

## No. 31 OF 1952.

### A LAW TO AMEND THE INCOME TAX LAW.

A. B. WRIGHT,]  
Governor.

[26th November, 1952.]

**BE** it enacted by His Excellency the Governor and Commander-in-Chief of the Colony of Cyprus as follows:—

1. This Law may be cited as the Income Tax (Amendment) Law, 1952, and shall be read as one with the Income Tax Law (hereinafter referred to as "the principal Law").

2. Section 2 of the principal Law is hereby amended by the deletion therefrom of the definition of "Judge" and the insertion therein in its proper alphabetical place of the following definition:—

"'Court' means a District Court of competent jurisdiction of the district where the person chargeable with the tax has his usual place of abode or business;";

CAP. 297  
13 of 1950  
8 of 1951

Law 13/52

Law 5/55

Short title.

Cap. 297.  
13 of 1950  
8 of 1951

Amendment  
of section 2  
of the  
principal  
Law.

Amendment  
of section 8  
of the  
principal  
Law.

3. Section 8 of the principal Law (as amended by section 2 of Law 13 of 1950) is hereby amended as follows:—

(a) by the insertion at the end of paragraph (b) of the following proviso (the semicolon at the end thereof being replaced by a colon):—

“Provided that the Governor in Council, by Order, subject to such conditions as he may impose and for such period as may be stated in the Order, may exempt from the tax the income of any local authority derived from a trade or business if he is satisfied that the public interest is best served by such exemption;”;

(b) by the insertion therein, immediately after paragraph (n), of the following paragraph (the colon at the end thereof being replaced by a semicolon):—

“(o) the income of any society or fund which has been approved by the Commissioner under paragraph (c) of section 16 of this Law.”.

Amendment  
of section 11  
of the  
principal  
Law.

4. Section 11 of the principal Law (as amended by section 3 of Law 13 of 1950) is hereby amended as follows:—

(a) by the deletion in sub-section (2) of paragraph (b) and the re-lettering of paragraphs (c) and (d) as paragraphs (b) and (c), respectively;

(b) by the insertion therein, immediately after sub-section (7), of the following sub-section:—

“(8) Where the income is derived from carrying on a trade of mining there shall be allowed, in lieu of any allowances or deductions under the foregoing sub-sections of this section, such allowances or deductions as are specified in the First Schedule to this Law.”.

First  
Schedule.

Amendment  
of section 14  
of the  
principal  
Law.

5. Section 14 of the principal Law is hereby amended by the deletion of the words “for the next six years in succession” in sub-section (1) (line 10) and the substitution therefor of the words “for subsequent years”.

Amendment  
of section 17  
of the  
principal  
Law.

6. Section 17 of the principal Law is hereby amended by the insertion therein of the following sub-section, the first part of the said section being numbered as sub-section (1):—

“(2) If either the husband or the wife makes written application therefor to the Commissioner before the 31st January in the year of assessment, returns of income may be required to be rendered by any such husband and wife separately and the amount of the tax chargeable on the husband by reason of sub-section (1) shall be

apportioned between the spouses in such manner as to the Commissioner appears reasonable and the amount so apportioned shall be assessed and charged on each spouse separately.”.

7. The principal Law is hereby amended by the substitution for the word “Schedule” wherever it occurs of the words “Second Schedule”.

Substitution of “Schedule” in the principal Law by “Second Schedule”.

8. The principal Law is hereby amended by the insertion therein, immediately after section 32, of the following section :—

Insertion of new section 32A in the principal Law.

“Additional tax in the event of default or omission.

32A.—(1) Any person who—

(a) wilfully neglects to furnish a return or give notice to the Commissioner required by the provisions of section 32 of this Law in respect of any year of assessment shall be chargeable for such year of assessment with treble the amount of tax for which he is liable for that year under the provisions of section 21 of this Law ; or

(b) fraudulently omits from his return for any year of assessment any amount which should have been included therein shall be chargeable with an amount of tax equal to twice the difference between the tax as calculated in respect of the total income returned by him and the tax properly chargeable in respect of his total income as determined after including the amounts omitted,

and shall be required to pay such amount of tax in addition to the tax properly chargeable in respect of his true total income :

Provided that any person aggrieved by any action of the Commissioner under this sub-section may appeal in accordance with section 39 of this Law.

