

THE INCOME TAX ACT 1995

(Consolidated Version)

(with amendments to 21 April 2005)

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(Consolidated Version)

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An Act**To amend and consolidate the law relating to income tax.**

ENACTED by the Parliament of Mauritius as follows -

PART I - PRELIMINARY**1. Short title**

This Act may be cited as the Income Tax Act 1995.

2. Interpretation

In this Act, unless the context otherwise requires -

"**absentee**" means -

- (a) an individual who is, at the relevant time, not in Mauritius;
- (b) a company which does not have a permanent place of business in Mauritius at which it carries on business in its own name;
- (c) a company not incorporated in Mauritius which is declared by the Commissioner to be an absentee by notice given to that company or to its agent in Mauritius;

"**agent**" includes a person deemed by section 81, 82 or 83 to be an agent;

"**allowable deduction**" means -

- (a) in the case of an individual, any expenditure, loss or allowance which is deductible under Sub-Part B of Part III; or
- (b) in any other case, any expenditure, loss or allowance which is deductible under Sub-Part C of Part IV,

for the purpose of ascertaining net income;

"**appropriate retiring age**" has the meaning assigned to it in section 23;

"**approved investment trust company**" means a public company, approved by the Commissioner, the principal objects of which are to invest in the securities of companies generally;

"**approved return date**" means a date approved by the Commissioner under section 118;

"**authorised mutual fund**" has the same meaning as in the Companies Act 1984;

"base value" means the cost to the owner of any plant or machinery after deducting therefrom any amount allowed by way of annual allowance;

"benevolent association" means an association registered under the Registration of Associations Act being an association whose main activity is to provide benefits during sickness or infirmity, or in old age, or in widowhood or for orphans;

"body of persons" means any body corporate or unincorporate;

"business" includes any trade, profession, vocation or occupation, manufacture or undertaking, or any other income earning activity, carried on with a view to profit;

"chargeable income" means -

- (a) for the purposes of section 96, the amount of income ascertained in accordance with that section;
- (b) for the purposes of section 107, the amount of income ascertained in accordance with that section;
- (c) for the purposes of Sub-Part C of Part VIII -
 - (i) in the case of an individual, the amount remaining after deducting from the net income all personal reliefs and deductions to which that individual is entitled; and
 - (ii) in any other case, the net income;

"charitable institution" means an institution approved by the Minister the objects of which -

- (a) are of a public character;
- (b) do not yield any profits to its members; and
- (c) are exclusively -
 - (i) the advancement of religion;
 - (ii) the advancement of education;
 - (iii) the relief of poverty, sickness and disability;
 - (iv) the protection of the environment;
 - (v) the advancement of human rights and fundamental freedoms;
 - (vi) the promotion of any other public object beneficial to the community;
- (d) are to be carried out in Mauritius or elsewhere;

"**charitable trust**" has the same meaning as in the **Trusts Act 2001**⁽¹⁾;

"**child**", in **sections 41 and 42**⁽²⁾, means -

- (a) an unmarried child, stepchild or adopted child of a person;
- (b) an unmarried child whose guardianship or custody is entrusted to the person by virtue of any other enactment or of an order of a court of competent jurisdiction;
- (c) an unmarried child placed in foster care of the person by virtue of an order of a court of competent jurisdiction;⁽³⁾

"**Commissioner**" means the Commissioner of Income Tax;

"**Committee**" means the Assessment Review Committee set up under section 8E of the Unified Revenue Act 1983;⁽⁴⁾

"**company**" -

- (a) means a body corporate, other than a local authority, incorporated in Mauritius or elsewhere; and
- (b) includes a non-resident société, a trust or a trustee of a unit trust scheme; but
- (c) does not include a Land Area Management Unit;

"**consideration**" means the price in money or money's worth paid or given in return for any benefit;

"**CPS**" means the Current Payment System referred to in Sub-Part B of Part VIII;

"**CPS period**" means a period of 6 months ending 31 December;⁽⁵⁾

"**CPS quarter**"⁽⁶⁾

"**CPS threshold**" means the threshold specified in the Sixth Schedule;

"**credit**", in relation to foreign tax, means the amount deductible from income tax under section 77;

"**Current Payment System**" means the system of payment of income tax referred to in Sub-Part B of Part VIII;

"**deep sea international trade**" means any trade excluding fishing carried out outside the territorial waters of Mauritius;

"**dependent child**" means a child in respect of whom a deduction is allowable under **section 41**;⁽⁷⁾

(1) The words "Trusts Act 2001" replaced "Trusts Act 1989" by the Trusts Act 2001. Effective as from 1.12.2001 - Proclamation No. 22 of 2001.

