoluments are actually paid to him by the immediate employer

(a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted when the emoluments are paid to the employee and shall deduct the amount so notified to him accordingly; and

(b) the principal employer shall make a corresponding deduction on making to the immediate employer the payment out of which the said emoluments will be paid.

Deduction of Tax

Deduction of tax. 1987/4. 1985/136.

59. (1) Subject to the provisions of regulations 60, 61 and 63, on the occasion of any payment of emoluments to an employee, the employer shall deduct as tax the amount appearing in the appropriate column of the table of the tax table to be used opposite to that amount appearing in the first column of the said table which is the same as or the nearest to the amount of the emoluments due to the employee; but where

(a) the pay period for which the emoluments are to be paid is not provided for in the tax tables; or

(b) the emoluments paid per year are greater than any amount provided for in the first column of the table to be used

the amount to be deducted shall be determined by the Commissioner.

(2) In the event of the amount of the emoluments due to the employee being an amount exactly between 2 amounts appearing in the first column of the table to be used, the tax to be deducted shall be that amount appearing in the appropriate column of the said table opposite to the larger of the 2 such amounts.

(3) For the purposes of this regulation, the table of the tax tables to be used shall be that table of the tax tables prepared by the Commissioner pursuant to regulation 78 which takes into account total allowances and corresponds to the pay period for which the emoluments are to be paid, and the appropriate column shall be the column of the said table appearing under that range of total allowances specified in the table within which the total allowances of the employee or the greater part thereof from whom tax is to be deducted is included; but in the case of an employee who is prohibited from filing a declaration under paragraph (2) of regulation 57 or who has not filed a declaration, the table of the tax tables to be used shall be that table prepared by the Commissioner pursuant to regulation 78 without taking into account total allowances and which corresponds to the pay period for which the emoluments are to be paid, and the appropriate column shall in such cases be the second column of that table.

(4) For the purposes of making deductions of tax under this regulation, where the employer retains from the emoluments an amount as a contribution by the employee to a registered retirement plan the balance remaining after deducting the amount retained shall be deemed to be the amount of the emoluments due to the employee. 1993/63.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

Bonuses and retroactive increases of emoluments.

60. On payment of a bonus or on payment of any sum to meet any retroactive increases of emoluments granted to an employee, the following deductions of tax shall, subject to the provisions of regulations 61 and 63, be made by the employer in accordance with the following provisions

(a) where the employee is at the date of the payment of the bonus in receipt of emoluments from the employer paying the bonus, then,

(i) the total amount of bonus shall be divided by the number of pay periods (appropriate to the employee) in the year in which it is paid,

(ii) the resulting amount shall be added to the amount of emoluments (before tax was deducted) which were payable to the employee in the pay period immediately preceding the date on which the bonus is paid,

(iii) the amount of tax which should have been deducted in the immediately preceding pay period aforesaid in respect of such aggregate sum shall be determined by reference to the appropriate tax table, and

(iv) the amount of tax to be deducted from the bonus shall be the difference between the tax, determined under clause (iii) and the tax, if any, actually deducted in the immediately preceding pay periods aforesaid, multiplied by the number of pay periods in the year;

(b) where the employee is at the date of the payment of the bonus no longer in receipt of emoluments from the employer paying the bonus the amount of tax to be deducted shall be the tax for the year in which the bonus is paid shown to be deductible in the appropriate table prepared by the Commissioner under paragraph (3) of regulation 78 (which is a table prepared without taking into account any amount of total allowances); and

(c) in the case of a retroactive payment, the amount of tax to be deducted shall be the difference between the total tax that should have been deducted pursuant to regulation 59 if such payment had been spread evenly over those pay periods for which the payment is made and added to the amount of emoluments paid over such pay periods and the amount of tax deducted in respect of those pay periods prior to the making of the retroactive payment.

Deduction of tax and other amounts in accordance with directions of Commissioner.

61. (1) Notwithstanding regulation 59 the Commissioner may direct employers as to the amount of tax, if any, to be deducted from

(a) the emoluments of employees engaged in casual or seasonal employment; or

(b) the emoluments of employees who are in receipt of emoluments from more than one source at the same time; or

1985/136.

