

SUBSIDIARY LEGISLATION

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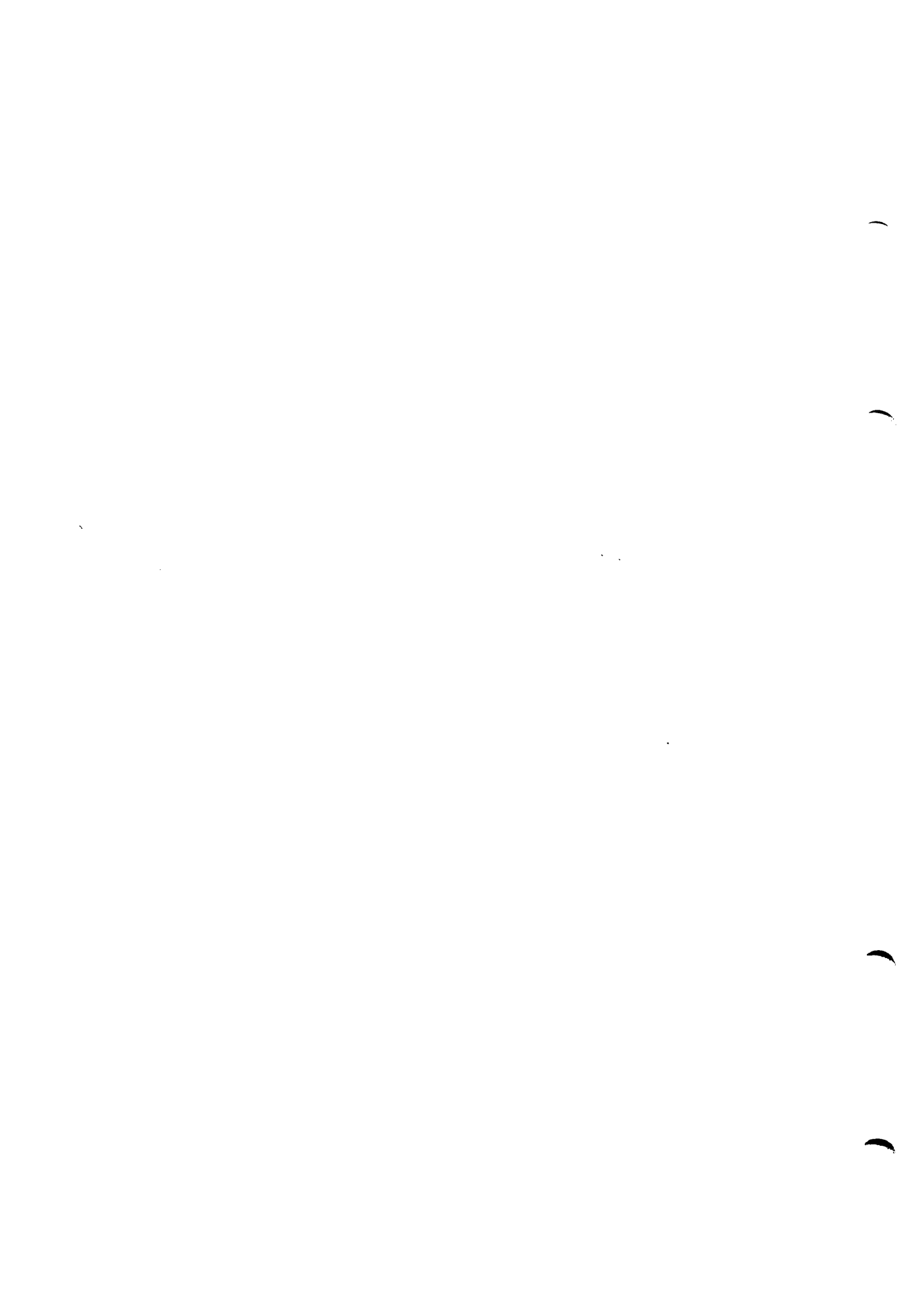


**INCOME TAX ACT
(CHAPTER 35)
INCOME TAX (FORMS) RULES**

**G.N. S 4/51
R.E.S.L. 1956, page 221**

REVISED EDITION 2003

(1st December 2003)

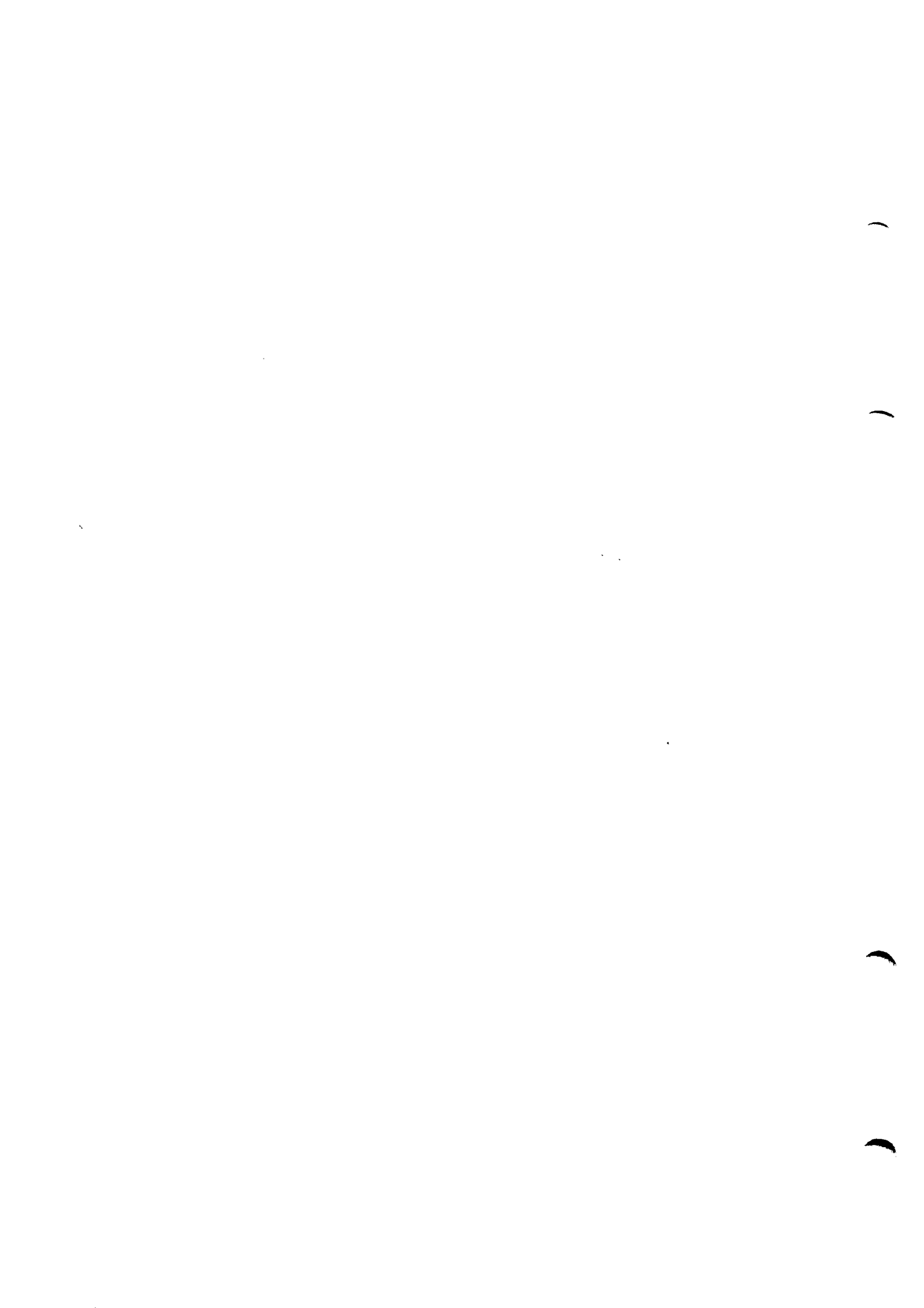


SUBSIDIARY LEGISLATION
INCOME TAX (FORMS) RULES
ARRANGEMENT OF RULES

Rule

1. Citation.
2. Forms to be used.

SCHEDULE — FORMS



SUBSIDIARY LEGISLATION

Rules under section 5(1)

INCOME TAX (FORMS) RULES

Commencement: 1st March 1951

Citation.

- 1. These Rules may be cited as the Income Tax (Forms) Rules.

Forms to be used.

- 2. The forms set out in the Schedule are prescribed for use under the Income Tax Act.

SCHEDULE

FORMS

(I.T. 1)

File Number

.....
 Please quote this number in
 all communications relating
 to this return.

INCOME TAX ACT
(Chapter 35)

To

.....

.....

INCOME TAX, 20

By virtue of the provisions of the Income Tax Act (Chapter 35) (Part X) you
 are hereby required to make a return of the whole income of

.....

LAWS OF BRUNEI

p. 4 2003 Ed.]

Income Tax

[CAP. 35, R 1

[Subsidiary]

SCHEDULE — (continued)

accrued in, derived from or received in Brunei Darussalam the year ended 31st December 20, according to the headings on page 2 of this form.

The explanatory notes accompanying this return should be read carefully before the form is completed.

This form duly completed and with the declaration below duly signed must be returned to me WITHIN 30 DAYS FROM THIS DATE together with a certified copy of the BALANCE SHEET AND TRADING AND PROFIT AND LOSS ACCOUNT.

This return or any correspondence relating thereto may be sent post free to the Collector in an envelope marked "Income Tax".

..... 20
The Treasury Brunei Darussalam Collector of Income Tax.

DECLARATION

I, (full name) hereby declare that this return contains a full and true account of the whole of the income of for the year ended 20

..... Signature. (To be signed by Manager or principal officer).

..... Designation

..... Address.

Date 20

SCHEDULE — (continued)

STATEMENT OF INCOME FOR THE YEAR ENDED

..... 20

NAME OF COMPANY		NATURE OF BUSINESS	
ADDRESS OF HEAD OFFICE		ADDRESS OF BRANCHES IN THE STATE	
See Notes Para —	INCOME IN RESPECT OF —		\$
1.	1. TRADE, BUSINESS, PROFESSION OR VOCATION		
2.	2. RENTS, ROYALTIES PREMIUMS etc. arising from PROPERTY		
	Investment	Net Amount received	
	
	
	
	
	
		Total	
3.	3. INTEREST AND DIVIDENDS (vouchers must be attached)		
	Investment	Gross Amount	
	
	
	
	
		Total	
4.	4. NET ANNUAL VALUE OF LAND AND IMPROVEMENTS		
	Description	Net annual value	
	
	
	
		Total	

LAWS OF BRUNEI

p. 6 **2003 Ed.]**

Income Tax

[CAP. 35, R 1

[Subsidiary]

SCHEDULE --- (continued)

5.	5. ANY OTHER INCOME NOT INCLUDED ABOVE		
	Source	Amount	
	
	
	
		Total	
	TOTAL		\$

Where any space is insufficient, details should be given on a separate sheet which should be attached to this form. The total should be entered in the appropriate space above. No space should be left blank. If there is no income under any particular head, the word 'NIL' should be entered.