(2) The words "sections 41 and 42" replaced "sections 42 and 43" by FA 1997.

(3) Inserted by FA 2003. Effective as from income year 2003-2004.

(4) Inserted by FA 2001.

(5) Inserted by FA 1997.

(6) Deleted by FA 1997. Previously ITA 1995 as amended - "**CPS quarter**" means the quarter specified in section 106;

(7) The words "section 41" replaced "section 42" by FA 1997.

"**dependent spouse**" means a person in respect of whom a deduction is allowable under **section 39**;⁽¹⁾

"**disabled person**" means a person suffering from permanent disablement;⁽²⁾

"**disincorporation**", in sections 16 and 56, means the transfer of all the assets and liabilities of a company to the persons who were shareholders of that company;

"**dividends**"⁽³⁾

- (a) means a distribution authorised by the Board of Directors of a company and made out of the retained earnings of the company, after having made good any accumulated losses at the beginning of its accounting period, either in cash or in shares to its shareholders; and
- (b) includes a distribution under section 45(3); but
- (c) does not include interest deemed to be dividends under section 84 and a benefit referred to in section 86A;⁽⁴⁾

"**earned income**", in relation to an individual, means the amount remaining after deducting the allowable deductions from the gross income derived from -

- (a) emoluments; or
- (b) any business other than rents, interest or dividends, unless the rents or interest are derived by the individual in the ordinary course of his business;

"**emoluments**" -

- (a) means any advantage in money or in money's worth referred to in section 10(1)(a); and
- (b) includes -
 - (i) a remuneration to the holder of any office and fees payable to the director of a company;
 - (ii) an allowance under the National Assembly Allowances Act or a pension under the National Assembly (Retiring Allowances) Act;
 - (iii) a remuneration payable to a Mayor, Chairman of a District Council or Chairman of a Village Council under the Local Government Act 1989;
 - (iv) an allowance payable to an apprentice;
 - (v) an allowance under the Rodrigues Regional Assembly (Allowances and Privileges) Act 2002;⁽⁵⁾

(1) The words "section 39" replaced "section 40" by FA 1997.

(2) Inserted by FA 1999. Effective as from income year 1999-00.

(3) Amended by FA 2001. Effective as from income year 2001-02. Previously ITA 1995 as amended - "**dividends**" includes a distribution under section 45(3);

(4) Amended by FA 2004. Effective as from 26 August 2004. Previously was:
(c) does not include a benefit referred to in section 86A;⁽³⁾

(5) Inserted by FA 2003. Deemed effective as from 8 October 2002.

"**employee**" means a person who receives or is entitled to receive emoluments;

"**employees' share participation scheme**"⁽¹⁾

"**employees' share scheme**" means a scheme or fund established for the benefit of the employees of an employer under the Companies Act 2001;⁽²⁾

"**employer**" -

- (a) means a person responsible for the payment of emoluments; and
- (b) includes an agent of that person; but
- (c) does not include a person employing only household employees;

"**equity fund**" means an equity fund approved by the Financial Services Commission established under the Financial Services Development Act 2001;⁽³⁾

"**exempt income**" means any income specified in the Second Schedule;

"**exempt person**" means -

- (a) an employee whose emoluments do not exceed the amount specified in Part I of the Fourth Schedule;
- (b) a field worker or a non-agricultural worker employed in the sugar industry whose emoluments do not exceed the amount specified in Part I of the Fourth Schedule;
- (c) a household employee; or
- (d) an individual who derives gross income falling under Sub-Part B of Part VIII which does not exceed the CPS threshold and whose tax liability for the CPS period in respect of that gross income is of an amount specified in Part II of the Fourth Schedule;⁽⁴⁾