(c) the emoluments of employees in any case where, in the opinion of the Commissioner, the tax to be deducted by reference to the tax tables is insufficient to cover the liability to tax on those emoluments; or

(d) the emoluments of employees in any other class of case which in the opinion of the Commissioner is a class of case of such a nature that deduction of tax by reference to the tax tables would be impracticable or would constitute undue hardship.

(2) Nothwithstanding regulation 59 the Commissioner may direct an employer to deduct from the emoluments for each pay period of any employee of his who is indebted to the Crown under the Act such amount (expressed either as a dollar amount or a percentage of those emoluments) as may be specified in the directions until the employee's indebtedness to the Crown under the Act is satisfied.

(3) Without prejudice to the foregoing provisions of this regulation any directions given pursuant to the provisions of this regulation may, in particular, include directions as to the manner in which the tax or other amounts, if any, shall be deducted, the period

over which such deduction shall be made and such other matters as the Commissioner may think fit and any employer to whom any such directions may be so given shall comply with the directions so given.

Death of employee.

62. If any emoluments are paid by an employer at any time after the date of death of an employee the employer by whom the emoluments are paid shall subject to the provisions of regulation 63 on making any such payments, deduct in accordance with the provisions of this Part the tax on those emoluments as if the deceased employee was still alive at the date of the payment.

Exempt emoluments.

63. Tax shall not be deducted by any employer from

(a) the emoluments of any employee who performs the duties of his employment wholly outside Barbados;

(b) emoluments paid outside Barbados to an employee outside Barbados;

(c) a retirement plan benefit or retiring allowance arising out of an employment which was wholly carried on outside Barbados; or

(d) the emoluments of any person to whom a notice pursuant to sub-paragraph *(c)* of paragraph 2 of regulation 57 applies,

unless the Commissioner, in any particular case, directs the employer to deduct tax in accordance with this Part.

Limit.

64. The amount of tax to be deducted pursuant to any direction given by the Commissioner in any particular case shall not, except in the cases mentioned in sub-paragraphs *(b)* and *(c)* of paragraph (1) of regulation 61, exceed the amount of tax which is deductible or would be deductible by reference to the tax tables.

Determination by Commissioner.

65. If any question arises as to

(a) the amount of tax so deducted on payment of any emoluments;

(b) whether or not any emoluments are of any class of case specified in regulation 61 or in a notice pursuant to sub-paragraph *(c)* of paragraph 2 of regulation 57;

(c) whether or not any payment of emoluments is a payment of a bonus or a retroactive payment;

(d) whether any amount is an emolument in respect of which tax should be deducted; or

(e) whether any allowance claimed in a declaration is properly claimed,

such question shall be determined by the Commissioner, subject to appeal in accordance with the provisions of the Act relating to appeals.

Payment of Tax Deducted

Payment of tax deducted.

66. (1) Within the first 15 days of every month, every employer shall pay the Commissioner the total amount of tax deducted by him in accordance with the provisions of this Part during the immediately preceding month.

(2) Notwithstanding paragraph (1), where an employer ceases to carry on business all amounts of tax deducted by him pursuant to this Part and not paid to the Commissioner shall be paid by him to the Commissioner within 7 days of the day on which the last payment of emoluments was made.

(3) The Commissioner shall provide every employer making a payment under this regulation with a receipt.

Accounting for Tax Deducted

Returns. 1984/59.

67. Every payment of tax made pursuant to regulation 66 shall be accompanied by a return made out on the appropriate form by or on behalf of the employer.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

Prior years retroactivity returns.

68. Where the payment of a bonus or of any sum to meet any retroactive increases of emoluments granted to an employee is made at any time in any year and the whole or any part of such payment relates to any pay periods of any calendar year preceding the year in which such payment is made, the employer shall within 7 days of such payment being made deliver or send by post to the Commissioner a separate account of such payments made out on the appropriate form and showing the total of such emoluments paid and the total amount of tax deducted thereform.

1984/59.

Certificates.

