

CHAPTER 80

OFFSHORE PETROLEUM (TAXATION)

Arrangement of Sections

SECTION

PART I

Preliminary

1. Short title.
2. Application of this Act.
3. Interpretation.

PART II

Offshore Petroleum Income Tax

4. Imposition of offshore petroleum income tax.
5. Rate of offshore petroleum income tax.

PART III

Taxable Income and Allowable Loss

6. Taxable income and allowable loss.

PART IV

Assessable Income

7. Assessable income from disposal of petroleum etc.
8. Miscellaneous assessable income.

SECTION

PART V

Allowable Deductions

9. Allowable deductions.
10. Allowable deductions in respect of certain assignments and sales.
11. Allowable losses carried forward.
12. Development and exploration expenditure.
13. Allowable deduction in respect of bad debt.
14. Limitation on allowable deduction.
15. Operation of division in relation to expenditure incurred inside or outside the Island.
16. Apportionment of expenses.
17. Double deductions.
18. Transactions not at arm's length.
19. Assignment and sales between related companies.
20. Method of calculation of the income tax and profits tax.

PART VI

Offshore Petroleum Additional Profits Tax

21. Imposition of offshore petroleum additional profits tax.
22. Requirement to maintain proper records and books of accounts.
23. Payment of offshore petroleum additional profits tax.

SECTION

PART VII

Other Financial Incentives

24. Exemption from customs duty.
25. Relief from value added tax.

PART VIII

Application of Income Tax Act

26. Application of *Income Tax Act*.
27. Exemption from Income Tax.

PART IX

Miscellaneous

28. Regulations.
29. Consequential amendments.
30. Act binds Crown.
31. Commencement.

SCHEDULE

CHAPTER 80**OFFSHORE PETROLEUM (TAXATION)**

An Act to make provision for the imposition of 2007-31.

(a) *an Offshore Petroleum Income Tax; and*

(b) *an Offshore Petroleum Additional Profits Tax*

on persons engaged in offshore activities associated with the search for, and recovery of, petroleum, and for related matters.

[By Proclamation] Commence-
ment.

PART I*Preliminary*

1. This Act may be cited as the *Offshore Petroleum (Taxation) Act*. Short title.

2. (1) This Act applies to activities for, and associated with, the search for, and recovery of, petroleum undertaken Application of this Act.

(a) in the territorial waters;

(b) in the exclusive economic zone; and

(c) on the continental shelf

of Barbados.

(2) Section 3 of the *Petroleum Winning Operations Taxation Act* Cap. 82. shall apply in respect of the assessment and collection of the taxes imposed by this Act.

Interpreta-
tion.
Cap. 282A.

3. (1) This Act shall be read as one with the *Offshore Petroleum Act* and accordingly, unless a contrary intention appears, words and expressions defined in that Act and used in this Act shall have the same meaning in this Act.

(2) In this Act,

"allowable deduction" means a deduction allowable under Part V;

"allowable loss" means the loss ascertained in accordance with section 6(2);

"assessable income" means income calculated in accordance with Part IV;

"chargeable petroleum" has the meaning specified in section 7(2);

"Commissioner" means the Commissioner of Inland Revenue;

"consideration" means any consideration, whether in money or in money's worth;

"development expenditure" means expenditure of a capital nature necessarily incurred by the licensee in order to purchase or construct the structures, equipment and other property required to recover petroleum in the licence area;

Cap. 308.

"holding company" has the meaning assigned to it by section 442 of the *Companies Act*;

Cap. 73.