**DEDUCTIONS AND ALLOWANCES CLAIMED FOR THE YEAR
ENDED 20**

See Notes Para —			
6.	6. INTEREST ON MONEY BORROWED		
	Amount of loan	Details	Amount of interest paid
	TOTAL \$		
7.	7. GIFTS OF MONEY TO INSTITUTIONS OF A PUBLIC CHARACTER		
	Names and address of Institutions		Amount
	TOTAL \$		
8.	8. DOUBLE TAXATION RELIEF		
	Country under whose law tax was paid	Details of Income which has already been taxed	Rate
			Amount
	TOTAL \$		

SCHEDULE — (continued)

9.	9. LOSSES INCURRED IN TRADE BUSINESS ETC. (NOT PREVIOUSLY ALLOWED AS DEDUCTION)	
	Period during which loss was incurred	Amount
	TOTAL \$	
10.	10. INITIAL, ANNUAL AND BALANCING ALLOWANCES	
	(a) Machinery and Plant	
	(b) Industrial Buildings	
	Details of expenditure etc. (see notes)	Amount
	(a)	
	TOTAL \$	
	(b)	
	TOTAL \$	

EXPLANATORY NOTES

These notes are intended only as a general guide in completing the form. If further assistance is required, application should be made to the Collector of Income Tax. The references are to the relevant sections of the Income Tax Act (Chapter 35).

(As directed on page 1 of the form, certified copies of the Trading and Profit and Loss Accounts and Balance Sheet must accompany this return).

1. INCOME FROM TRADE, BUSINESS, PROFESSION OR VOCATION. (8(1)(a))

Enter here the trading profit of the year. All income accrued in, derived from or received in the State must be included. Income received under heading 2, 3, 4 or 5 should not be included here but should be entered in the relevant section.

EXPENSES WHICH MAY NOT BE DEDUCTED IN COMPUTING PROFITS. (12)

(a) expenses of a domestic or private nature;

[Subsidiary]

- (b) disbursements or expenses not wholly and exclusively laid out in acquiring the income;
- (c) capital withdrawn from the business or any sum employed or intended to be employed as capital;
- (d) money employed in additions, improvements or alterations as capital, other than the improvement effected in the re-planting of a plantation;
- (e) any sum recoverable under an insurance or contract of indemnity;
- (f) rent or cost of repairs to any premises not paid or incurred for the purpose of producing the income;
- (g) amount payable in respect of Income Tax, Sur-tax, Profits Tax or Excess Profits Tax;
- (h) any payment to a Pension or Provident or Savings Fund or Society, except where the approval of the Collector of Income Tax has been given.

EXPENSES WHICH MAY BE DEDUCTED IN COMPUTING PROFITS. (11)

- (a) interest paid on any money borrowed where the borrowed money is employed in producing the income;

(Note — This interest may be deducted in calculating the profit shown in paragraph 1 of the return, or entered as a reduction in section 6. If it is deducted from the profit shown, the fact must be stated in section 6, but the details required by that section must still be supplied, the total being left blank).

- (b) rents paid for the use of land or buildings occupied for the purpose of acquiring the income;
- (c) cost of repair of plant, machinery, fixture or premises;
- (d) cost of replacement of implements and utensils;
- (e) debts proved to be bad and doubtful debts to the extent to which they are estimated to have become bad during the accounting period, provided the debts were included as trading receipts in the accounts in which they occurred;
- (f) contributions to a Pension or Provident Fund or Society approved by the Collector of Income Tax.

2. RENTS, ROYALTIES, AND PREMIUMS ARISING FROM PROPERTY. (8(1)(f))

Give the address and description of each property, and state the net rents etc. received; i.e. gross rental less outgoings on account of ground, land or quit rents, rates and repairs.

3. INTEREST AND DIVIDENDS. (8(1)(d))

Bank interest and interest on loans or mortgages must be included. The gross amount of interest received by way of dividends on stocks, shares, debentures etc. must be shown. The relative vouchers should accompany the return.

4. NET ANNUAL VALUE OF LAND AND IMPROVEMENTS. (8(1)(c))

This relates to properties used for the purpose of residence or enjoyment by the owner or rent fee by the occupier and not for the purpose of gain or profit. Give the address and description of each property and state how the figure given is arrived at in each case. The "net annual value" is the gross amount at which such place of residence could reasonably be expected to let from year to year, the landlord paying the expenses of repair, insurance, maintenance or upkeep and all public rates and taxes.

5. OTHER INCOME.

State the source and amount of any income accruing during the financial period, which has not been included under any of the previous headings.

6. DEDUCTIONS FOR INTEREST PAYABLE. (11(1)(a))

Sums payable by way of interest upon any money borrowed may be claimed as a deduction, provided that the Collector is satisfied that this interest was paid on capital employed in acquiring the income. The following details must be included —

- (a) amount of loan;
- (b) rate of interest;
- (c) security;
- (d) name and address of person advancing the money;
- (e) purpose for which the sum was borrowed.

The amount of interest must be substantiated by receipts.

(Note — The information required by this section must be given though the amount of interest has been included as a deduction from profit in heading 2. The total, however should in that case be left blank and the fact of deduction from profit stated in this section).

7. GIFTS OF MONEY TO INSTITUTIONS OF A PUBLIC CHARACTER. (30(2)(c))

A deduction from the assessable income shall be made not exceeding one-sixth of the statutory income remaining after the deductions under paragraph 9 have been made, in respect of gifts of money in the year preceding the year of assessment to

[Subsidiary]

institutions of a public character in Brunei Darussalam approved by His Majesty the Sultan and Yang Di-Pertuan in Council. The following are institutions of a public character —

- (a) hospitals not operated for profits;
- (b) benevolent institutions not operated for profit;
- (c) educational institutions not operated for profit;
- (d) public funds for the relief of distress among members of the public.

8. DOUBLE TAXATION RELIEF. (39-42)

A proportionate relief from income tax may be claimed upon any part of the income included in this return which has been or is liable to be charged with United Kingdom Income Tax. Evidence of payment or liability to United Kingdom Income Tax and of the income's having accrued in or been received in or derived from Brunei Darussalam must be produced to support the claim.

9. LOSSES INCURRED IN TRADE OR BUSINESS. (30(2) (a) and (c))

A deduction from the statutory income may be claimed on account of a loss sustained during the year of assessment, provided that no deduction shall be made in respect of loss incurred prior to the commencement of the year preceding the first year of assessment. Where a loss is incurred in the basis period of any year of assessment the amount of such loss attributable to activities in Brunei Darussalam shall be carried forward and be deducted or set off as far as is practicable against statutory income within the following 6 years of assessment. The claim must be made in writing within one year from the end of the year of assessment.

10. INITIAL, ANNUAL AND BALANCING ALLOWANCES. (13-18)

An initial allowance is made on capital expenditure on machinery and plant, and on the construction of industrial building incurred during the year. An annual allowance is also made in respect of machinery and plant, and industrial buildings. The rates of these allowances are —

Initial allowances —

Machinery and plant,	1/5 of capital expenditure
Industrial Building,	1/10 do do

Annual allowance —

Machinery and plant,	to be prescribed
Industrial Building,	1/50 of capital expenditure.

Where machinery and plant, or industrial buildings under 50 years old, are sold, scrapped or destroyed during the year a balancing allowance is made if a loss arises. (A balancing charge is made if a profit accrues). If any claim for deduction is made under this section, the following information must be supplied —

<u>Machinery and Plant</u>	<u>Industrial Buildings</u>
(a) details of capital expenditure;	(a) description of buildings and addresses;
(b) date of expenditure;	(b) nature of interest in the buildings;
(c) amount of expenditure;	(c) date of erection;
(d) details of sales, destruction or obsolescence;	(d) date of original use as industrial buildings;
(e) amount of proceeds, compensation monies etc.	(e) details of sales, destruction, demolitions or cession of use;
	(f) amount of proceeds, compensation monies etc.

(Note that in the first year of assessment, capital expenditure on industrial buildings and machinery and plant made on or after 1st January 1946, may rank as having been made in the basis period).

N.B.

11. PENALTIES.

Failure to furnish a return may render you liable to prosecution (section 78).

Any person making, without reasonable excuse, a return which is false in any material particular, is guilty of an offence: Penalty, a fine not exceeding \$10,000 and double the amount of tax which ought to have been charged may be imposed, and in default of payment imprisonment for a term not exceeding 12 months (section 79).

In the case of wilful intention to evade or to assist any other person to evade tax, a fine not exceeding \$10,000 and treble the amount of tax which ought to have been charged may be imposed, or imprisonment for a term not exceeding 3 years, or both such fine and imprisonment (section 80).

LAWS OF BRUNEI

p. 12 2003 Ed.]

Income Tax

[CAP. 35, R 1

[Subsidiary]

INCOME TAX: YEAR OF ASSESSMENT 20.....

(I.T.2)

NOTICE OF ASSESSMENT

To

.....

.....

TAKE NOTICE, under the provisions of section 65 of the Income Tax Act (Chapter 35) that for the year of assessment 20, the chargeable income of has been assessed to income tax in the sum of \$

The tax payable is as follows —

Tax on chargeable income at 20% \$

Less United Kingdom tax

relief

Net tax payable

This amount should be paid to the Treasury, within 30 days after the service of this notice, unless notice of objection is given as provided by subsection (2) of section 65 of the Income Tax Act, which reads as follows —

Revision of assessment in case of objection.

65 (2). If any person disputes the assessment, he may apply to the Collector, by notice of objection in writing, to review and to revise the assessment made upon him. Such application shall state precisely the grounds of his objections to the assessment and shall be made within 60 days from the date of the service of the notice of assessment:

Provided that the Collector, upon being satisfied that owing to absence from the State, sickness or other reasonable cause, the person disputing the assessment was prevented from making the application within such period, shall extend the period as may be reasonable in the circumstances.