69. (1) On or before the 28th day of February in each year next following a year in which tax was deducted from the emoluments of an employee the employer by whom the tax was deducted shall, unless he has previously delivered or sent to the employee a certificate provided for by regulation 70, 71 or 72, deliver personally or send by post to the employee a certificate and one copy thereof made out on the appropriate form and containing the following particulars, namely,

1984/59.

(a) the name and address of the employee;

(b) any number used to identify the employee;

(c) the total amount of all emoluments paid by him to the employee during the year immediately preceding that in which the certificate is by this regulation required to be sent or delivered;

(d) the total amount deducted by him for or in respect of any amount contributed by the employee to any registered retirement plan on the making of any payment of those emoluments to the employee;

(e) the total amount of tax deducted in accordance with this Part from those emoluments;

(f) the appropriate code number of the tax tables, if any, used in making the deductions of tax; and

(g) the date when the employment commenced if subsequent to the 1st day of January in the year to which the certificate relates.

(2) The employer required by this regulation to deliver or send a certificate to the employee shall make on the appropriate form one copy of the said certificate which he shall deliver personally or send by post to the Commissioner on or before the said 28th day of February. 1984/59.

Cessation of employment. 1984/59. 1987/4.

70. (1) If the employer ceases to employ an employee from whose emoluments tax was deducted by him in accordance with this Part he shall not later than the day on which the last payment of emoluments was made, deliver personally or send by post to the employee a certificate and one copy thereof made out on the appropriate form and containing the following particulars, namely, 1984/59.

(a) the name and address of the employee;

(b) any number used to identify the employee;

(c) the date on which the employment ceased;

(d) the total amount of all emoluments paid by him to the employee from the 1st day of January of the year in which the employment ceased up to and including the day on which the last payment of emoluments was made to the employee;

(e) the total amount deducted by him for or in respect of any amount contributed by the employee to any registered retirement plan on the making of any payment of those emoluments;

(f) the total amount of tax deducted in accordance with this Part from those emoluments; and

(g) the appropriate code number of the tax table, if any, used in making deductions of tax.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

(2) The employer shall make on the appropriate form one copy of the said certificate which he shall deliver personally or send by post to the Commissioner on the day on which the last payment of emoluments was made. 1984/59.

(3) *Revoked by S.I. 1987/4.*

71. (1) If an employer ceases to carry on business he shall with respect to each employee from whose emoluments any tax was deducted during the year in which the business ceased, personally deliver or send by post not later than the last day on which a payment of emoluments was made to that employee a certificate and one copy thereof made out on the appropriate form and containing the particulars specified in regulation 69 for or in respect of a period beginning with the first day of the year in which the business ceased to be carried on and terminating on the day of cessation of that business. Cessation of business. 1984/59.

(2) In the case of a business commenced to be carried on in the year in which it ceases on a day other than the 1st day of January in that year, the date of commencement of the period for or in respect of which the particulars of the certificate shall relate shall be the date on which the business commenced to be carried on in that year.

(3) The employer shall make on the appropriate form one copy of the said certificate which he shall deliver personally or send by post to the Commissioner within one month of the day of cessation of the business. 1984/59.

72. (1) On the death of an employee the employer shall not later than the 15th day of the month next following that in which the death occurred deliver personally or send by post to the legal representative or next-of-kin of the deceased employee if known to him the certificate and one copy thereof mentioned in Regulation 70. Death of employee.

(2) The employer shall at the same time deliver personally or send by post to the Commissioner one copy of the said certificate made on the appropriate forms and shall insert thereon the name of the legal representative of the deceased employee, if known to him.

Printed by the Government Printing Department, Bay Street, St. Michael, by the authority of the Government of Barbados

Particulars to be furnished to employees.

73. (1) Every employer on making any payment of emoluments to an employee from whom tax is deducted pursuant to this Part, shall furnish to the employee particulars of the payment including particulars of the gross emoluments for the pay period and of the amount of tax deducted therefrom, in such form as may be approved by the Commissioner.

(2) The Commissioner may in his discretion exempt from the provisions of paragraph (1) all or any employers in respect of such classes of employees as he shall think fit, and any such exemption may at any time be revoked by the Commissioner.

Records.