"income year" has the meaning assigned to it by section 85 of the *Income Tax Act*;

"licensee" means the licensee of a production licence;

"NYMEX exchange" means the New York Mineral Exchange;

"offshore petroleum additional profits tax" or "profits tax" means the tax imposed in accordance with section 21;

"offshore petroleum income tax" or "income tax" means the income tax imposed in accordance with section 4;

"petroleum information" means geological, geophysical, geochemical, palaeontological or technical information that relates to the presence, absence or extent of deposits of petroleum and is likely to be of assistance in determining the presence, absence or extent of any such deposits;

"petroleum operations" means operations which the licensee is authorised to carry out in accordance with the production licence;

"relevant exploration expenditure" means

- (a) expenditure incurred by the licensee in carrying out exploration and reconnaissance activities before the grant of the production licence, in so far as those activities
 - (i) were authorised by an exploration licence; and
 - (ii) led to the discovery of the petroleum field in respect of which the production licence was granted;
- (b) where the exploration licence mentioned in paragraph (a) was not granted to the licensee, any consideration paid by the licensee to acquire an interest in the licence;
- (c) expenditure incurred by the licensee in carrying out exploration and reconnaissance activities under the authorisation of the production licence;
- (d) any area fees imposed in accordance with the *Offshore Petroleum Act* and paid by the licensee before the grant of the production licence; Cap. 282A.
- (e) expenditure incurred by the licensee before the grant of the production licence in purchasing petroleum information in so far as that information led to the discovery in respect of which the production licence was granted;

"sale at arm's length" has the meaning specified in section 7(6);

s.4

"signature bonus" means a bonus offered and paid by a licensee pursuant to a call for tenders or a call for negotiations to secure a licence;

Cap. 308. "subsidiary company" has the meaning assigned to it by section 442 of the *Companies Act*;

"taxable income" means assessable income less allowable deductions.

(3) For the purposes of this Act, persons are associated with each other if

(a) one has, directly or indirectly, an interest in a business in which the other has, directly or indirectly, an interest; or

(b) a third person has, directly or indirectly, both an interest in a business of one and an interest in a business of the other.

Cap.282A. (4) For the purposes of this Act, the market value of petroleum shall be determined in accordance with section 51 of the *Offshore Petroleum Act*.

PART II

Offshore Petroleum Income Tax

Imposition of offshore petroleum income tax. **4.** (1) There is imposed an income tax, called an "offshore petroleum income tax" or "income tax", payable by a licensee in accordance with this Act.

(2) The income tax referred to in subsection (1)

(a) is payable on the taxable income accruing to the licensee during an income year from petroleum operations; and

(b) shall be calculated separately for each production licence.

5. (1) The income tax is payable at the rate equal to 25% of the taxable income of the licensee in any income year.

Rate of offshore petroleum income tax.

(2) Notwithstanding subsection (1), where at the time that the licensee was granted

- (a) the exploration licence under which the licensee made the discovery which led to the grant of the production licence of the licensee; or
- (b) a production licence pursuant to a call for tenders or a call for negotiations,

a rate different from that specified in subsection (1) was applicable in respect of the taxable income accruing to a licensee under a production licence, the licensee shall pay income tax at the rate that was applicable at the time that the licensee was granted

- (i) the exploration licence; or
- (ii) the production licence pursuant to the call for tenders or call for negotiations.

PART III

Taxable Income and Allowable Loss

6. (1) Where in an income year the assessable income of a licensee is greater than the allowable deductions of the licensee, the difference is the taxable income of the licensee for that year; and the licensee shall pay the income tax calculated in accordance with this Act on that taxable income.

Taxable income and allowable loss.

(2) Where in an income year the assessable income of a licensee is less than the allowable deductions of the licensee, the difference is the allowable loss of the licensee for that year.

PART IV

Assessable Income

Assessable
income
from
disposal of
petroleum
etc.

7. (1) The assessable income of a licensee in an income year from petroleum operations carried out in respect of the licence area includes

- (a) the market value of the chargeable petroleum of the licensee
 - (i) disposed of by the licensee in sales at arm's length and delivered by the licensee in the income year;
 - (ii) disposed of by the licensee otherwise than in sales at arm's length and delivered by the licensee in the income year;
 - (iii) that was appropriated by the licensee in the income year to refining or other processing without being disposed of; and
- (b) any amount received by the licensee under a policy of insurance or otherwise in respect of any loss or destruction of any of the chargeable petroleum of the licensee in the income year.