(2) Any person who, in determining his total income as disclosed by his return, deducts or sets off any amount the deduction or set-off whereof is not allowed under the provisions of this Law, or shows as an expenditure or loss any amount which he has not in fact expended or lost, shall be deemed, for the purposes of sub-section (1) of this section, to have omitted such amount from his return.

(3) The additional amounts of tax for which provision is made under this section shall be chargeable in cases where tax has been assessed by the Commissioner under the provisions of section 41 of this Law, as well as in cases where such income or any part thereof is determined from returns furnished.

(4) Any tax charged under the provisions of this section shall not be deemed to be part of any tax paid or payable for the purposes of sections 21, 22, 43, 44 and 60 of this Law.

(5) Where the neglect or omission has been made in connection with a return required by the provisions of this Law to be furnished by another person on behalf of a company, such company shall be liable for the additional tax chargeable under the provisions of this section.

(6) Nothing in this section shall affect any right to commence proceedings in respect of an offence against this Law."

**9.** Sub-section (3) of section 38 of the principal Law is hereby amended by the insertion therein of the following proviso, the full stop at the end thereof being substituted by a colon :—

" Provided that the Commissioner may require the person giving notice of objection to furnish him with such particulars in respect of his private assets and liabilities as well as those of any other person whose income is, under the provisions of this Law, deemed to be or is treated as, the income of the person objecting, as the Commissioner may deem necessary and for this purpose the Commissioner shall have, in respect of such private assets and liabilities, all the other powers hereinbefore set out."

**10.** The principal Law is hereby amended by the substitution for the words "a Judge", "the Judge" or "a Judge in Chambers" wherever they occur of the word "the Court".

**11.** Section 39 of the principal Law is hereby amended as follows :—

(a) by the insertion therein immediately after sub-section (1) of the following sub-section :—

"(1A) Except by leave of the Court, the appellant shall not, in his notice of appeal, state, or at the hearing be allowed to rely upon, any ground of appeal not specifically set out in the notice of objection given under section 38 (2) of this Law,"

Amendment  
of section 38  
of the  
principal  
Law.

Substitution  
of "Judge"  
or "Judge in  
Chambers"  
in the  
principal  
Law by  
"Court".

Amendment  
of section 39  
of the  
principal  
Law.

(b) by the deletion therefrom of sub-section (9) and the substitution therefor of the following sub-section:—

“(9) The decision of the Court hearing the appeal shall be final:

Provided that the Court hearing such appeal may, and on the application of the appellant or the Commissioner shall, state a case on a question of law for the opinion of the Supreme Court, and such case stated shall be heard and determined, by way of appeal, by the Supreme Court.”.

12. The principal Law is hereby amended by the insertion therein, immediately after section 56, of the following Part:—

Insertion of new Part and sections in the principal Law.

“PART XIII.

ASSESSMENT, CHARGE, COLLECTION AND RECOVERY OF TAX IN RESPECT OF EMOLUMENTS.

Interpretation.

56A. For the purposes of sections 56B to 56F—  
‘emoluments’ means all emoluments assessable to income tax in respect of salary, wages, overtime, bonus, share of profits, perquisite, fee, commission, gratuity or pension.

Assessment, charge, etc., on emoluments.

56B. Notwithstanding anything in this Law contained, income tax for the year 1953 or any subsequent year of assessment shall be assessed and charged on all emoluments on the amount of those emoluments for that year; and on the making of any payment of, or on account of such emoluments made during the year 1953 or any subsequent year of assessment, income tax shall, subject to and in accordance with the Rules made by the Governor in Council under section 56C of this Law, be deducted by the person making the payment notwithstanding that when the payment is made no assessment has been made in respect of the emoluments and notwithstanding that the emoluments are in whole or in part emoluments for some year of assessment other than the year during which the payment is made:

Provided that if any question arises whether any emoluments are or are not emoluments within the meaning of section 56A of this Law it shall be determined by the Commissioner, and the provisions of this Law relating to objections and appeals shall apply to any determination of the Commissioner under this section.