74. Every employer on making any payment of emoluments to an employee from whose emoluments tax is deducted pursuant to this Part, shall keep to the satisfaction of the Commissioner a record of the emoluments paid to each such employee and the tax deducted therefrom on each payment thereof.

Miscellaneous

Death of employer.

75. If any employer dies, anything which he would have been liable to do under this Part shall be done by his legal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid the emoluments.

Changes in employer carrying on business.

76. (1) This regulation applies where there has been a change in the employer from whom an employee receives emoluments in respect of his employment in any business, or in connection with any property, or from whom an employee receives any annuity or pension or allowance in respect of past service.

(2) Where this regulation applies the change shall not be treated as a cessation of employment for the purposes of regulation 70, but in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under this Part if the change had not taken place.

(3) Notwithstanding paragraph (2) the employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee before the change took place.

77. (1) The declaration which a person may file pursuant to regulation 57, may include particulars of all or any of his total allowances as the employee by whom the declaration is filed may think fit. Declarations.

(2) A person entitled and wishing to file a declaration under regulation 57 shall do so at the following times

(a) on the day on which his employment commences;

(b) within 7 days of the day on which a change occurs in the total allowances to which he is entitled; or

(c) within such time or times as may be specified by notice published by the Commissioner in the *Official Gazette* and at least one newspaper of Barbados, or in such other manner as the Commissioner shall think fit.

(3) The Commissioner may in his discretion permit any person to file a declaration at any time other than the times specified in paragraph (2), if the person is otherwise entitled to file a declaration.

78. (1) The tax tables shall be constructed with a view to securing that so far as practicable the tax to be deducted pursuant to this Part from the emoluments of any employee may be readily ascertained and with a view to securing that so far as practicable the total tax payable in respect of any emoluments is deducted from the emoluments paid during the year. Tax tables.

(2) Separate tables shall be prepared for daily, weekly, monthly and annual pay periods, and such tables shall make provision for such ranges of total allowances and for such amounts of emoluments as the Commissioner shall think fit.

(3) In addition to the tables required by paragraph (2) of this regulation, tables shall be prepared relating to such of the pay periods referred to in that paragraph as the Commissioner shall think fit and providing for such amounts of emoluments as the Commissioner shall think fit, but without taking into account any total allowances.

(4) For the purposes of this regulation, references to the total tax payable shall in relation to the tables referred to in paragraph (2) of this regulation be construed as references to the total tax estimated to be payable having regard only to the allowances

Printed by the Government Printing Department, Bay Street, St. Michael, by the authority of the Government of Barbados

provided for by this Part and without aggregating emoluments from two or more sources or other income and in relation to the tables referred to in paragraph (3) of this regulation shall be construed as references to the total tax estimated to be payable without having regard to any allowances whatever and without aggregating emoluments from two or more sources or other income.

(5) The tax tables shall be prepared or constructed by the Commissioner and shall be made available to any person required to deduct or withhold tax under section 64 of the Act or this Part.

Inspection of records.

79. Every employer, when called upon to do so by the Commissioner or any person authorised in writing by him shall produce to the Commissioner or such authorised person for inspection, at the employer's premises, all wages sheets and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees or the deduction of tax therefrom or the accounting of any tax deducted therefrom.

Complaints.

80. If any employee considers that any tax deducted by his employer is less than or in excess of the amount of tax that ought properly to be deducted in accordance with this Part from his emoluments, he may in writing give notice of complaint, stating the grounds of his complaint, to the Commissioner.

Idem.

81. In the event of the Commissioner being satisfied on the complaint of any employee made under regulation 80 that any tax in excess of the amount that ought properly to have been deducted in accordance with this Part from the emoluments of the employee was deducted by the employer, he shall as soon as practicable cause the excess to be refunded to the employee.

Publication.

82. Any notice published by the Commissioner pursuant to sub-paragraph *(c)* of paragraph (2) of regulation 57 shall be published in the *Official Gazette* and at least one newspaper in Barbados or in such other manner as the Commissioner may think fit.

Proceedings to recover unpaid amounts.