(2) Subject to subsection (4), the "chargeable petroleum of a licensee" means,

- (a) where the licensee is the sole licensee during any period, the petroleum recovered from the licence area during that period; and
- (b) where there are 2 or more licensees during any period, the licensee's share, as determined in accordance with subsection (3), of the petroleum recovered from the licence area during that period.

(3) The licensee's share referred to in subsection (2) is as follows:

- (a) where an agreement between licensees that provides for the division of the petroleum recovered under the authority of the production licence has been deposited with the Commissioner, the licensee's share as calculated in accordance with that agreement; or
- (b) in any other case, a share proportionate to the licensee's share in the production licence and the period of the income year during which the licensee held that share.

(4) The chargeable petroleum of a licensee does not include petroleum delivered by the licensee pursuant to the *Offshore Petroleum Act* in discharge of a liability to pay royalty. Cap.282A.

(5) Where the property in all or a part of the chargeable petroleum of the licensee is owned by or transferred to another person at any time before delivery by the licensee,

- (a) the petroleum is to be treated as having been owned and disposed of by the licensee otherwise than in a sale at arm's length; and
- (b) when the petroleum is delivered to its owner or on the order of its owner, the delivery shall be regarded for the purposes of this section as a delivery by the licensee, as the owner at the time, of the chargeable petroleum.

(6) A sale of petroleum is a sale at arm's length for the purposes of this section only where

- (a) the contract price is the sole consideration for the sale;

- (b) the terms of the sale are not affected by a commercial relationship, other than that created by the contract of sale, between the seller or any other person associated with the seller and the buyer or a person associated with the buyer; and
- (c) neither the seller nor a person associated with the seller has, directly or indirectly, an interest in the subsequent resale or disposal of the petroleum or a product derived from the petroleum.

Miscellaneous assessable income.

8. (1) The assessable income accruing to a licensee in an income year from petroleum operations carried out in respect of the licence area includes any consideration received or receivable by the licensee during that income year

- (a) from the assignment of the whole or a part of the interest of the licensee in the production licence;
- (b) from the sale of petroleum information relating to the licence area;
- (c) from the sale of any structures, equipment and other property used or occupied by the licensee to carry on production activities;
- (d) by way of insurance or indemnity for a loss of income that would have been assessable income in respect of the licence area if the loss had not occurred;
- (e) by way of insurance, indemnity, recoupment, refund, recovery or reimbursement in respect of expenditure that was an allowable deduction in a previous income year;
- (f) from any other amount that accrues to the licensee in that income year as income from the carrying out of petroleum operations in the licence area; and

-
- (g) from any amount that is regarded as assessable income of the licensee in that income year by virtue of the provisions of this Act.
- (2) Notwithstanding paragraph (a) of subsection (1), where
- (a) in an income year a person carries out work in a licence area on behalf of the licensee; and
- (b) the whole or a part of the consideration for the person carrying out that work is the assignment to the person of the whole or a part of the interest of the licensee,

the value of the work is not assessable income of the licensee for that or any other income year.

- (3) An assignment is not an assignment for the purposes of paragraph (a) of subsection (1) where
- (a) the assignment is of the whole or a part of the interest of the licensee;
- (b) the assignment is by way of charge or as security for a loan; and
- (c) the expenditure in relation to the assignment is an allowable deduction under paragraph (j) of section 9(2).
- (4) Paragraph (a) or (b) of subsection (1) does not apply if section 19 applies to an assignment or a sale.

PART V

Allowable Deductions

9. (1) Subject to the provisions of this Part, expenditure of the type mentioned in subsection (2) by a licensee in an income year, whether it is incurred inside or outside Barbados, is an allowable deduction of the licensee for that income year. Allowable deductions.