"**foreign tax**" means a tax, of a similar character to income tax, imposed by the laws of a foreign country;

(1) Deleted by FA 1999. Effective as from income year 1999-00. Previously ITA 1995 as amended -

"**employees' share participation scheme**" means an employees' share participation fund or scheme approved by the Minister;

(2) Inserted by FA 1999. Effective as from income year 1999-00. Amended by FA 2004, the words "and approved by the Commissioner" deleted and replaced by the words "under the Companies Act 2001". Effective as from 1 July 2004.

(3) Inserted by FA 2002. Effective as from year of assessment 2002-03.

(4) Paragraph (d) amended by FA 1997. Previously ITA 1995 as amended -

(d) an individual whose tax liability for a CPS quarter in respect of his gross income specified in section 10(1)(b) and rent specified in section 10(1)(c) is of an amount specified in Part II of the Fourth Schedule;

"foreign vessel", in relation to item 8 of Part I and item 12 of Part II of the Second Schedule, means a ship registered in Mauritius and owned by -

- (a) a body corporate incorporated in Mauritius which is not under the effective control of citizens of Mauritius; or
- (b) a body corporate which is incorporated outside Mauritius;

"gross", in relation to an amount, means without any deduction from that amount;

"gross income" means -

- (a) the aggregate amount of all income -
 - (i) in the case of an individual, specified in Sub-Part A of Part III ;
or
 - (ii) in any other case, specified in Sub-Part B of Part IV,

other than exempt income; or
- (b) the amount of income derived from a particular source without any deduction from that amount;

"handicapped" means a person who is physically or mentally handicapped in a permanent capacity;⁽¹⁾

"health institution" has the same meaning as in the Private Health Institutions Act 1989;

"hotel" means any building in which -

- (a) not less than 9 bedrooms appropriately furnished together with necessary amenities are set apart for letting; and
- (b) one or more rooms are set apart and structurally built or adapted and appropriately furnished for the preparation and sale to residents of food and drinks for consumption;⁽²⁾

"household employee" means any person employed by a person other than a company, société, trust, trustee or other body of persons to work in his private dwelling and the grounds attached thereto and includes a driver;

⁽¹⁾ Amended by FA 1998. Effective as from income year 1998-99. Previously ITA 1995 as amended -

"handicapped" means -

- (a) in relation to a taxpayer or his dependent spouse, a person suffering from permanent disablement;
- (b) in relation to a child, a child who is physically or mentally handicapped in a permanent capacity;

⁽²⁾ Inserted by FA 2001.

"ICT company" -

- (a) means a company deriving at least 75 per cent of its gross income from information and communication services as defined in the Information and Communication Technologies Act 2001; but
- (b) does not include public paid or mobile telecommunication network and service including value added services and mobile internet;⁽¹⁾

"income tax" -

- (a) means the income tax imposed by section 4; and
- (b) includes any penalty imposed under this Act; but
- (c) does not include any fine;

"income year", in relation to the income of any person, means the year in which that income is derived by him;

"incorporation", in sections 16 and 56, means the transfer to a company of all the assets and liabilities of a business in consideration of the issue of shares in that company;

"industrial premises" means any building or structure, including any extension thereto, used -

- (a) for the purposes of a trade -
 - (i) carried on in a mill, factory or other similar premises;
 - (ii) consisting of the manufacture of goods or materials, or the subjection of goods or materials to any process;
 - (iii) consisting of the storage of goods or materials which are to be used in the manufacture of other goods or materials or are to be subjected, in the course of a trade, to any process;
- (b) for the purposes of a transport, dock or electricity undertaking;
- (c) for the purposes of a hotel **[containing not less than 6 bedrooms for the accommodation of guests for reward]⁽²⁾; [or]⁽³⁾**

⁽¹⁾ Inserted by FA 2002. Effective as from year of assessment 2002-03.

⁽²⁾ The words "containing not less than 6 bedrooms for the accommodation of guests for reward" deleted by FA 2001. Effective as from income year 2000-01.