Rules.

56C.—(1) The Governor in Council shall make Rules with respect to the assessment, charge, collection and recovery of income tax in respect of

all emoluments and any such Rules may, in particular, include provision—

(a) for requiring any person making any payment of, or on account of, any such emoluments, when he makes the payment, to make a deduction of tax calculated by reference to tax tables prepared by the Commissioner and for rendering persons who are required to make any such deduction accountable to the Commissioner.

The said tax tables shall be constructed with a view to securing that, as far as possible, the total tax payable in respect of any emoluments for any year of assessment is deducted from the emoluments paid during that year and, if necessary, for any adjustment in respect of amounts overpaid or remaining unpaid on account of income tax in respect of emoluments for any previous year ;

(b) for the production to, and inspection by, the Commissioner or any person authorized by him of wages, sheets and other documents and records for the purpose of satisfying the Commissioner that tax has been and is being deducted and accounted for in accordance with the Rules ;

(c) for the collection and recovery, whether by deduction from income paid in any later year or otherwise, of tax in respect of emoluments to which this Law applies which has not been deducted or otherwise recovered during the year ;

(d) for the assessment and charge of tax by the Commissioner in respect of income to which this Law applies ;

(e) for appeals with respect to matters arising under the Rules which would not otherwise be the subject of an appeal,

and any such Rules shall have effect notwithstanding anything in this Law contained :

Provided that such Rules shall not affect any right of appeal to the Court which a person would have apart from the Rules.

(2) If any person fails to comply with or contravenes the provisions of any Rule made under this section he shall be guilty of an offence against this Law.

Transitional provisions in respect of emoluments for the year 1952.

56D. Where a person holds an office or employment for the year 1952 and the emoluments therefrom are assessable to income tax by reference to the amount thereof for 1951 and the actual emoluments arising from that office or employment for the year 1952 are in excess of any such emoluments arising in 1951 by reason of—

- (a) an additional amount being granted during the year 1952; or
  - (b) a change in the conditions of service attaching to the office or employment being effected during the year 1952,
- the amount of the excess shall be added to the income arising from the office or employment as computed for the purposes of assessment to income tax for the year 1953 and charged to tax accordingly:

Provided that this section shall not apply to any increase in emoluments arising from—

- (a) promotion in the ordinary course of events; or
- (b) the ordinary application of an incremental scale of emoluments; or
- (c) overtime paid for and at ordinary rates or to any other similar increase of an ordinary character.

Income tax in respect of emoluments to be a preferential payment in certain cases. Cap. 6.

56E.—(1) There shall be included among the debts which under section 38 of the Bankruptcy Law are to be paid in priority to all other debts in the distribution of the property of a bankrupt or person dying insolvent, any amounts deducted as income tax by an employer from the emoluments of an employee and which have not been paid to the Comptroller during the period of twelve months preceding the date of the receiving order of the death.

(2) There shall be included among the debts, which under section 299 of the Companies Law, 1951, are to be paid in priority to all other debts in the winding up of a company, any amounts deducted as income tax by an employer from the emoluments of an employee and which have not been paid to the Comptroller during the period of twelve months preceding the relevant date (as defined by that section).

(3) Where a receiver is appointed on behalf of the holders of any debentures of a company secured by a floating charge or possession is taken by or on behalf of those debenture holders of

any property comprised in or subject to the charge, there shall be included among the debts, which under section 88 of the Companies Law, 1951, are to be paid in priority to any claim for principal or interest in respect of the debentures, any amounts deducted as income tax by an employer from the emoluments of an employee and which have not been paid to the Comptroller during the period of twelve months preceding the date on which the receiver is appointed or possession is taken as aforesaid, as the case may be.

Other provisions of the Law to apply. 56F. Subject to the provisions of sections 56A to 56E of this Law, the other provisions of this Law shall, in so far as they are not inconsistent with such sections apply to income from emoluments as they apply to any other income."

Amendment of section 60 of the principal Law.

13. Section 60 of the principal Law is hereby amended by the insertion therein of the following sub-section, the first part thereof being numbered as sub-section (1):—

"(2) The Commissioner may compound any offence under this section and may, before judgment, compound any proceedings thereunder."