83. (1) Proceedings may be brought for the recovery of the total amount of tax which an employer is liable to pay to the Commissioner within the times specified in regulation 66 without

distinguishing the amounts which the employer is liable to pay in respect of each employee and without specifying the employees in question, and for the purposes of such proceedings, the said total amount shall be the subject of one action; but nothing in this regulation shall prevent the bringing of separate actions for the recovery of each of the several amounts which the employer is liable to pay within the first 15 days of every month in respect of his several employees.

(2) A certificate of the Commissioner that any amount of tax as is mentioned in paragraph (1) of this regulation has not been paid to him, or to the best of his knowledge and belief, to any person acting on his behalf, shall be sufficient evidence that the sum mentioned in the certificate is due and unpaid; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

Offences.

84. If any person who is prohibited by paragraph (2) of regulation 57 from filing a declaration shall without the permission of the Commissioner file a declaration with his or her employer, or if any employee in the employment of more than one employer shall contrary to the provisions of paragraph (3) of regulation 57 file a declaration with more than one of his employers, he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding $100.

Idem.

85. If on a change occurring in the total allowances of any person by whom a declaration has been filed which results in the total allowances of that person being less than the total allowances claimed by him in his declaration such person shall wilfully fail or neglect to file a further declaration within the time specified in sub-paragraph *(b)* of paragraph (2) of regulation 77 he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding $100 or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Idem.

86. If any person shall hinder, prevent or obstruct the Commissioner or any person authorised in writing by him from inspecting any wages sheets or other documents or records mentioned in regulation 79 after being called upon to produce the

Printed by the Government Printing Department, Bay Street, St. Michael,
by the authority of the Government of Barbados

same, he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding $100 or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

Idem.

87. If any person shall wilfully fail to prepare and deliver or send any account, certificate or other document that he is required by this Part to prepare and deliver or send he shall be guilty of an offence and liable on conviction by a court of summary jurisdiction to a fine not exceeding $10 for every day throughout which the failure continued.

Certain actions barred and agreements void. 1972/31.

88. (1) No action lies against any person for withholding or deducting any sum of money in compliance or intended compliance with section 64 or 64A or this Part, on behalf of any person from whom the money was deducted or withheld.

(2) Where by section 64 or this Part an obligation is imposed on any person to deduct or withhold an amount, any agreement made by such person not to withhold or deduct such amount is void and of no force or effect.

Special tables for self-assessment by individuals under section 52(5).

89. (1) Where pursuant to section 84(2) the Commissioner prescribes tables for the estimation under section 52(5) of the tax payable for an income year by a person to whom this regulation applies, then, notwithstanding section 42 the amount of tax payable by any such person for an income year shall be the amount of tax assessed by the Commissioner as payable in accordance with those tables.

1972/31. 1987/4.

(2) The persons to whom this regulation applies are individuals whose taxable income does not exceed $24 000 in any income year.

89A. *Revoked by S.I. 1987/4.*

PART XI

Tax deductions on payments to non-residents

Interest. 1985/136.

90. (1) Every person who pays an amount as interest to a non-resident person shall withhold from the amount that would otherwise be paid 15% of that amount and shall pay the amount withheld as tax of the non-resident person.

(2) Notwithstanding paragraph (1), no amount shall be withheld as tax from any amount payable to a non-resident person as interest on bonds, debentures or stock of the Government beneficially owned by that non-resident person.

Rents.

90A. (1) Subject to this regulation every person who pays an amount as rents to a non-resident person shall withhold from the amount that would otherwise be paid 40% of that amount and shall pay the amount so withheld to the Commissioner as prepayment of the tax of that non-resident person.

(2) This regulation does not apply where the Commissioner has issued a certificate that has not been withdrawn by the Commissioner, to the effect that this regulation does not apply in respect of certain payments to a non-resident person because either

(a) that non-resident person has habitually filed returns of income in respect of similar payments in prior income years, or

(b) that non-resident person is exempt from income tax on such payments under an enactment in force in Barbados.

Royalties.

90B. Every person who pays an amount as royalties to a non-resident person shall withhold from the amount that would otherwise be paid 15% of that amount and shall pay the amount so withheld as tax of that non-resident person.

Payments under settlements. 1993/63.