- (2) The expenditure referred to in subsection (1) is as follows:
- (a) relevant exploration expenditure;
 - (b) development expenditure;
 - (c) expenditure not otherwise mentioned but necessarily incurred in carrying out petroleum operations;
 - (d) expenditure necessarily incurred to maintain in good order and repair all structures, equipment and other property used in connection with the petroleum operations of the licensee;
 - (e) expenditure necessarily incurred to remove from the licence area all structures, equipment and other property of the licensee that are no longer required in connection with the licensee's petroleum operations;
 - (f) expenditure necessarily incurred as rent for land and buildings occupied by the licensee to carry on petroleum operations;
 - Cap. 282A. (g) any area fee paid in accordance with the *Offshore Petroleum Act*;
 - (h) expenditure necessarily incurred by way of duty, levy or tax paid on the importation of plant, storage tanks, pipelines, tools, machinery or other equipment essential for carrying on the licensee's petroleum operations;
 - Cap. 282A. (i) expenditure incurred by the licensee as contributions to a fund or scheme that provides benefits for the employees of the licensee employed to carry on the petroleum operations of the licensee in so far as the making of the contribution is required under any legislation or is consistent with the *Offshore Petroleum Act*;

-
- (j) expenditure incurred by the licensee in respect of interest on, or in borrowing or obtaining a loan or other form of credit necessarily obtained to allow the licensee to carry on the petroleum operations of the licensee;
- (k) any royalty paid in accordance with the *Offshore Petroleum Act*; Cap. 282A.
- (l) expenditure incurred by way of insurance premiums in respect of
- (i) the structures, equipment and other property used or occupied by the licensee to carry on production activities;
 - (ii) liability to third parties, including employees, in respect of its production activities;
 - (iii) liability to make good any damage caused to the environment arising from the production activities of the licensee; and
 - (iv) any other insurance required under the provisions of the *Offshore Petroleum Act*; Cap. 282A.
- (m) expenditure necessarily associated with the provision of any employment training programme for residents of Barbados provided in accordance with the *Offshore Petroleum Act*; Cap. 282A.
- (n) expenditure incurred by the licensee by way of payments to the Decommissioning Fund established in respect of the petroleum operations of the licensee;
- (o) expenditure incurred by the licensee in carrying out work required by the Decommissioning Plan approved by the Designated Authority in respect of the petroleum operations of the licensee in so far as that work is not paid for, directly or indirectly, by money made available from the Decommissioning Fund; and
- (p) signature bonus.

Allowable deductions in respect of certain assignments and sales.

- 10.** Subject to section 19, the consideration paid by a person for
- (a) the assignment to the person of an interest in a production licence; or
 - (b) the sale to the person of petroleum information,

is, on the person becoming a licensee, an allowable deduction of the licensee.

Allowable losses carried forward.

- 11.** The allowable deductions of a licensee for an income year include any allowable loss of the licensee for the previous income year but an allowable loss for an income year may only be included in the allowable deductions of the licensee for a maximum of 5 years from the time the allowable loss was incurred.

Development and exploration expenditure.

- 12.** (1) Any relevant exploration expenditure or development expenditure of the licensee incurred before the first production year shall be deemed for the purposes of section 9 to have been incurred in the first production year.

(2) Notwithstanding paragraph (b) of section 9(2), only one fifth of any development expenditure is an allowable deduction in the income year in which it is incurred, or deemed to have been incurred, the remaining four fifths shall be an allowable deduction over the subsequent 4 income years, where one fifth shall be an allowable deduction in each of the subsequent 4 income years.

(3) Notwithstanding paragraph (p) of section 9(2), only one fifth of any signature bonus is an allowable deduction in the income year in which it is incurred or is to be taken to have been incurred, the remaining four fifths shall be an allowable deduction over the subsequent 4 income years, where one fifth shall be an allowable deduction in each of the subsequent 4 income years.

(4) In this section, "first production year", in respect of the licensee, means the first income year in which assessable income accrues to the licensee.