In the event of a notice of objection having been lodged under subsection (2) of section 65 of the Income Tax Act (Chapter 35), the amount of the assessment may be agreed between us and the assessment amended accordingly. If agreement is not reached, you may appeal to the High Court, in accordance with the provisions of section 67 of the Income Tax Act (Chapter 35).

Section 68 of the Income Tax Act (Chapter 35) provides that, in the absence of a valid objection or appeal, the assessment shall be final and conclusive.

Section 72 of the Income Tax Act (Chapter 35) provides that, if the tax is not paid as prescribed by section 70 of the Income Tax Act a penalty of 5 per cent of the tax shall be imposed, and the person charged may also incur the further penalty for being guilty of an offence against the Income Tax Act (Chapter 35).

.....
Collector of Income Tax.

Date

INCOME TAX: YEAR OF ASSESSMENT 20 (I.T.3)

DEMAND NOTE

To
.....
.....

I have to remind you that the tax due from for the year of assessment 20, namely \$, of which notice was issued to you on has not been paid. Under paragraph (b) of subsection (1) of section 72 of the Income Tax Act (Chapter 35) the payment of the tax of \$ is hereby demanded, together with \$, being the penalty of 5 per cent of the tax imposed by paragraph (a) of subsection (1) of section 72 of the Income Tax Act (Chapter 35). The total sum \$ must be paid to the Treasury, within not more than 60 days from the date of this notice. In the absence of payment as stipulated, proceedings will be commenced for the recovery of the full sum of the tax and the penalty, together with full costs of suit, as a debt due to the Government, without prejudice to any prosecution for failure to comply with the requirements of the Income Tax Act (Chapter 35).

.....
Collector of Income Tax.

Date

LAWS OF BRUNEI

p. 14 2003 Ed.]

Income Tax

[CAP. 35, R 1

[Subsidiary]

INCOME TAX: YEAR OF ASSESSMENT 20

(I.T.4)

DECLARATION OF SECRECY

I,
being employed in the administration of the Income Tax Act (Chapter 35) and having read the provisions of section 4 of the Income Tax Act (Chapter 35) do hereby solemnly declare that I will observe strict secrecy as regards all returns, documents, assessments and other information coming to my notice in the course of my duties in connection with the administration of the said Act, and will not communicate or reveal any information regarding such returns, documents and assessments otherwise than for the purposes of the said Act.

Signed

Declared this day of 20

Before me

.....
Collector of Income Tax.

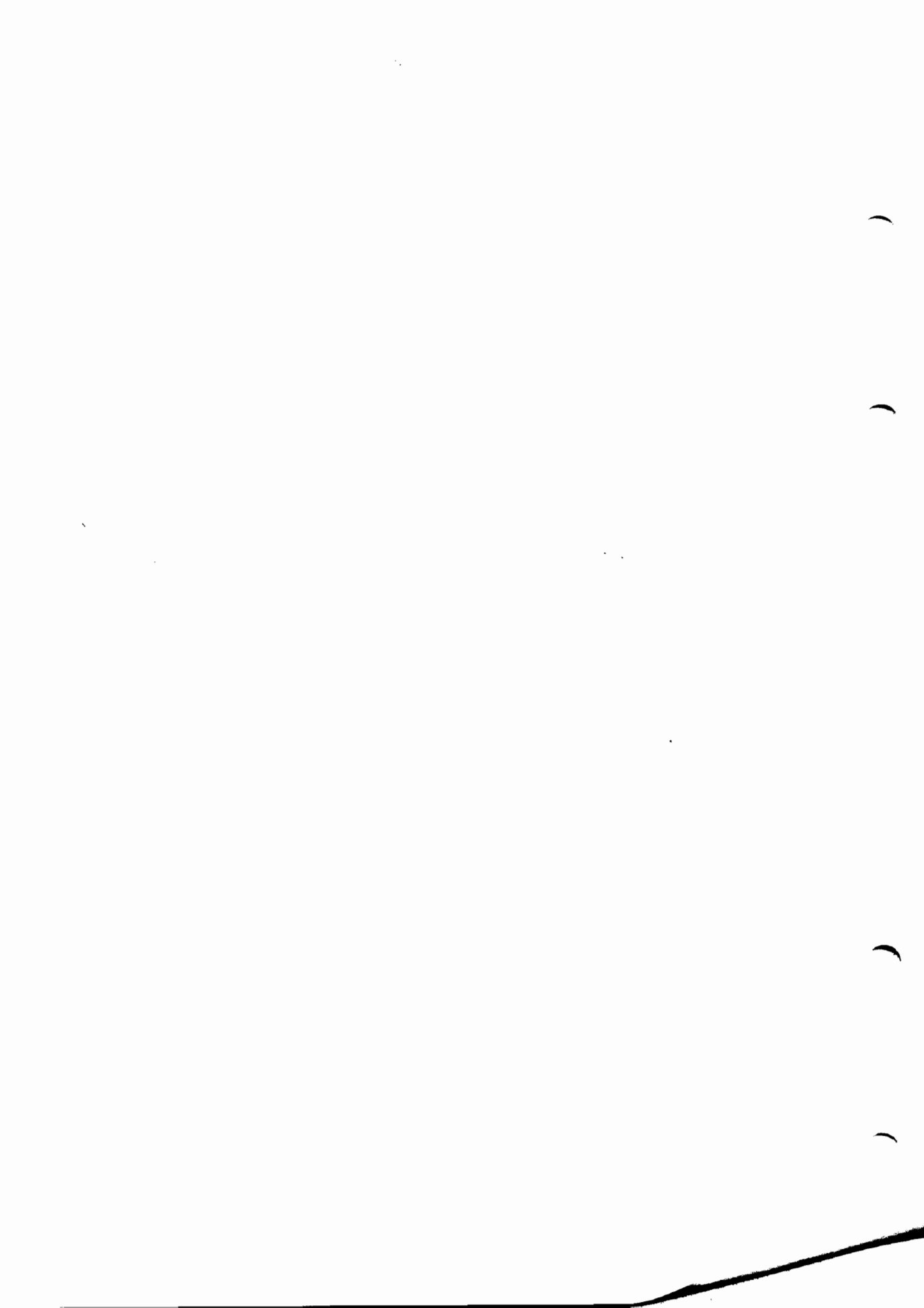
**INCOME TAX ACT
(CHAPTER 35)
INCOME TAX (MACHINERY OR PLANT) (ANNUAL
ALLOWANCE) RULES**

S 37/56

REVISED EDITION 2003

(1st December 2003)

B.L.R.O. 3/2003



SUBSIDIARY LEGISLATION

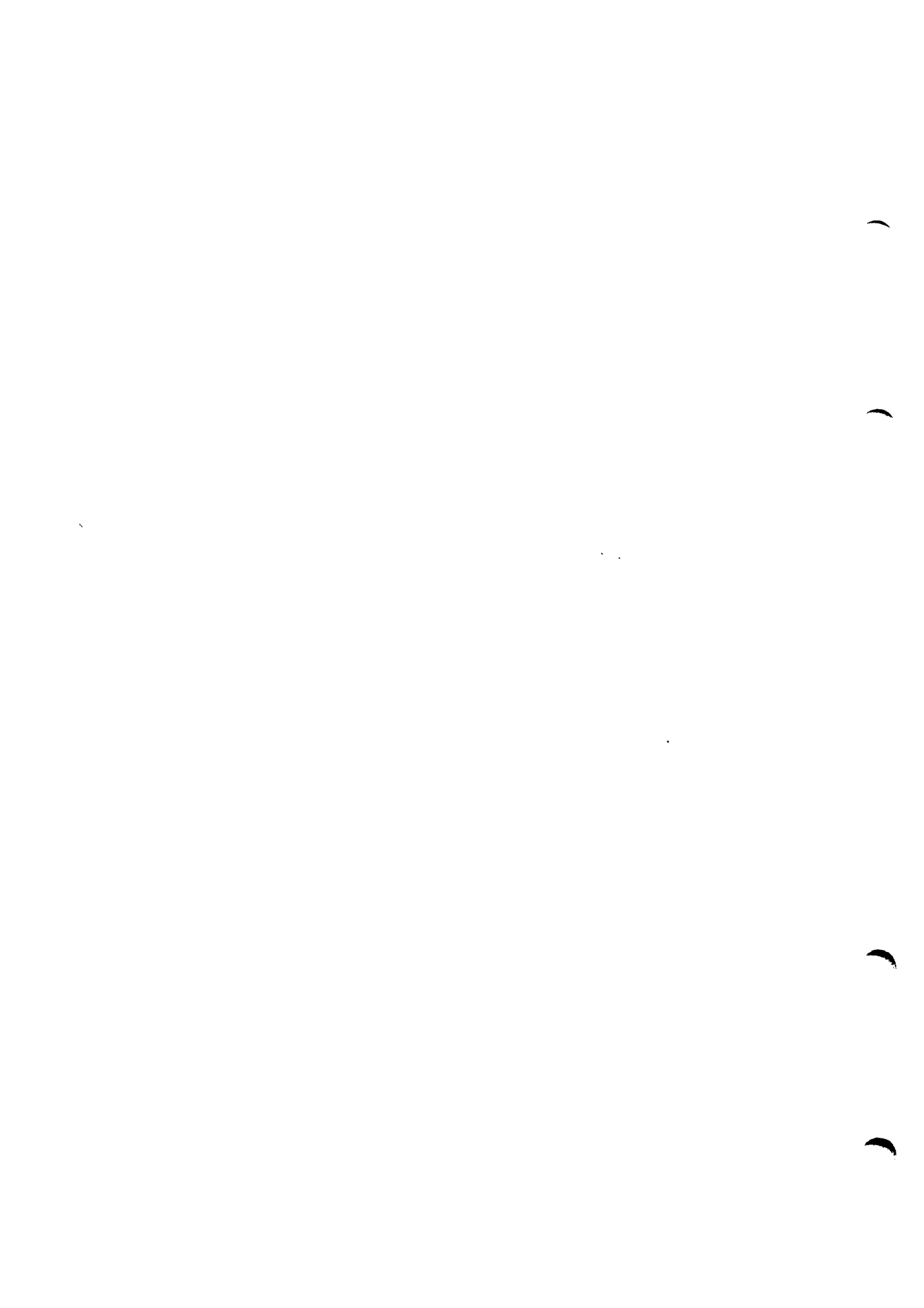
INCOME TAX (MACHINERY OR PLANT) (ANNUAL ALLOWANCE) RULES

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Annual allowance.