⁽³⁾ The word "or" deleted by FA 1997.

- (d) for the welfare of workers employed in a trade, undertaking or hotel specified in paragraph (a), (b) or (c), respectively, but does not include -
- (i) any building or structure in use as, or part of, a dwelling house, retail shop, showroom or office, or used for any purpose ancillary to the purposes of a dwelling house, retail shop, showroom or office; or
 - (ii) any land, tree, plant, garden or earthworks;
- (e) for the provision of education or training;⁽¹⁾
- (f) for the purposes of operating an aerodrome;⁽²⁾

"**inter-crop season**" has the same meaning as in section 26 of the Labour Act;

"**Land Area Management Unit**" has the same meaning as in the Farmers Service Corporation Act 1991;

"**lease**" means a tenancy of any duration, whether in writing or otherwise, and includes a sublease or a contract of hire;

"**listed company**" has the meaning assigned to it in section 48;

"**local authority**" has the same meaning as in the Local Government Act 1989;

"**loss**" in sections 20 and 59 means the amount of the deficit where the allowable deductions exceed the gross income in an income year;

"**manufacture**" -

- (a) means the transformation of materials or semi-processed materials into finished or semi-finished goods; and
- (b) includes the assembly of parts into a piece of machinery or equipment or other product;

⁽¹⁾ Paragraph (e) added by FA 1997.

⁽²⁾ Paragraph (f) added by FA 2001. Effective as from income year 2000-01

"manufacturing company" -

- (a) means a company which derives at least 75 per cent of its gross income from manufacturing activities in Mauritius; but
- (b) does not include -
 - (i) a company engaged in the manufacture of alcoholic drinks or cigarettes and other tobacco products; or
 - (ii) a company engaged in carrying on the business of restaurant;⁽¹⁾

"miller", for the purposes of -

- (a) items 5, 6 and 7 of Part IV of the Second Schedule, means any person or group of persons operating a factory and includes any person acting as manager for that person or group of persons; and
- (b) section 59(3), means any person or group of persons, other than an individual, operating a sugar factory;

"mineral" includes oil, clay, stone, gravel or sand;

"Minister" means the Minister to whom the responsibility for the subject of finance is assigned;

"net income" means the aggregate amount remaining after deducting from the gross income all allowable deductions;

"non-citizen" means an individual who is not a citizen of Mauritius;

"non-resident"⁽²⁾ -

- (a) for the purposes of sections 6(4)(b), 161A(1)(g) and paragraph (iv) of item 14 of Part II, and items 5 and 6 of Part III, of the Second Schedule, and the Income Tax (Foreign Tax Credit) Regulations 1996 in so far as they apply to a bank holding a banking licence under the Banking Act 2004 -
 - (i) in the case of an individual, means a person -
 - (A) whose permanent place of abode is outside Mauritius; and
 - [B] who is outside Mauritius at the time the services are supplied;

⁽¹⁾ Amended by FA 1999. Effective as from income year 1999-00. Previously ITA 1995 as amended-

"manufacturing company" -

- (a) means a company which derives at least 75 per cent of its gross income from manufacturing activities; but
- (b) does not include a company engaged in the manufacture of excisable goods under the Excise Act 1994;

⁽²⁾ Amended by FA 2005. Effective as from assessment year 2005-06. Previously ITA 1995 as amended -

"non-resident" means a person who is not resident in Mauritius;

- (ii) in the case of any other person -
 - (A) means a person whose centre of economic interest is located outside Mauritius; and
 - (B) includes a company incorporated in Mauritius in so far as its banking transactions carried out through a permanent establishment outside Mauritius are concerned; but
 - [C] does not include a company incorporated outside Mauritius in so far as its banking transactions carried out through a permanent establishment in Mauritius are concerned;
- (b) in any other case, means a person who is not resident in Mauritius;

"**non-resident trader**" means a person who, being in Mauritius, carries on business in Mauritius but has no permanent place of business or abode in Mauritius;

"**officer**" means a public officer posted to the Income Tax Department;

"**Official List**" has the same meaning as in the Stock Exchange Act 1988;