13. Where

- (a) in an income year, an amount has been treated as assessable income of a licensee; and
- (b) in a subsequent income year, the licensee writes off the amount as a bad debt,

Allowable deduction in respect of bad debt.

the amount written off is an allowable deduction of the licensee for the income year in which it is written off.

14. (1) Expenditure of the type mentioned in subsection (2) by a licensee in an income year, whether it is incurred inside or outside Barbados, is not an allowable deduction of the licensee for that income year.

Limitation on allowable deduction.

- (2) The expenditure referred to in subsection (1) is expenditure
 - (a) by way of capital withdrawn from the petroleum operations or from a sum employed or intended to be employed as capital in connection with those operations;
 - (b) incurred in respect of a pecuniary obligation incurred in obtaining a loan or any other form of credit if the expenditure is not an allowable deduction under paragraph (j) of section 9(2);
 - (c) incurred in the acquisition of land or an interest in land if the expenditure is not part of an allowable deduction under section 10;
 - (d) wholly or partly depending on or determined by reference to the quantity, value or proceeds of or the profits from petroleum recovered from the licence area under the authority of the production licence if the expenditure is not an allowable deduction under paragraph (k) of section 9(2);

- (e) incurred to obtain a direct or indirect interest in petroleum recovered from the licence area under the authority of the production licence if the expenditure is not part of an allowable deduction under section 10;
- (f) on improvements as distinct from repairs;
- (g) in the form of rent for land or buildings if the expenditure is not an allowable deduction under paragraph (f) or (g) of section 9(2);
- (h) in the form of a contribution to a fund or scheme that provides for the benefit of employees where the expenditure is not an allowable expenditure under paragraph (i) of section 9(2);
- (i) incurred to produce income that is not assessable income; or
- (j) by way of a payment in respect of a tax charged under this Act, or in respect of income tax, a profits tax or a tax similar to any of those taxes charged in Barbados or elsewhere.

(3) Except as provided by sections 9, 10, and 12(1) and (2), expenditure incurred by a person before becoming a licensee is not an allowable deduction.

Operation of
division in
relation to
expenditure
incurred
inside or
outside the
Island.

15. (1) This section applies to expenditure incurred by a licensee outside Barbados in administering the business of the licensee, including expenditure in respect of rent, overheads and general administration expenses, where the expenditure would otherwise be an allowable deduction.

(2) The expenditure referred to in subsection (1) is not an allowable deduction except to the extent that the Commissioner considers the expenditure to be reasonably attributable to the petroleum operations carried on in respect of the licence area.

16. (1) Where there are 2 or more licensees in respect of a production licence, the licensees may lodge with the Commissioner an agreement that provides how expenditure incurred by them is to be apportioned. Apportionment of expenses.

(2) The right of each licensee referred to in subsection (1) to an allowable deduction shall be determined in accordance with the agreement referred to in subsection (1).

(3) Where a party to an agreement referred to in subsection (1) cancels the agreement, that party shall send to the Commissioner, after notifying the other parties to the agreement of the cancellation, a written notice signed by the party stating that the agreement is cancelled.

(4) An agreement referred to in subsection (1) has effect in respect of the income year in which it is lodged with the Commissioner but does not have effect in respect of the income year in which it is cancelled.

(5) In the absence of an agreement referred to in this section and of any indication from the licensees concerned of how expenditure incurred by 2 or more of them jointly is to be apportioned between them, the expenditure shall be apportioned by the Commissioner having regard to the facts available to the Commissioner at that time.

17. (1) Expenditure that is an allowable deduction under more than one provision of this Part is not to be taken into account more than once in calculating the taxable income of a licensee. Double deductions.

(2) Expenditure taken into account in calculating the taxable income of a licensee in an income year is not to be taken into account in calculating the taxable income of the licensee in any other income year or in calculating the taxable income of any other licensee in any income year.

Transactions
not at arm's
length.