91. Every person who pays an amount that he may deduct under sections 24C and 24D in calculating his assessable income to a non-resident person shall deduct or withhold from the amount that would otherwise be paid 20% of that amount and shall pay the amount so deducted or withheld to the Commissioner as a prepayment of tax of that non-resident person.

92. *Revoked by 1993/63.*

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados

Dividends from untaxed profits.
1978/52.
1993/63.

93. (1) Every company which pays an amount as a dividend out of profits that are exempt from tax or have not been taxed to a non-resident person shall deduct or withhold from the amount that would otherwise be paid 40% of that amount and shall pay the amount so deducted or withheld to the Commissioner as a prepayment of tax of that non-resident person.

(2) This regulation does not apply where the Commissioner has issued a certificate that has not been withdrawn by the Commissioner, to the effect that the non-resident person is exempt from tax in respect of the dividend under the *Pioneer Industries Act*, or the *Industrial Development (Export Industries) Act*, or the *Industrial Incentives Act*, or the *Industrial Incentives (Factory Construction) Act.*

Cap. 83.
Cap. 74.
Cap. 75.
Cap. 76.

Payment of amounts on account or in satisfaction of management fees etc.
1970/154.
1975/106.
1984/59.
1985/136.

93A. (1) Every person who pays an amount to a non-resident person on account or in satisfaction of liability for fees or charges arising under a contract for the provision of management or administrative services or of technical or managerial skills, whether such contract be oral or in writing and whether or not made in Barbados, shall deduct or withhold from the amount that would otherwise be paid 15% of that amount and shall pay the amount so deducted or withheld to the Commissioner as payment of the tax of that non-resident person.

1984/59.

(2) For the purposes of this regulation tax shall be deducted or withheld whether or not the fees or charges to which this regulation refers have been paid.

(3) Where the fees or charges to which this regulation refers are not paid at the end of the fiscal period of the person liable to make the payment, the tax deducted or withheld shall be paid to the Commissioner within 15 days after the end of the fiscal period of that person.

Rate of withholding tax.
1981/141.

93B. The amount to be withheld from payments for service other than for the provision of management, administrative, technical or managerial skills under section 64D(1) and 64E(1) is 25% of the gross earnings.

Payment of amounts deducted.
1993/63.

94. (1) Any person who has withheld or deducted an amount under section 64, except subsection (1)*(c)*, or under section 65(2) or (4) and regulations 90, 90A, 90B, 91, 93, 93A and 97 shall

pay the amount to the Commissioner within 15 days after the end of the month in which the amount is withheld or deducted. 1984/59.

(2) Any tax deducted or withheld under section 65(5) shall be paid to the Commissioner in respect of every income year subsequent to the income year 1976, not later than the 30th June of the year following that income year. 1978/52.

(3) The Commissioner shall provide every person making a payment under this regulation with a receipt.

95. (1) Every person who has withheld or deducted an amount under section 64, except paragraph *(c)* of subsection (1), or under section 65(2) or (4) and regulations 90, 90A, 90B, 91, 93, 93A or 93B shall file a return with the Commissioner at the time that payment is made to the Commissioner under regulation 94 showing the amount paid to the Commissioner, the amount payable or paid, as the case may be, to the non-resident in respect of whom the withholding or deduction was made and the name and address of that non-resident; and shall at the same time send a copy of the return to that non-resident. Returns. 1970/154. 1975/106. 1981/141. 1984/59. 1985/136. 1993/63.

(2) Every person who has deducted an amount to which section 64(1)*(c)* refers, shall on making the payment to which the deduction relates, deliver to the employee and to the Commissioner a certificate in the appropriate form.

PART XII

Withholding Tax on Dividends

96. Every person who pays an amount as dividends as specified under sections 48C or 65(4A) of the Act to a resident individual shall pay the amount deducted or withheld under those sections to the Commissioner within 15 days after the end of the month in which the amount is withheld or deducted. Withholding tax on dividends. Cap. 78. 1984/59. 1985/136. 1987/4. 1988/66. 1993/63.

THE LAWS OF BARBADOS
Printed by the Government Printer, Bay Street, St. Michael
by the authority of the Government of Barbados