"**other income earning activity**" means any activity from which income of a kind specified under section 10(1)(c), (d) or 10(2) is derived;

"**owner**", in relation to a foreign vessel, has the same meaning as in the Merchant Shipping Act 1986;

"**pay**" means pay, distribute, transfer, credit or deal with in the interest or on behalf of any person and whether in money or money's worth;

"**PAYE**" means the Pay As You Earn (PAYE) System referred to in Sub-Part A of Part VIII;

"**person**" shall be deemed to include a trust;

"**personal reliefs and deductions**" means the personal reliefs and deductions specified in Sub-Part C of Part III;

"**planter**", for the purposes of -

- (a) **items 4, 10, 18 and 19**⁽¹⁾ of Part IV of the Second Schedule, means any person or group of persons growing sugar cane in one or more factory areas and includes any person acting as manager for that person or group of persons; and
- (b) section 59(3), means any person or group of persons, other than an individual, engaged wholly or mainly in the growing of sugar cane in one or more factory areas;

"**premises**" includes land or buildings;

⁽¹⁾ The words "items 4, 10, 18 and 19" replaced "items 4 and 10" by the Sugar Industry Efficiency Act 2001. Effective as from 17.9.2001 - Proclamation No. 15 of 2001.

"**qualified auditor**" has the meaning assigned to it in the Companies Act, 1984;

"**registered owner**", in relation to items 8 and 9 of Part I of the Second Schedule, means a person who has been registered as the owner of a ship under the Merchant Shipping Act 1986;

"**related company**" has the meaning assigned to it by section 2(2) of Companies Act 2001;⁽¹⁾

"**relative**", in relation to a person, means any other person connected with him by -

- (a) blood relationship as parent, grandparent, brother, sister, brother or sister of a parent, nephew, niece or descendant;
- (b) marriage, as his spouse or the spouse of a person married to that other person or to a person specified in paragraph (a);
- (c) adoption, as his child or as a child of a person specified in paragraph (a) other than the adopted child of his nephew or niece;
- (d) natural relationship, through a mother who has acknowledged her child;

"**rent**" includes any premium or other consideration for a lease;

"**resident**" has the meaning assigned to it in section 73;

"**retiring allowance**" means a lump sum payment by way of a bonus, gratuity or other allowance in respect of the full-time employment of a person made on the occasion of his retirement from that employment;

"**return date**" means the last day of the period for which a return of income is required to be made;

"**seaman**" in relation to item 12 of Part II of the Second Schedule, means a seaman who is employed on a vessel registered in Mauritius or a foreign vessel;

"**securities**" in item 1 of Part IV of the Second Schedule has the same meaning as in the Stock Exchange Act [**but does not include treasury bills and Bank of Mauritius Bills**]⁽²⁾;

"**sell**" includes transfer;

"**share**" in relation to a company, includes an interest in the capital of the company;

(1) Amended by FA 2003. Effective as from Year of Assessment 2003/2004. Previously ITA 1995 as amended - "related company" means a company which is under the control of the person. .

(2) The words "but does not include treasury bills and Bank of Mauritius Bills" inserted by FA 2004. Effective as from 1 July 2004.

"**shareholder**" includes a member of a company whether or not the capital of that company is divided into shares and, in sections 84, 85 and 86 includes a person by whom or on whose behalf shares in the company have at any time been held;

"**société**" -

- (a) means a société formed under any enactment in Mauritius; and
- (b) includes -
 - (i) a *société de fait* or a *société en participation*;
 - (ii) a joint venture; or
 - (iii) a société or partnership formed under the law of a foreign country;

"**société de secours mutuels**" means an association registered under the Registration of Associations Act, whose main activity is to provide welfare benefits;

"**start-up company**" shall be construed in accordance with section 67E;⁽¹⁾

"**Stock Exchange**" means the Stock Exchange established by the Stock Exchange Act 1988;

"**superannuation fund**" means a fund or scheme established for the benefit of the employees of an employer and approved by the Commissioner;

"**tax avoidance**" includes, directly or indirectly -

- (a) altering the incidence of income tax;
- (b) relieving any person from liability to pay income tax;
- (c) avoiding, reducing, or postponing any liability to pay income tax;

"**tax incentive companies**" means companies of a type listed in **Part IV**⁽²⁾ of the First Schedule;

"**taxpayer**", in relation to an income year, means a person having a chargeable income for that income year, whether on his own account or as an agent;

"**trade**" means any trade, adventure or concern in the nature of trade;

"**trade union**" means a trade union of employees registered under the Industrial Relations Act;

"**Tribunal**"⁽³⁾

(1) Inserted by FA 2000. Effective as from year of assessment 2001-02.