SCHEDULE — RATES



SUBSIDIARY LEGISLATION

Rules under sections 5 and 16

INCOME TAX (MACHINERY OR PLANT)
(ANNUAL ALLOWANCE) RULES*Commencement: 1st January 1956***Citation.**

1. These Rules may be cited as the Income Tax (Machinery or Plant) (Annual Allowance) Rules.

Annual allowance.

2. The annual allowance under subsection (2) of section 16 of the Income Tax Act for depreciation by wear and tear of machinery or plant shall be calculated at the respective rates prescribed in the Schedule to these Rules.

SCHEDULE

RATES

A. RATES FOR PARTICULAR TRADES, PROFESSIONS OR BUSINESS

	Percentage %
BAKERIES —	
Machinery or plant generally	8
The non-metal parts of the structure of ovens will be included, for purposes of the allowance, as part of the bakery machinery or plant.	
BOLT, NUT, SCREW AND RIVET MANUFACTURE —	
Machinery or plant generally	10
Taps and dies will be dealt with on a renewals basis	
BOOKBINDING —	
General binding machinery	7½
BRASSFOUNDING —	
Machinery or plant generally	10

[Subsidiary]

SCHEDULE — (continued)

Percentage %

BREWERIES AND DISTILLERIES —

Conveyors, elevators, screening plant, grist mills, wort pumps, tuns, backs, coppers, liquor piping and brewing and distilling plant generally	6¼
--	----

BRICK MAKING —

See Clay Industries.

CHEMICAL MANUFACTURE —

Chemical plant, other than sulphuric acid plant	7½
Sulphuric acid plant	15
Other plant	5

CINEMAS —

Projectors	15
Organs	7½
Seating	7½

CLAY INDUSTRIES —

Building Brick Manufacture —

Mixing and brick-making machines	5
Crushing and grinding plant (milling plant)	7½

Heavy Clay Industry & Pottery Manufacture —

General machinery or plant, e.g. piping, mixing, shaping and glazing machines (blungers, tankers, arks, sifters, pumps, jiggers, jolleys, presses etc.) conveyors, trucks (or cars), propelling mechanism and tracks, air supply and exhaust fans and dust extraction plant excluding electric fans	5
Electric fans (milling plant)	7½
Crushing and grinding plant (milling plant)	7½
Gas-producing plant (wellman-galusha type)	7½
Coal pulverising plant and mechanical stokers	7½
Ovens and kilns	10

CLEANING —

See Dyeing and Cleaning.

COLD STORES —

See Ice Manufacture.

SCHEDULE — (continued)

	Percentage %
COLLIERIES —	
Railway wagons, other than light railway wagons	6¼
Surface machinery or plant, other than electrical plant	6½
All underground plant installed in the shaft pillar	7½
Other underground plant	10
CREAMERIES, DAIRIES AND ICE CREAM FACTORIES —	
Storage tanks	5
Refrigerating plant (except iceless cabinets) and bottling and washing machines	10
Iceless cabinets	15
Other machinery or plant	7½
Loose plant, box cycles, utensils (churns, bottles etc.) and piping will be dealt with on a renewals basis.	
DAIRIES —	
See Creameries.	
DYEING AND CLEANING —	
Machinery or plant generally	10
ELECTRICITY UNDERTAKINGS —	
Generating and distributing machinery or plant —	
Cables	3
Concrete cooling towers	4
Meters	7½
Other generating machinery or plant	8
Other plant, exclusive of loose tools	5
Domestic Electrical Appliances —	
Cookers and kettles	20
Refrigerator, washing machines, washing boilers and water heaters	15
Other kinds of apparatus	10
Conduits and loose tools will be dealt with on a renewals basis.	
FLOUR MILLING —	
Roller mills, automatic weighers, elevators and conveyors (with legging) and spouting	7½

[Subsidiary]

SCHEDULE — (continued)

	Percentage %
Other machinery or plant	10
FURNITURE MANUFACTURE —	
Machinery or plant generally	7½
GAS UNDERTAKINGS—	
Coke-handling plant	}
Pan ash and clinker plant	
Chemical plant	
Benzol plant	
Sulphate of ammonia plant	
Tar distillation plant	7½
Other machinery or plant, excluding concrete cooling towers and masonry tar tanks	5
HEAVY CLAY INDUSTRY —	
See Clay Industries.	
ICE CREAM FACTORIES —	
See Creameries.	
ICE MANUFACTURE AND COLD STORES —	
Insulation	7½
Refrigerating machinery, i.e compressors, condensers, ice tanks, coolers, conduits, moulds, coils, travellers etc.	10
Lagging, belting, loose plant, utensils etc. will be dealt with on a renewals basis.	
LAUNDRIES —	
Machinery or plant generally	10
LIGHT METAL CASTINGS MANUFACTURE —	
Machinery or plant generally	10
MATCH MANUFACTURE —	
Lathes, wood-cutting and wax taper-making machinery, including taper drums	5
General machinery or plant, including match making, splint-levelling and cleaning, and box filling machines	7½

SCHEDULE — (continued)

	Percentage %
MILK BARS —	
Milk and ice cream refrigerating and delivery units	15
Carbonating plant, sterilising and washing plant and boilers	10
Other machinery or plant	7½
MINING —	
Dredges (tin mines)	12½
Transmission lines	10
General machinery or plant	10
NAIL MANUFACTURE —	
Machinery or plant generally	5
PAINT, COLOUR AND VARNISH MANUFACTURE —	
Storage tanks	5
General machinery or plant, including grinding machinery	7½
PAPER BAG MANUFACTURE —	
Machinery or plant generally	7½
PLANTATIONS —	
Machinery or plant generally	10
POTTERY MANUFACTURE —	
See Clay Industries.	
PRINTING —	
Printing and binding machines	7½
Type (subject to note)	10
Note : Normally type will be dealt with on a renewals basis.	
PRINTING —	
Printing and binding machines	7½
Type (subject to note)	10
Note — Normally type will be dealt with on a renewals basis.	
RIVET MANUFACTURE —	
See Bolt, Nut, Screw and Rivet Manufacture.	

[Subsidiary]

SCHEDULE — (continued)

Percentage %

SAW MILLING —

See Timber Merchants.

SHOE AND SLIPPER MANUFACTURE —

Manufacturing machinery (process plant) 10

TIMBER MERCHANTS, SAW MILLERS AND TIMBER GOODS
MANUFACTURE —

General saw-milling machinery or plant 7½

Traction engines and haulage plant 20

VARNISH MANUFACTURE —

See Paint.

WATER UNDERTAKINGS —

Cast iron mains } 3

Asbestos cement mains }

Steel mains 5

Meters 10

General machinery or plant 5

**B. RATES FOR PARTICULAR TYPES OF MACHINERY OR
PLANT NOT CONFINED TO SPECIFIC TRADES
PROFESSIONS OR BUSINESS**

ENGINES AND POWER PLANTS —

Steam and gas engines, boilers and shafting 5

Electric motors, dynamos and electrical plant, including transformers ... 7½

Internal combustion engines, excluding outboard engines 10

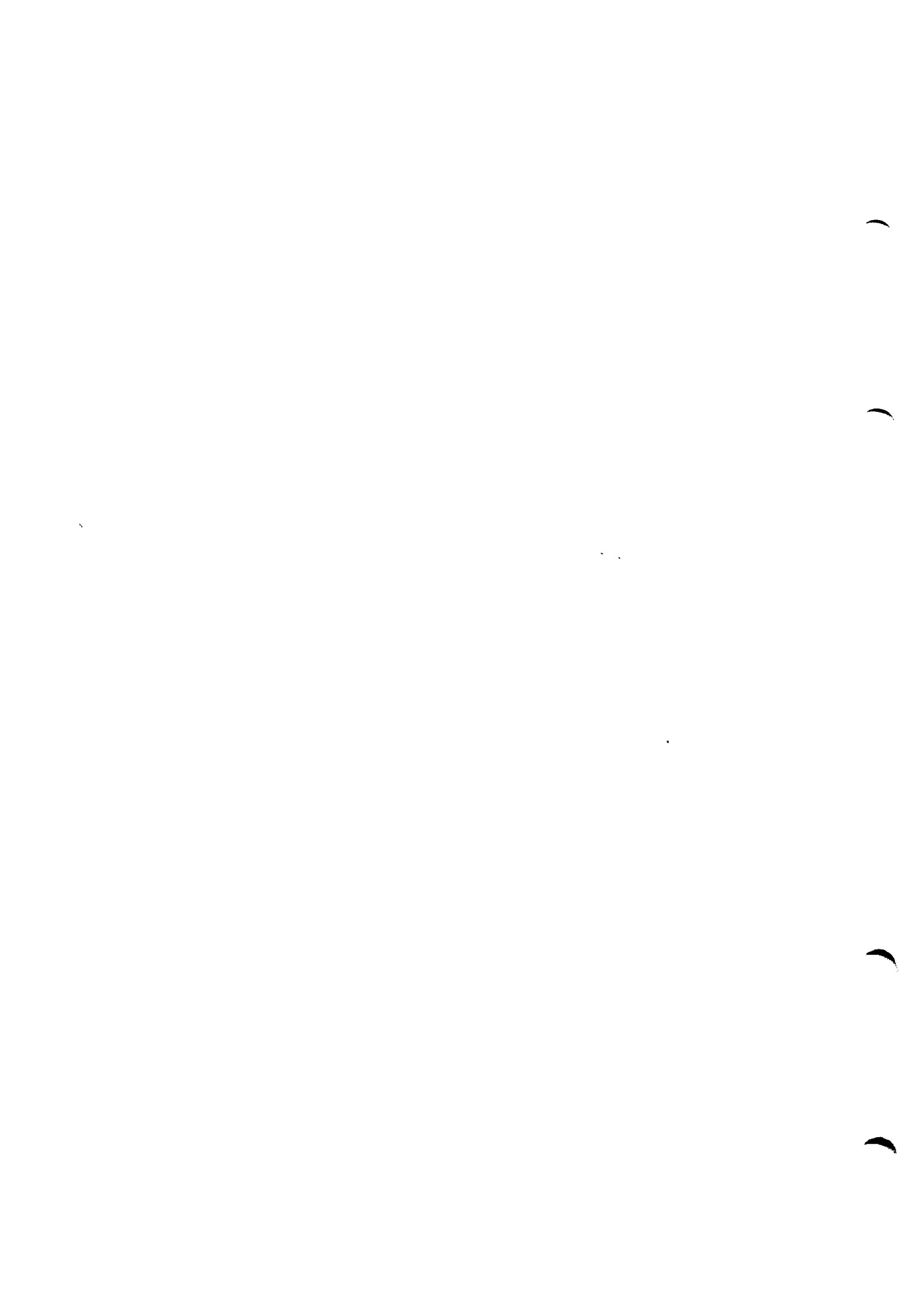
FURNACES —

Electric furnaces — All parts of the furnace, including transformers,
switchgears, high and low tension cable connections, furnaces,
tilting gear and regulators 12½Furnaces (other than electric furnaces) will be dealt with on a renewals
basis.