Amendment of section 60 of the principal Law.

14. Paragraph (a) of section 60 of the principal Law is hereby amended by the substitution for the word "and" at the end thereof (line 6) of the word "or".

Repeal of section 62 of the principal Law and substitution of new section.

15. Section 62 of the principal Law is hereby repealed and the following section substituted therefor:—

"Penalties for offences. 62. Any person guilty of an offence against this Law shall, unless some other penalty is specifically provided for such offence, be liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds or to both such imprisonment and fine."

Insertion of a new Schedule in the principal Law.

16. The principal Law is hereby amended by the insertion therein, immediately before the existing Schedule, of the following First Schedule:—

"FIRST SCHEDULE.

(Section 11 (8).)

ALLOWANCES IN RESPECT OF MINING OPERATIONS.

Interpretation.

1.—(1) In this Schedule, unless the context otherwise requires—  
'balance of expenditure' at any date in respect of any asset or assets means the sum of any expenditure incurred by a person carrying on a trade of mining in respect of such asset or assets on or after the 1st day of January, 1946, plus any previous expenditure in respect of such asset or assets determined in accordance with the provisions of this Schedule from which has been deducted the following:—

- (a) any initial allowance in respect of such expenditure made under the provisions of this Schedule;
- (b) any annual allowance in respect of such expenditure or previous expenditure made under the provisions of this Schedule;



(c) the amount of any sale, insurance, salvage or compensation moneys received or receivable in respect of any asset or assets or any part thereof which were sold, demolished or destroyed prior to such date and after the 1st day of January, 1946;

'expenditure' means capital expenditure in connection with a source of mineral deposits incurred by any person carrying on a trade of mining—

(a) on searching for or on discovering and testing mineral deposits, or winning access thereto or on development, and on general administration and management prior to the commencement of production;

(b) on the provision of plant and machinery including any premium or consideration in the nature of a premium paid for the use of such plant and machinery;

(c) on the construction of any buildings, structures or works from which has been deducted the net proceeds of sale of any minerals extracted prior to the commencement of production:

Provided that the said expression shall include—

(i) any expenditure on the acquisition of the site of the source or of the site of any such works as aforesaid, or of rights in or over any such site;

(ii) any expenditure on the acquisition of, or of rights in or over, the deposits:

Provided also that the said expression shall not include—

(i) any expenditure on works constructed wholly or mainly for subjecting the raw product of the source to any process, except a process designed for preparing the raw product for use as such;

(ii) any expenditure on searching for or on discovering or testing the mineral deposits of any source or winning access thereto in cases where the search, exploration or inquiry is given up without there having been carried out any trade which consists of or includes the working of the source in question such expenditure to be allowed as a deduction from the chargeable income in the year of assessment immediately following that in which the search, exploration or inquiry is given up;

'the Law' means the Income Tax Law;

'minerals' means any substances or materials of economic value of a wasting nature forming part of, or derived naturally from, the crust of the earth and obtained mainly by underground excavations and 'mining' shall be construed accordingly;

'source' or 'source of mineral deposits' at any date means, subject to the provisions of sub-paragraphs (2) and (3), the total mineral deposits in or upon any land from which the person carrying on the trade had, at that date, any right to lift or extract such mineral deposits or any title to acquire such right being land in the same mineral field.

(2) Where separate and distinct mining operations are carried on in mines that are not contiguous and the person carrying on the trade gives notice in writing to the Commissioner not later than six months after the enactment of this Law, or within twelve months of being granted a mining lease giving the right to extract minerals from the area of such mine, whichever is the later, that he wishes the mineral deposits appertaining to each such separate mine to be treated as constituting a separate source then they shall be deemed to be separate sources for all the purposes of the Income Tax Law for all years of assessment.

(3) Any references in this Schedule to assets representing any expenditure includes, in relation to expenditure on searching for, discovering and testing deposits, any results obtained from any search, exploration or inquiry upon which the expenditure was incurred.

Cap. 207.  
13 of 1950  
8 of 1951

Estimate of  
ore reserves.