(2) The words "Part IV" replaced "Part V" by FA 2000. Effective as from year of assessment 2001-02.

(3) Deleted by FA 2001. Previously ITA 1995 as amended -
"**Tribunal**" means the Tax Appeal Tribunal established under the Tax Appeal Tribunal Act 1984;

"**trust**" means a trust recognised under the laws of Mauritius;⁽¹⁾

"**trustee**", in relation to a unit trust scheme, has the meaning assigned to it in the Unit Trust Act 1989;

"**Unified Revenue Board**" means the Unified Revenue Board established under the Unified Revenue Act 1983;

"**unit**", in relation to unit trust scheme, has the same meaning as **in**⁽²⁾ the Unit Trust Act 1989;

"**unitholder**" has the same meaning as **in**⁽²⁾ the Unit Trust Act 1989;

"**unit trust scheme**" has the same meaning as **in**⁽²⁾ the Unit Trust Act 1989;

"**Unit Trust Fund**" has the same meaning as **in**⁽²⁾ the Unit Trust Act 1989;

"**venture capital fund**" means a venture capital fund approved by the Minister;

"**year**" means a period of 12 months commencing on 1 July;

"**year of assessment**" means the year in and for which tax is payable under section 4.

(1) Amended by the Trusts Act 2001. Effective as from 1.12.2001 - Proclamation No. 22 of 2001. Previously ITA 1995 as amended -

"**trust**" means any trust constituted under the laws of Mauritius;

(2) The word "in" inserted by FA 1997.

3. Application of Act

Sub-Part A of Part VIII, Part XI, sections 123 and 154(1) of this Act shall bind the State.

PART II - LIABILITY TO INCOME TAX**4. Imposition of tax**

Subject to the other provisions of this Act, income tax shall, in and for every year -

- (a) be paid to the Commissioner by every person on all income, other than exempt income, derived by him during the preceding year; and
- (b) be calculated on the chargeable income of the person at the appropriate rate specified in the First Schedule.

5. Derivation of income

- (1) Income shall be deemed to be derived by a person where-
 - (a) the income was derived from Mauritius, whether the person was resident in Mauritius or elsewhere; or
 - (b) the income was derived at a time when the person was resident in Mauritius, whether the income was derived from Mauritius or elsewhere.
- (2) Subject to the other provisions of this Act, income shall be deemed to be derived by a person when -
 - (a) it has been earned or has accrued; or
 - (b) it has been dealt with in his interest or on his behalf, whether or not it has become due or receivable.
- (3) Earned income derived from outside Mauritius shall be deemed to be derived by a person when -
 - (a) it is received in Mauritius by him or on his behalf; or
 - (b) it is dealt with in Mauritius in his interest or on his behalf.

6. Income to be expressed in Mauritius currency

- (1) Income wherever derived, and expenses and losses, wherever incurred, shall be expressed in terms of Mauritius currency.
- (2) Where income, expenditure or losses are expressed in terms of any currency other than Mauritius currency, they shall be converted into Mauritius currency at the exchange rate⁽¹⁾ between Mauritius currency and the other currency.
- (3) For the purposes of subsection (2), the exchange rate⁽²⁾ shall be -
 - (a) where income is remitted to Mauritius or the amount of any deduction is remitted from Mauritius during the income year in which it is derived or incurred, as the case may be, the rate in force at the date of the remittance; or
 - (b) where income or the amount of a deduction is not remitted during the income year in which it is derived or incurred, as the case may be, the rate in force at the end of that income year.
- (4)⁽³⁾⁽⁴⁾ Notwithstanding the other provisions of this section, the net income of-
 - (a) a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001; or
 - (b) a bank holding a banking licence under the Banking Act 2004 in respect of its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Act 2001,

shall be converted into Mauritius currency at the exchange rate in force at the date on which the return of income is submitted to the Commissioner.