LIGHT RAILWAY AND TRAMWAY TRACKS AND WAGONS 10

SCHEDULE — (continued)

	Percentage %
MARINE VESSELS —	
Vessels propelled by steam or internal combustion engines, where such plant is fixed permanently to the vessels	5
Sailing and others	4
OFFICE EQUIPMENT —	
Typewriters, accounting machines and other similar office appliances.....	10
Furniture	5
PETROL PUMPS	7½
ROAD ROLLERS —	
Steam rollers	10
Diesel rollers	20
Petrol rollers	20
VEHICLES —	
Steam lorries and tractors (excluding caterpillar tractors)	15
Cars, vans, wagons, lorries, omnibuses and tractors (excluding caterpillar tractors) driven by internal combustion engines	20
Caterpillar tractors, excavators, bulldozers etc. (see also Road Rollers).	25
WELFARE EQUIPMENT —	
Canteen equipment and such items and wash basins, bath and lavatory pans, where these do not form a fixed part of any industrial building or structure or marine vessel	10



**INCOME TAX ACT
(CHAPTER 35)**

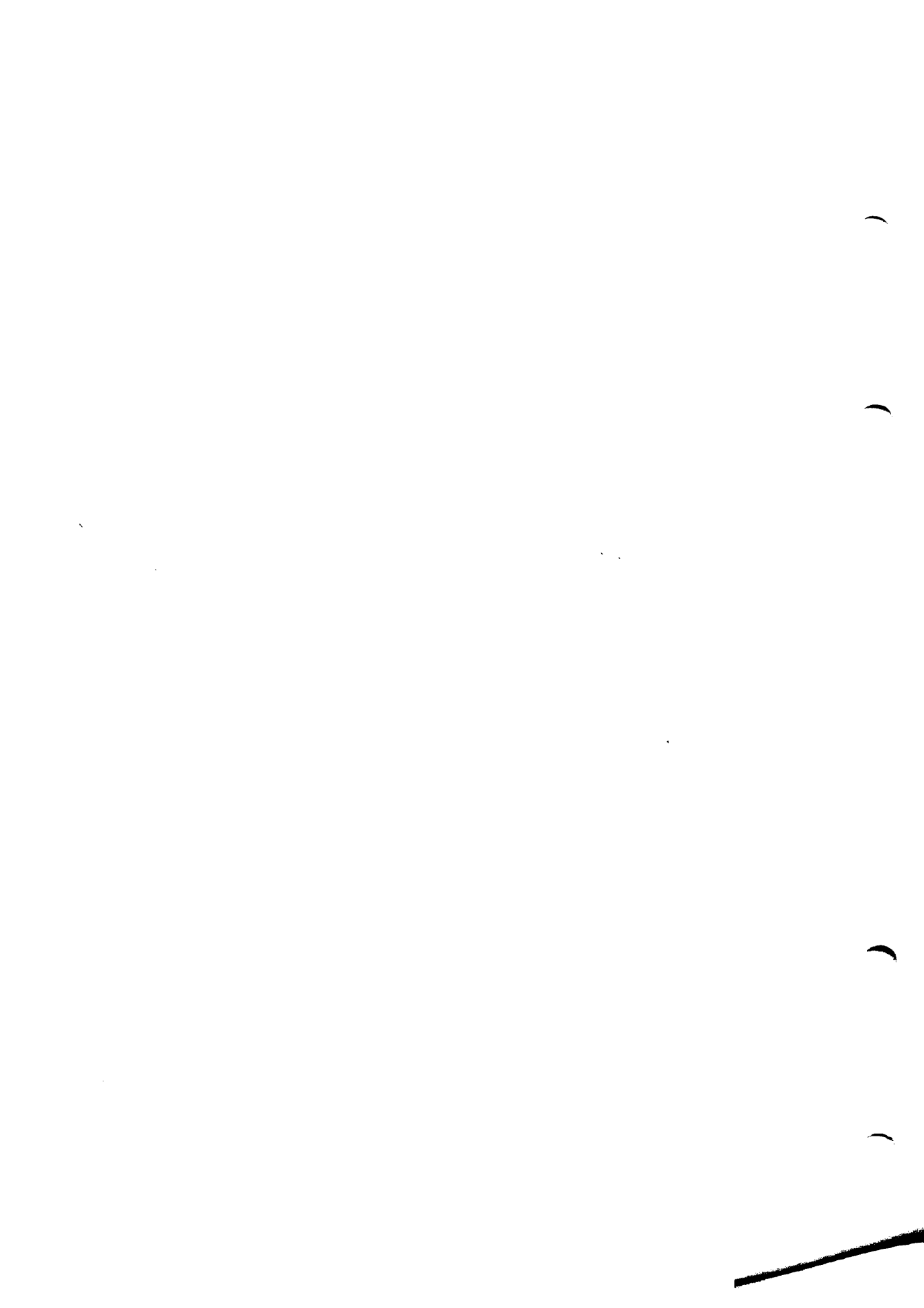
**INCOME TAX (DOUBLE TAXATION RELIEF)
(UNITED KINGDOM) ORDER**

**B.R.O.N. 20/51
R.E.S.L. 1956, page 233**

Amended by
S 309/68
S 54/74

REVISED EDITION 2003

(1st December 2003)



SUBSIDIARY LEGISLATION

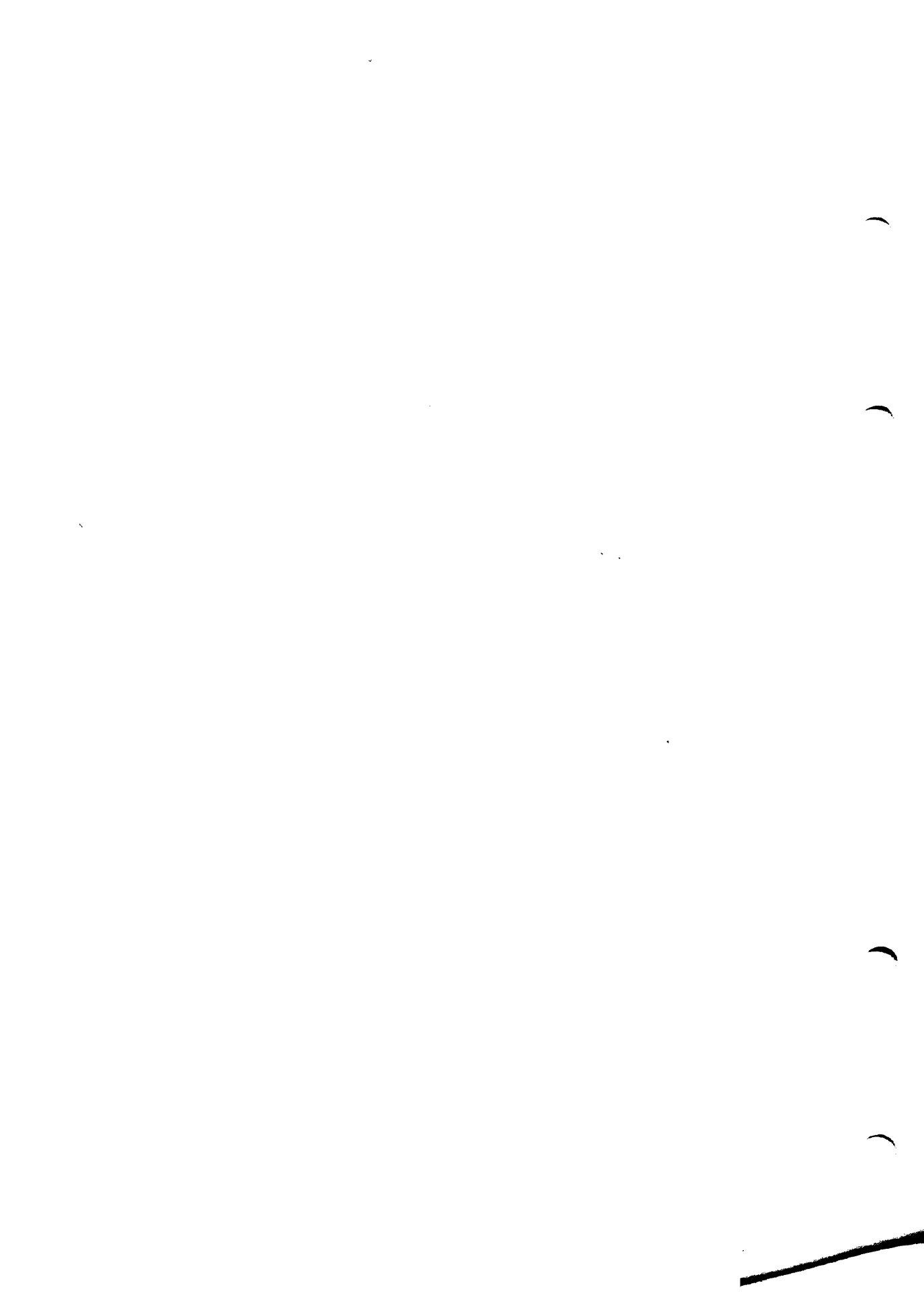
INCOME TAX (DOUBLE TAXATION RELIEF) (UNITED KINGDOM) ORDER

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation.
2. Arrangement affording relief from double taxation set out in Schedule.

SCHEDULE — ARRANGEMENT



SUBSIDIARY LEGISLATION

Order under section 41

INCOME TAX (DOUBLE TAXATION RELIEF)
(UNITED KINGDOM) ORDER

Commencement: 23rd January 1951

Citation.

1. This Order may be cited as the Income Tax (Double Taxation Relief) (United Kingdom) Order.

Arrangement affording relief from double taxation set out in Schedule.

2. It is hereby declared that the Arrangement set out in the Schedule to this Order has been made with Her Majesty's Government in the United Kingdom with a view to affording relief from double taxation in relation to income tax (as defined in such Arrangement), and that it is expedient that such Arrangement shall have effect.