18. (1) This section applies if under an agreement or arrangement a licensee incurs expenditure that would be an allowable deduction of the licensee where the Commissioner is satisfied that

- (a) the licensee and the other party to the agreement or arrangement were associated with each other and that as a result they were not dealing with each other at arm's length; and
- (b) a lesser amount of expenditure would have been incurred under the agreement or arrangement if they had been dealing with each other at arm's length.

(2) The amount of the allowable deduction shall be the lesser amount referred to in paragraph (b) of subsection (1) as determined by the Commissioner.

Assignment
and sales
between
related
companies.

19. (1) This section applies to the assignment of an interest in a production licence or the sale of petroleum information where the parties to the assignment or sale make a written request to the Commissioner that it should apply and the Commissioner approves the request.

(2) The Commissioner shall not approve the request referred to in subsection (1) unless the parties to the assignment or sale satisfy the Commissioner that the parties are related to each other as holding company and subsidiary company.

(3) Where this section applies, the consideration paid and received in respect of the assignment or sale is not an allowable deduction.

(4) Where in an income year

- (a) this section applies; and
- (b) the assignor had at the time of the assignment an allowable loss in respect of the previous income year,

the loss shall be an allowable deduction of the assignee for the income year.

20. In calculating the income tax and the profits tax of a licensee, no account shall be taken of the gross proceeds, chargeable profits or losses, from any other business including any other petroleum operations undertaken by the licensee within Barbados.

Method of calculation of the income tax and profits tax.

PART VI

Offshore Petroleum Additional Profits Tax

21. (1) There is imposed a tax, called the "offshore petroleum additional profits tax" or "profits tax", payable in accordance with this Act by the licensee.

Imposition of offshore petroleum additional profits tax.

(2) The profits tax shall be calculated separately for each production licence.

(3) The profits tax shall be payable on the taxable income in any income year less income tax paid or payable in the income year.

(4) Notwithstanding section 11, for the purposes of this section, in calculating the taxable income of the licensee the allowable deductions of the licensee for an income year shall not include the allowable loss of the licensee for the previous income year.

(5) The profits tax rate applicable to the taxable income referred to in subsection (3) for each income year shall be calculated as follows:

- (a) for each day within the income year in which the reference prices referred to in section 22 are published, the daily rate of profits tax rate will be set at 30% if either
 - (i) the maximum reference price for oil exceeds \$60 US a barrel; or
 - (ii) the maximum reference price for natural gas exceeds \$6 US/MMBtu;

but if neither of these reference prices is achieved, then the daily rate of profits tax for the particular day will be zero; and

(b) at the end of the income year, the profits tax rate will be determined by taking a simple average of the daily profits tax rates.

(6) Notwithstanding subsection (5), where at the time that the licensee was granted

(a) the exploration licence under which the licensee made the discovery which led to the grant of the production licence of the licensee; or

(b) a production licence pursuant to a call for tenders or a call for negotiations,

a rate different from that specified in subsection (5) was applicable in respect of taxable income referred to in subsection (3), the licensee shall pay profits tax at the rate that was applicable at the time that the licensee was granted

(i) the exploration licence; or

(ii) the production licence pursuant to the call for tenders or call for negotiations.

Requirement to maintain proper records and books of accounts.

22. The licensee shall maintain proper records and books of accounts enabling the calculations described in this Part to be made, including but not limited to the daily published reference price for:

(a) the daily spot price of light sweet crude oil on the NYMEX exchange; and

(b) the daily spot price for natural gas on the NYMEX exchange.

Payment of Offshore Petroleum Additional Profits Tax. Cap.73.

23. (1) The profits tax due, if any, shall be paid no later than 6 months after the end of the income year.

(2) A person who fails to pay the profits tax within the time specified in subsection (1) shall, in addition to the tax, pay to the Commissioner

- (a) a penalty equal to 5 per cent of the amount of the tax unpaid at the time when the failure occurred; and
- (b) interest at the rate of one per cent in respect of each month during which any amount of the tax and penalty remains unpaid, on the largest amount of tax and penalty that was due and unpaid at any time in that month.