2.—(a) Any person carrying on a trade of mining who claims allowances under this Schedule shall, within the year of assessment, render to the Commissioner, at the same time as he renders his return of income under section 32 of the Law an estimate of the economically payable ore reserves of the source as at 31st day of December immediately preceding such year of assessment which shall be supported by such calculations as are necessary to show how the estimate is arrived at and, if the Commissioner so requires, by copies of key plans showing all such reserves. Such estimate shall be determined by the Commissioner and the estimate as so determined by him shall, for the purposes of this Schedule, be the total potential future output of the source as at such date. Subject to the provisions of paragraph 4 of this Schedule, such annual revision shall not affect any assessment determined or any allowance made or presumed to have been made under this Schedule.

(b) Every decision of the Commissioner in the exercise of any discretion given to him by this paragraph may be questioned in an appeal made under section 39 of the Law.

Previous  
expenditure  
and initial  
and annual  
allowance.

3.—(1)—(a) Where on the 1st of January, 1946, a person was carrying on a trade of mining, he shall be deemed to have incurred on the 1st day of January, 1946, expenditure (in this Schedule referred to as 'previous expenditure') of such amount as shall be determined by the Commissioner, having regard to the total expenditure in connection with the source which was incurred by such person before the 1st day of January, 1946, the total potential future output of the source as at that date and the total output of the source prior to that date, any deductions previously allowed under section 11 of the Law and any other relevant factors :

Provided that there shall be deducted from the previous expenditure as thus determined the amount of any sale, insurance, salvage or compensation moneys received or receivable in respect of any asset or assets or any part thereof which were sold, demolished or destroyed prior to the 1st day of January, 1946.

(b) Every decision of the Commissioner in the exercise of any discretion given to him by this sub-paragraph may be questioned in an appeal against an assessment in accordance with section 39 of the Income Tax Law.

(2)—(a) Where, on or after the 1st day of January, 1946, a person carrying on a trade of mining incurs expenditure, there shall be deducted in computing his chargeable income—

(i) for the year of assessment immediately following the year in which such expenditure is incurred an allowance (in this Schedule referred to as 'an initial allowance') equal to—

(a) one-fifth of any such expenditure incurred on the provision of plant and machinery ;

(b) one-tenth of any other such expenditure ;

(ii) for each subsequent year of assessment, an allowance (in this Schedule referred to as 'an annual allowance') equal to the amount which results from applying to the balance of such expenditure the fraction of which—

(a) the numerator represents the output from the source in question during the year immediately preceding the year of assessment ; and

(b) the denominator represents the sum of that output and the total potential future output of the source estimated at the end of that period,

or the fraction one-twentieth, whichever is the greater.

(b) Where a person carrying on a trade of mining has incurred previous expenditure there shall be deducted in computing his chargeable income for the year of assessment 1947 and subsequent years of assessment an annual allowance in respect of such previous expenditure calculated as in paragraph (a) of this sub-paragraph.

4. Where the source ceases to be worked or, in the case of a source worked under a concession, the concession comes to an end, the person carrying on the trade may elect that the annual allowance, if any, for the year in which that event occurs and for each of the six previous years shall be computed as if the reference in paragraph 2 of this Schedule to the potential future output of the source were a reference to the actual output of the source between the end of the year and the happening of the said event, and the said allowances shall be computed accordingly, and, notwithstanding anything in the Law contained limiting the time for the making of assessments or the allowance of claims for repayment, all such repayments and additional assessments shall be made as are necessary to enable effect to be given to this paragraph of this Schedule :

Adjustment where source ceases to be worked.

Provided that where any person elects that annual allowances shall be computed in accordance with this paragraph then the provisions of paragraph 5 of this Schedule shall apply as regards any asset or assets representing expenditure in respect of which such allowances are computed irrespective of when the event or events referred to in such paragraph occur or to whether or not the trade is permanently discontinued.

5.—(1) Where in any year of assessment a person sells assets representing expenditure in respect of which any deduction has been allowed under the provisions of this Schedule or under the provisions of section 11 of the Law and the buyer of these assets buys them for the purpose of a trade carried on or to be carried on by him, being a trade which consists of or includes the working of the whole or any part of the source in connection with which the assets were provided, then the person shall, within the year of assessment, render to the Commissioner a statement (in this Schedule referred to as 'a balancing statement') in respect of the assets in question showing the following items, that is to say :—

Sale of the source or part of the source as a going concern.