SCHEDULE

ARRANGEMENT

1. (1) The taxes which are the subject of this Arrangement are —
 - (a) in the United Kingdom —

the income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom tax");
 - (b) in Brunei Darussalam —

the income tax (hereinafter referred to as "Brunei Darussalam tax").
- (2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Brunei Darussalam after this Arrangement has come into force.
2. (1) In this Arrangement, unless the context otherwise requires —
 - (a) the term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
 - (b) *(Omitted)*;
 - (c) the terms "one of the territories" and "the other territory" mean the United Kingdom or Brunei Darussalam, as the context requires;

SCHEDULE — (continued)

(d) the term “tax” means United Kingdom tax or Brunei Darussalam tax, as the context requires;

(e) the term “person” includes any body of persons, corporate or not corporate;

(f) the term “company” includes any body corporate;

(g) the terms “resident of the United Kingdom” and “resident of Brunei Darussalam” mean respectively any person who is resident in the United Kingdom for purposes of United Kingdom tax and not resident in Brunei Darussalam for the purposes of Brunei Darussalam tax and any person who is resident in the United Kingdom for the purposes of United Kingdom tax; and not resident in the United Kingdom for the purposes of United Kingdom tax; and a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Brunei Darussalam if its business is managed and controlled in Brunei Darussalam;

(h) the terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of the United Kingdom or a person who is a resident of Brunei Darussalam, as the context requires;

(i) the terms “United Kingdom enterprise” and “Brunei Darussalam enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Brunei Darussalam; and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a United Kingdom enterprise or a Brunei Darussalam enterprise, as the context requires;

(j) the term “industrial or commercial profits” includes rentals in respect of cinematograph films;

(k) the term “permanent establishment”, when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprises or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealing in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

SCHEDULE — (continued)

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the United Kingdom or Brunei Darussalam, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the United Kingdom, or, as the case may be, Brunei Darussalam, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Brunei Darussalam tax unless the enterprise is engaged in trade or business in Brunei Darussalam through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Brunei Darussalam, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Brunei Darussalam enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

SCHEDULE — (continued)

4. Where —

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory; and

(c) in either case conditions are made or imposed between the 2 enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

5. Notwithstanding the provisions of paragraphs 3 and 4 profits which a resident of one of the territories derive from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Brunei Darussalam may be taxed in Brunei Darussalam.

(b) Where a resident of Brunei Darussalam is entitled to a tax credit in respect of such a dividend under sub-paragraph (2) of this paragraph tax may also be charged in the United Kingdom and according to the laws of the United Kingdom, on the aggregate of the amount or value of that tax credit at a rate not exceeding 15 per cent.

(c) Except as aforesaid dividends paid by a company which is a resident of the United Kingdom to a resident of Brunei Darussalam who is subject to tax in Brunei Darussalam on them shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

[S 54/74]

(2) A resident of Brunei Darussalam who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (3) of this paragraph and provided he is subject to tax in Brunei Darussalam on the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

[S 54/74]

SCHEDULE — (continued)

(3) Sub-paragraph (2) of this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purpose of this sub-paragraph, 2 companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

[S 309/68; S 54/74]

(4) Dividends paid by a company resident in Brunei Darussalam to a resident of the United Kingdom may be taxed in the United Kingdom. If the recipient of the dividends is subject to tax in the United Kingdom in respect thereof they shall be exempt from any tax in Brunei Darussalam which is chargeable in respect of the profits or income of the company.

[S 54/74]

(5) The term “dividends” as used in this paragraph means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the territory of which the company making the distribution is a resident and also includes any other item (other than royalties exempt from tax under the provisions of the paragraph 7 of this Arrangement) which, under the law of the territory of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

[S 54/74]

(6) If the recipient of a dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid then sub-paragraphs (1) and (2) or as the case may be, sub-paragraph (4) of this paragraph shall not apply to the dividend to the extent it can have been paid only out of profits which the company paying the dividend earned or other income which is received in a period ending 12 months or more before the relevant date. For the purposes of this sub-paragraph the term “relevant date” means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question. Provided that this sub-paragraph shall not apply if the beneficial owner of the dividend shows that the shares were not primarily for the purpose of securing the benefit of this paragraph.

[S 54/74]

(7) The provisions of sub-paragraphs (1) and (2), or as the case may be, sub-paragraph (4) of this paragraph shall not apply where a resident of one of the territories has in the other territory a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment.

[S 54/74]

SCHEDULE — (continued)

(8) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

[S 54/74]

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources.

8. (1) Remuneration, including pensions, paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other territory if the individual is not ordinarily resident in that other territory or (where the remuneration is not a pension) is ordinarily resident in that other territory solely for the purpose of rendering those services.

(2) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

9. (1) An individual who is a resident of the United Kingdom shall be exempt from Brunei Darussalam tax on profits or remuneration in respect of personal (including professional) services performed within Brunei Darussalam in any year of assessment if —

(a) he is present within Brunei Darussalam for a period or periods not exceeding in the aggregate 183 days during that year; and

(b) the services are performed for or on behalf of person resident in the United Kingdom; and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Brunei Darussalam shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if —

SCHEDULE — (continued)

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year; and

(b) the services are performed for or on behalf of a person resident in Brunei Darussalam; and

(c) the profits or remuneration are subject to Brunei Darussalam tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension (other than a pension paid by the Government of Brunei Darussalam for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within Brunei Darussalam by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Brunei Darussalam tax.

(2) Any pension (other than a pension paid by the Government of the United Kingdom for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Brunei Darussalam and subject to United Kingdom tax in respect thereof, shall be exempt from United Kingdom tax.

(3) The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

11. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by person in the first-mentioned territory for the purposes of his maintenance, education or training.

12. (1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof) —

(a) Brunei Darussalam payable under the laws of Brunei Darussalam and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within Brunei Darussalam shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the Brunei Darussalam tax is computed:

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable;

SCHEDULE — (continued)

(b) where a company which is a resident of Brunei Darussalam pays a dividend to a company resident in the United Kingdom which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any Brunei Darussalam tax for which credit may be allowed under (a) of this sub-paragraph) the Brunei Darussalam tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

[S 309/68]

(2) Subject to the provisions of the laws of Brunei Darussalam regarding the allowance as a credit against Brunei Darussalam tax of tax payable in a territory outside Brunei Darussalam (which shall not effect the general principle hereof) —

(a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within the United Kingdom shall be allowed as a credit against any Brunei Darussalam tax computed by reference to the same profits or income by reference to which the United Kingdom tax is computed:

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable;

(b) where a company which is a resident of the United Kingdom pays a dividend to a company resident in Brunei Darussalam which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under (a) of this sub-paragraph) the United Kingdom tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

[S 309/68]

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

(4) Where Brunei Darussalam income tax is payable for a year for which this Arrangement has effect in respect of any income in respect of which United Kingdom income tax is payable for a year prior to the year beginning on the 6th April 1950, then —

(a) in the case of a person resident in Brunei Darussalam, the Brunei Darussalam income tax shall, for the purposes of sub-paragraph (2) of this paragraph, be deemed to be reduced by the amount of any relief allowable in respect thereof under the provisions of section 27 of the United Kingdom Finance Act, 1920; and

SCHEDULE — (continued)

(b) in the case of a person resident in the United Kingdom, the provisions of section 39 of the Brunei Darussalam Income Tax Act, shall apply for the purposes of the allowance of relief from the Brunei Darussalam tax.

13. (1) The taxation authorities of the United Kingdom and Brunei Darussalam shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term “taxation authorities” means the Commissioners of Inland Revenue or their authorised representative in the case of the United Kingdom and the Collector of Income Tax or his authorised representative in the case of Brunei Darussalam.

14. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Brunei Darussalam as are necessary to give the Arrangement the force of law in the United Kingdom and Brunei Darussalam respectively, and shall thereupon have effect —

(a) in the United Kingdom —

as respects income tax, for any year of assessment beginning on or after the 6th April 1950;

as respects sur-tax, for any year of assessment beginning on or after the 6th April 1949; and

as respects profits tax, in respect of the following profits —

- (i) profits arising in any chargeable accounting period beginning on or after the 1st April 1950;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Arrangement would be, chargeable for any year of assessment beginning on or after the 6th April 1950;

(b) in Brunei Darussalam —

as respects income tax, for the year of assessment beginning on the 1st day of January 1950, and subsequent years.

SCHEDULE — (continued)

15. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the 30th day of June in any calendar year after the year 1951, give notice of termination to the other Government and, in such event, this Arrangement shall cease to be effective —

(a) in the United Kingdom —

as respects income tax, for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects sur-tax, for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax, in respect of the following profits —

- (i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after the date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in that next following calendar year;

(b) in Brunei Darussalam —

as respects income tax, for any year of assessment beginning on or after the 1st day of January in the calendar year next following that in which such notice is given.