PART VII

Other Financial Incentives

24. (1) The licensee of an exploration or production licence is, on production of its licence to the Comptroller, entitled to import into Barbados, free of all customs duty, articles for petroleum operations, if the licensee satisfies the Comptroller that the articles are to be imported for the purposes of

Exemption
from
customs
duty.

- (a) construction, alteration, extension, maintenance or operation of a petroleum facility; or
- (b) construction, alteration, extension, maintenance or operation of a pipeline.

(2) Where any article for petroleum operations is manufactured within Barbados in such quantity that, in the opinion of the Minister responsible for Finance, an adequate supply of that article is available for purchase in Barbados, the Minister responsible for Finance may from time to time by notice published in the *Official Gazette* declare that the exemptions from customs duty granted by subsection (1) shall not apply to that article, and thereafter those exemptions shall cease to apply.

(3) Any article for which the licensee referred to in subsection (1) claimed the exemption from the payment of customs duty in accordance with that subsection shall not be sold, exchanged or given

away or otherwise disposed of by the licensee within 15 years of importation unless

- (a) the licensee reimburses the Comptroller for an amount equal to the amount of customs duty unpaid by the licensee;
- (b) the Comptroller is satisfied that the article is not, or is no longer, required for the purpose for which it was imported or purchased and, at the Comptroller's discretion, grants a permit to the licensee to dispose of such article in such manner and subject to such terms and conditions as the Minister responsible for Finance prescribes by order.

(4) No article for which the licensee referred to in subsection (1) claimed exception from the payment of customs duty in accordance with that subsection shall within 15 years of importation be used without the approval of the Minister responsible for Finance for any purpose other than a purpose specified in that subsection.

(5) Approval by the Minister responsible for Finance may be subject to repayment in the whole or in part of the amount of customs duty unpaid by the licensee.

(6) Any person who contravenes subsection (3) or (4) is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine,

- (a) for a contravention of subsection (3), of 3 times the value of the article at the date of its importation or purchase, as the case may be;
- (b) for a contravention of subsection (4), of \$1 000 and, in the case of a continuing offence, to a further fine of \$500 for each day during which the offence continues.

Relief from
value added
tax.

25. (1) This section applies to the supply of goods and services to the licensee of an exploration licence or production licence for use exclusively for petroleum operations for the purposes and objects of

- (a) construction, alteration, extension, maintenance or operation of a petroleum facility; or

(b) construction, alteration, extension, maintenance or operation of a pipeline.

(2) Where subsection (1) applies and the licensee has obtained a tax invoice in respect of the supply of the goods and services from the supplier, then, if

(a) the licensee was not a registrant in accordance with the *Value Added Tax Act* at the time the supply was made, the Comptroller under that Act shall pay an amount to the licensee equal to the value added tax payable under that Act in respect of the supply if the licensee applies within 2 years after the supply was made; and

(b) the licensee was a registrant at the time the supply was made, the licensee may deduct, from its payment of output tax for the taxable period in which the supply was made, an amount equal to the tax payable in respect of the supply.

PART VIII

Application of Income Tax Act

26. The *Income Tax Act* applies to the collection of the taxes imposed by this Act in the manner specified in the *Schedule*.

Application of *Income Tax Act*.
Schedule.

27. (1) An amount included in the return of a person under this Act as assessable income of that person in a tax year is not assessable income of that person or any other person for the purposes of the *Income Tax Act* for that tax year or any other tax year.

Exemption from Income Tax.

(2) An amount claimed in the return of a person under this Act as an allowable deduction of that person cannot be claimed as a deduction by that person or any other person for the purpose of the *Income Tax Act* in that tax year or any other tax year.

Cap. 73.