- (i) the balance of expenditure at immediately prior to the date of the sale ; and
- (ii) the amount of the sale moneys received or receivable in respect thereof ; and
- (iii) the aggregate amount of all deductions from chargeable income previously allowed under this Schedule and of any deductions from chargeable income previously allowed under the provisions of section 11 of the Law.

(2) In ascertaining the chargeable income of a person who is required under sub-paragraph (1) of this paragraph to render a balancing statement to the Commissioner a deduction (in this Schedule referred to as 'a balancing deduction') shall be allowed or, as the case may be, an addition (in this Schedule referred to as 'a balancing addition') shall be made and such balancing deduction or balancing addition shall be calculated by reference to the balancing statement rendered by the person in respect of the year immediately preceding the year of assessment as follows :—

- (a) the amount of a balancing deduction shall be the amount by which the amount of item (i) of the balancing statement exceeds the amount of item (ii) of such statement ; or
- (b) the amount of the balancing addition shall be the amount by which the amount of item (ii) of the balancing statement exceeds the amount of item (i) of such statement, except that in no case shall a balancing addition exceed the amount of item (iii) of the statement.

(3) The provisions of sub-section (6) of section 11 of the Law shall apply as regards any balancing statement made under this Schedule.

(4) The buyer of any such asset or assets shall, for the purposes of the provisions of this Schedule relating to annual allowances, balancing deductions and balancing additions be deemed to have incurred on the assets, at the time of the sale, expenditure to which this Schedule applies equal to whichever is the lesser of the following amounts, that is to say :—

- (i) so much of the price as is attributable to the assets ; and

Application to expenditure incurred by persons not engaged in the trade of mining.

(ii) the balance of the expenditure incurred by the seller on the assets as at the date of the sale reduced by the amount of any balancing deduction or increased by the amount of any balancing addition made to the seller under this paragraph.

6.—(1) Any expenditure incurred for the purpose of a trade of mining by a person about to carry it on shall be treated for the purposes of this Schedule as if it had been incurred by that person on the first day on which he does carry it on:

Provided that there shall be deducted from such expenditure the amount of any sale, insurance, salvage or compensation moneys received or receivable in respect of any asset or assets or any part thereof which were sold, demolished or destroyed prior to the day on which such person commenced a trade of mining.

(2) Where a person incurs expenditure on searching for or discovering and testing mineral deposits or winning access thereto or on development, general administration and management prior to the commencement of production and, without having commenced to carry on a trade of mining, he sells any assets representing that expenditure, then, if the person who acquires the assets commences to carry on such a trade as aforesaid in connection with the source, that person shall, for the purposes of this Schedule, be deemed to have incurred, for the purposes of the said trade, expenditure to which this Schedule applies equal to the amount of the expenditure to which the provisions of this Schedule apply which is represented by the assets or the price paid by him for the assets, whichever is the smaller:

Provided that nothing in this paragraph contained shall authorize the making of an initial allowance in respect of any expenditure incurred before the 1st day of January, 1946."

Transfer of pending appeals.

17.—(1) Any appeal, which at the time of the coming into operation of this section shall be pending before any Judge, shall be transferred in the condition in which it shall then be to the appropriate Court and it shall be continued and determined by such Court and any such Court may receive in evidence the sworn statement of any witness already taken in any proceedings before a Judge and such statement shall, for all intents and purposes, be deemed to be evidence taken by such Court:

Provided that any party to such appeal may apply to the Court before which the appeal is being continued that the evidence of any such witness be heard and taken before such Court and thereupon the Court shall hear and take such evidence subject to such order as to the payment of costs as the Court may think fit to make.

(2) For the purposes of this section "Judge" means a Judge of the Supreme Court.

Date of commencement.

18. This Law shall come into operation on the 1st day of January, 1953, except sections 4, 7 and 16, which shall be deemed to have come into operation on the 1st day of January, 1946.

J. F. SYMONS,  
26th November, 1952. *Acting Colonial Secretary.*