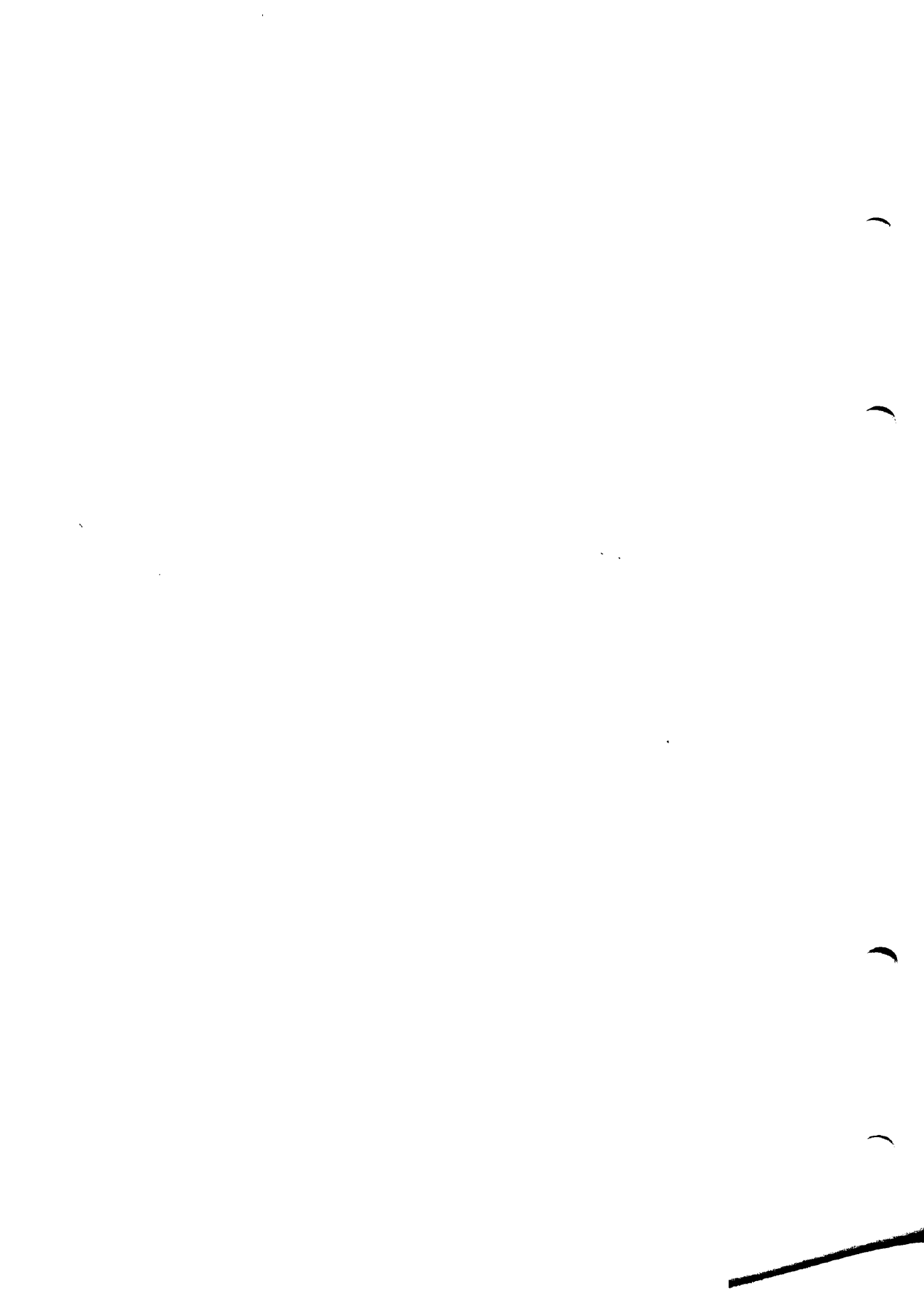
INCOME TAX ACT
(CHAPTER 35)
INCOME TAX (DEVELOPMENT OF MINERAL
RESOURCES) (ENCOURAGEMENT) ORDER

G.N. S 46/55
S 43/58

REVISED EDITION 2003

(1st December 2003)

B.L.R.O. 3/2003



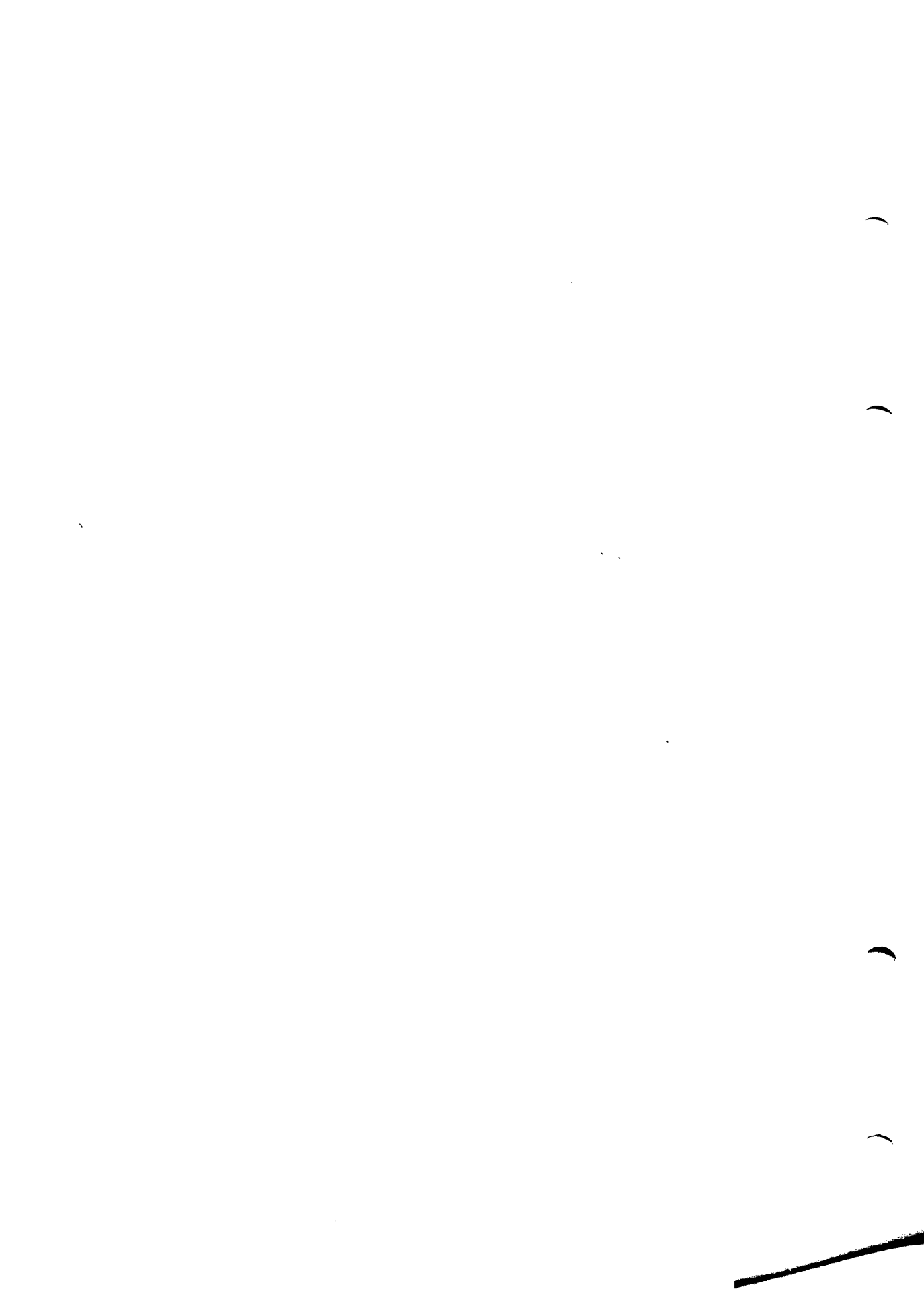
SUBSIDIARY LEGISLATION

**INCOME TAX (DEVELOPMENT OF MINERAL RESOURCES)
(ENCOURAGEMENT) ORDER**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation.
 2. Application and relation back.
 3. Interpretation.
 4. Annual allowance under section 13(2)(a).
 5. Investment allowances under section 13.
 6. Investment allowances under section 16.
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SUBSIDIARY LEGISLATION

Order under section 86

INCOME TAX (DEVELOPMENT OF MINERAL RESOURCES)
(ENCOURAGEMENT) ORDER

Commencement: 1st October 1954

Citation.

1. This Order may be cited as the Income Tax (Development of Mineral Resources) (Encouragement) Order.

Application and relation back.

2. (1) This Order shall apply to persons and to the income of persons carrying on in Brunei Darussalam the working of a mine, oil well or other source of mineral deposits of a wasting nature.

(2) This Order shall relate back to the 1st day of October 1954, and no claim for any allowance allowed under the provisions hereof shall be made in respect of any expenditure incurred before such date.

Interpretation.

3. In this Order —

“Act” means the Income Tax Act (Chapter 35);

“encouraged undertaking” means the undertaking of working a mine, oil well or other source of mineral deposit of a wasting nature;

“new” in relation to machinery and plant means unused and not secondhand.

“source” means source of mineral deposits of a wasting nature.

Annual allowance under section 13(2)(a).

4. Notwithstanding the provisions of subsection (2) of section 2 where on or after the 1st day of October 1954, a person carrying on an encouraged undertaking is entitled to an annual allowance under paragraph (a) of subsection (2) of section 13 of the Act in respect of any building or structure in use for the purpose referred to in paragraph (g) of subsection (1) of section 15 thereof and provided by such person for the welfare of workers employed in such undertaking the allowance shall be equal to one-tenth instead of one-fiftieth:

Provided that the aggregate of the annual allowances granted before and after the 1st day of October 1954, shall in no case exceed 100 per cent of the expenditure in respect of which the allowances are granted.

[Subsidiary]

Investment allowances under section 13.

5. Where a person carrying on an encouraged undertaking incurs capital expenditure on new assets an investment allowance equal to one-tenth of the expenditure shall be made instead of an initial allowance under section 13 of the Act in respect of expenditure on the construction of a building or structure which is to be an industrial building or structure, and any provision of the Act applicable to initial allowances under section 13 thereof shall apply instead to investment allowances under this section, except that the amount of an investment allowance shall not be taken into account under subsection (4) of section 14 of the Act in ascertaining the maximum amount on which a balancing charge may be made, or under paragraph (b) of subsection (3) of section 15 of the Act in ascertaining the residue of expenditure.

Investment allowances under section 16.

6. Where a person carrying on an encouraged undertaking incurs capital expenditure on new assets an investment allowance equal to one-fifth of the expenditure shall be made instead of an initial allowance under section 16 of the Act in respect of expenditure on the provision of new machinery or plant and any provision of the Act applicable to initial allowances under sections 16 and 17 thereof so far as it is applicable in relation to allowances for new assets, shall apply also to investment allowances under this section, except that the references to initial allowances in section 16(2) and in section 17(4) of the Act shall not apply:

Provided that no investment allowance shall be made under this section in respect of expenditure incurred on the provision of road vehicles (unless they are of a type not commonly used as private vehicles and unsuitable to be so used or are provided wholly or mainly for hire to or for the carriage of members of the public in the ordinary course of a trade).

Investment allowances under Third Schedule.

7. An investment allowance shall be made instead of an initial allowance under the Third Schedule of the Act, in respect of expenditure to which that Schedule applies on the construction of works, and any provision of the said Act applicable to initial allowances under that Schedule shall apply also to investment allowances under this section, except that —

(a) the amount of an investment allowance shall be one-fifth of the expenditure in respect of which it is made; and

(b) investment allowances shall not be taken into account in paragraph 3 or 4 of that Schedule in ascertaining the residue of the expenditure.

Necessity for Certificate in making claim for investment allowance.