PART IX

Miscellaneous

- Regulations. **28.** (1) The Minister may, subject to negative resolution, make regulations for the better carrying out of the provisions of this Act.
- (2) The regulations made under this Act may impose penalties for the contravention thereof.
- Consequen-
tial amend-
ments.
Cap. 82
Cap. 281. **29.** The *Petroleum Winning Operations Taxation Act* is amended as follows:
- (a) in the long title after the words "petroleum winning operations" add "under the *Petroleum Winning Operations Act*";
- (b) in section 2(1) in the definitions "petroleum winning operations" and "qualifying capital expenditure" delete the words "in the Island or the territorial waters thereof" and substitute the words "within Barbados";
- (c) insert immediately after section 2 the following:
- "Applica-
tion. **2A.** This Act applies to petroleum winning operations undertaken on the onshore area of Barbados.".
- Act binds
Crown. **30.** This Act binds the Crown.
- Commence-
ment. **31.** This Act comes into operation on a date to be fixed by proclamation.

SCHEDULE

(Section 26)

*Application of the Income Tax Act with Respect to the
Collection of Taxes Imposed by this Act*

1. Except as otherwise provided in this Schedule, the provisions of the *Income Tax Act* specified in paragraph 2 shall, with such modifications as are necessary, apply to the collection of the taxes imposed by this Act as if those provisions were incorporated into this Act.

2. The provisions referred to in paragraph 1 are as follows:

- (a) Division U (staff and secrecy);
- (b) Division V (returns of income and estimate of tax);
- (c) Division W (assessments);
- (d) Division X (objections);
- (e) Division Y (appeals);
- (f) section 64 (prepayment by deductions);
- (g) section 65 (company dividends);
- (h) section 66 (payment of tax);
- (i) section 67 (penalties and interest);
- (j) section 68 (refund of overpayments);
- (k) section 69 (overpayments);
- (l) section 70 (payment of altered assessment);
- (m) section 70A (interest payable by Commissioner);
- (n) Division AA (collection);

- (p) Division AB (investigations);
- (q) Division AC (representatives for tax purposes);
- (r) Division AD (offences);
- (s) Part IV (double taxation relief);
- (t) Part V (regulations);
- (u) Part VI (interpretation).

3. The provisions of the *Income Tax Act* specified in paragraph 2 apply to the collection of the taxes imposed by this Act as if references to

- (a) the *Income Tax Act*, however expressed, were references to this Act;
- (b) tax as defined by that Act were references to the taxes imposed by this Act;
- (c) persons liable to pay tax under that Act, however expressed, were references to persons liable to pay tax under this Act;
- (d) assessable income as defined by that Act were references to assessable income as defined by this Act;
- (e) an amount deductible under that Act were references to allowable deductions as defined by this Act;
- (f) taxable income as defined by that Act were references to taxable income as defined by this Act;
- (g) the income year as defined by that Act were references to the income year as defined by this Act.

4. The Income Tax Appeal Board established by Division Y of the *Income Tax Act* shall be taken to be the appeal board established for the purposes of this Act.

5. Section 66 shall have effect as if subsections (1A) and (3) were not part of the section.

6. Division AD shall have effect as if

- (a) in section 79(1), for "a fine of not less than \$10 and not greater than \$10 000" there were substituted "a fine of not less than \$10 000 and not greater than \$1 000 000";
- (b) in section 79(2), for "a fine of not less than \$500 and not greater than \$10 000" there were substituted "a fine of not less than \$10 000 and not greater than \$1 000 000"; and
- (c) in section 79(3), for "a fine of \$100" there were substituted "a fine of \$100 000".

7. Part V shall only have effect in so far as it relates to the provisions of the *Income Tax Act* referred to in paragraph 2, as amended by this section.

8. Part VI shall only have effect in so far as it relates to the provisions of the *Income Tax Act* referred to in paragraph 2, as amended by this section.

9. Regulations as made under Part V of the *Income Tax Act*, in so far as they relate to the provisions of the *Income Tax Act* referred to in paragraph 2, shall have effect, subject to paragraph 3, as if they were regulations made under this Act.