8. A claim for an investment allowance shall have annexed to it a certificate stating that the expenditure was incurred on new assets and giving such particulars of the purposes for

which they are to be used as show that an investment allowance falls to be made; and the certificate shall be signed by the claimant and shall be deemed to form part of the claim.

Withholding and withdrawal of allowance.

9. (1) If, in the case of any expenditure referred to in the foregoing sections any such event as is mentioned in subsection (2) occurs within the relevant period, no investment allowance shall be made in respect of the expenditure or, if an allowance has been made before the occurrence of the event, it shall be withdrawn.

(2) The events referred to in the foregoing subsection (1) are —

(a) any sale of the property representing the expenditure made by the person carrying on an encouraged undertaking or his associate where the buyer is a person not resident in Brunei Darussalam and not buying the property for a chargeable purpose or for scrap;

(b) any change of residence of such person or his associate whereby the purpose to which the property representing the expenditure is for the time being appropriated ceases to be a chargeable purpose;

(c) any appropriation of the property representing the expenditure made by such person or his associate to a purpose other than a qualifying purpose;

(d) any sale or transfer of the property representing the expenditure made by such person or his associate otherwise than to a person acquiring the property for a qualifying purpose where it appears with respect to the sale or transfer that it is one in contemplation of which the expenditure was incurred;

(e) any sale, transfer or other dealing with the property representing the expenditure by such person or his associate being a case where it appears either —

(i) that the expenditure was incurred in contemplation of the property being so dealt with or;

(ii) that the sole or main benefit which accrued from the incurring of the expenditure and the property being so dealt with was or derived from the investment and other allowances in respect of the property;

(f) where, in the case of a road vehicle the qualifying purpose requires it to be used wholly or mainly for hire to or the carriage of members of the public, any sale or transfer of the vehicle not made to a person acquiring it for a qualifying purpose or as scrap, and any appropriation of it to a purpose other than a qualifying purpose, and not being a case where it is shown either that the purpose of obtaining tax allowances was not the sole or main purpose of incurring the expenditure or of the property being so dealt with, or that the incurring of the expenditure and the dealing with the property in such manner were *bona fide* business transactions and were not designed for the purpose of obtaining tax allowances;

[Subsidiary]

(3) The relevant period in relation to any such event as aforesaid shall be 3 years, except that in relation to a sale or transfer falling within paragraph (d), or a sale, transfer or other dealing falling within paragraph (e) of subsection (2) the relevant period shall be 5 years.

(4) Where an investment allowance in respect of any expenditure is withheld or withdrawn under this section otherwise than by reason of a sale or transfer such initial allowance (if any) as might have been made in respect of that expenditure but for this order shall be made.

Duty to keep Collector informed of sale and other matters whereby allowances may be withdrawn.

10. (1) Where an investment allowance has been made on any expenditure incurred and has not been withdrawn the person to whom such allowance has been made shall give notice to the Collector, if to his knowledge any of the following events occurs at any time before the expiration of 3 years beginning with the date when the expenditure was incurred, that is to say —

(a) the property in respect of which it is incurred is sold by him or his associate to a person not resident in Brunei Darussalam or the property being situated outside Brunei Darussalam is sold by him or his associate to any person;

(b) the property is appropriated by him or his associate to a purpose other than a qualifying purpose; or

(c) where the property is a road vehicle, there is any sale, transfer or appropriation of it which falls within paragraph (f) of subsection (2) of section 9.

(2) Any notice of a sale or transfer given under subsection (1) shall state the name and address of the person to whom the sale or transfer is made.

(3) Every person carrying on an encouraged undertaking shall give to the Collector all such information as he may require, and as such person has or can reasonably obtain, about any sale or transfer of the property representing the expenditure or about any other dealing with the property.

(4) Any person who without reasonable cause fails to comply with any of the provisions of this section shall be liable to a penalty equal to \$200 plus 3 times the amount of the investment allowance made in respect of the expenditure in question.

Additional assessment and adjustment upon withdrawal of investment allowance.

11. All such additional assessment and adjustments of assessment shall be made as may be necessary for or in consequence of the withdrawal of an investment allowance or the substitution thereof of an initial allowance under this paragraph, and may be so made at any time.

Interpretation.

12. For the purpose of sections 9, 10 and 11 —

(a) “chargeable purpose” means the purpose of putting the property to a use such that profits or income accrue or are intended to accrue therefrom and will be chargeable to tax;

(b) “qualifying purpose” means the purpose of putting the property to such a use as aforesaid, not being a use such that, if the property was or had been intended for that use when the expenditure was incurred no investment allowance should have been made in respect of the expenditure;

(c) an act shall be deemed to be done by an associate of a person if it is done by a person who is at the time of the act under the control of the person first-mentioned or if it is done by a person to whom the property was transferred by such first-mentioned person or his associate and it appears that the transfer was made in contemplation of the act being done.

Aborative exploration allowance.

13. (1) Subject to the provisions of this section where the person carrying on an encouraged undertaking incurs expenditure in connection with that undertaking on searching for, or on discovering and testing, the mineral deposits of any source or winning access thereto but gives up the search, exploration or inquiry upon which the expenditure is incurred without having carried on any undertaking which consists of or includes the working of the source in question, then in computing for the purposes of income tax the profits or gains or losses of the undertaking in connection with which the expenditure is incurred there shall be allowed a deduction of an amount equal to the amount of that expenditure as if it were expenses incurred for the purpose of the undertaking at the time when he gives up the search, exploration or inquiry.

(2) This shall not apply —

(a) to expenditure incurred before the 1st day of October 1954; or

(b) to expenditure incurred which is, apart from this section, allowed to be deducted in computing, for the purpose of income tax, the profits or gains of that undertaking; or

(c) to any other expenditure incurred by a person in connection with a source, unless it would have been expenditure to which the Third Schedule to the Act applied if he had begun working the source in the course of his undertaking at the time when he gives up the search, exploration or inquiry.

(3) The foregoing provisions of this section shall not affect the right to any deduction or allowance under any other provision of the Act but a person shall not be entitled to a deduction or allowance in respect of the same expenditure both under this section and under some other provision of the Act.

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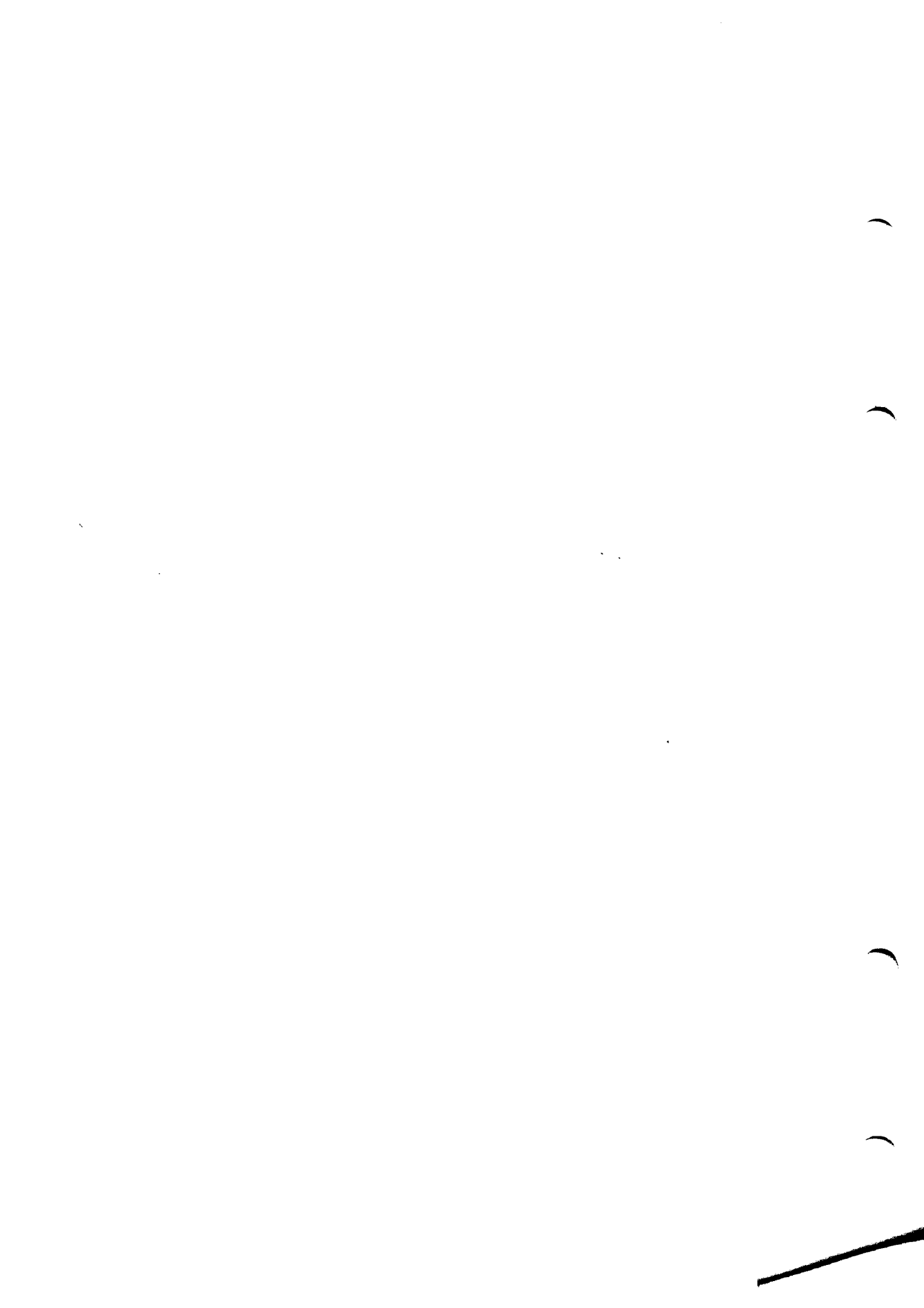
**INCOME TAX ACT
(CHAPTER 35)
DETERMINATION OF RATE OF TAX**

S 24/87

REVISED EDITION 2003

(1st December 2003)

B.I.R.O. 3/2003



SUBSIDIARY LEGISLATION
DETERMINATION OF RATE OF TAX
(Pursuant to section 35A)

Commencement: 14th January 1987

The Minister of Finance has determined that until further notice there is to be levied and paid in respect of each consecutive basis period after 31st December 1985 tax (in lieu of that which would otherwise be applicable under section 35 of the Act) at the rate of 50 per cent on every dollar of the chargeable income of all such companies to which section 35A of the Act applies.