-
- (1) The words "official exchange rate" replaced by "exchange rate" by FA 2003. Effective as from Year of Assessment 2003/2004.
 - (2) The words "official exchange rate" replaced by "exchange rate" by FA 2003. Effective as from Year of Assessment 2003/2004
 - (3) Subsection (4) amended by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001. Previously FA 2000 - year of assessment 2000-01.
 - (4) Notwithstanding the other provisions of this section, the net income of a corporation certified to be engaged in an international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Authority Act 1992 or by a company holding an Offshore Banking Licence under the Banking Act 1988 shall be converted into Mauritius currency at the official exchange rate in force at the date of the annual balance of the accounts of the corporation or offshore bank, as the case may be.
 - (4) Subsection (4) repealed and replaced by Banking Act 2004. Effective date 10 November 2004 – Proclamation 39 of 2004. Previously Financial Services Development Act 2001. Proclamation No. 8 of 2001. Effective date 1 August 2001.
 - (4) Notwithstanding the other provisions of this section, the net income of a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Category 2 Banking Licence⁽ⁱ⁾ under the Banking Act 1988 shall be converted into Mauritius currency at the exchange rate in force at the date on which the return of income is submitted to the Commissioner.⁽ⁱⁱ⁾
 - (i) The words "Category 2 Banking Licence" replaced "Class B Banking Licence" by FA 2002.
 - (ii) The words "at the official exchange rate in force at the date of the annual balance of the accounts of the corporation or bank, as the case may be." replaced by "at the exchange rate in force at the date on which the return of income is submitted to the Commissioner" by FA 2003. Effective as from year of assessment 2003/2004.

7. Exempt income

- (1) The income specified in the Second Schedule shall be exempt from income tax.
- (2) Except as otherwise provided for in this Act, nothing in this section shall exempt from taxation in the hands of a recipient any sum paid, by way of emoluments, dividends, interest or otherwise, wholly or partly out of income so exempt from taxation.

PART III - PERSONAL TAXATION

8. Application of Part III

This Part shall apply to individuals.

Sub-Part A - Gross Income

9. Income of a married woman

- (1) All income derived by a married woman shall be liable to income tax separately from the income of her husband in her own name.
- (2) Any income derived by a married woman jointly with her husband shall be deemed to be derived by them in such proportion as may be declared by the couple in their tax returns.
- (3) Where no declaration is made by the couple under subsection (2), the income shall be deemed to be derived by them in equal proportion.

10. Income included in gross income

- (1) Subject to the other provisions of this Act, the gross income of an individual shall include -
 - (a) any advantage in money or in money's worth which is -
 - (i) salary, wages, leave pay, fee, overtime pay, perquisite, allowance, bonus, gratuity, commission or other reward or remuneration in respect of or in relation to the office or employment of that individual, other than passages, by sea, air or land between Mauritius and another country, provided under the contract of employment;
 - (ii) superannuation, compensation for loss of office, pension (including a pension in respect of which a deduction is allowed under section 23 or 62, as the case may be), retiring allowance, annuity or other reward in respect of or in relation to past employment or loss or reduction of future income of that individual, whether receivable by that individual or by any person who is or has been the spouse or dependant of that individual;
 - (b) any gross income derived from any business;
 - (c) any rent, **royalty**⁽¹⁾, premium or other income derived from property;
 - (d) any dividend, interest, charges, annuity or pension (other than a pension referred to in paragraph (a)(ii)); and
 - (e) any other income derived from any other source.

⁽¹⁾ The word "royalty" inserted by FA 1997

- (2) For the purposes of subsection (1)(b), the gross income derived from a business shall include -
- (a) any sum or benefit, in money or money's worth, derived from the carrying on or carrying out of any undertaking or scheme entered into or devised for the purpose of making a profit, irrespective of the time at which the undertaking or scheme was entered into or devised;
 - (b) any sum or benefit derived from the extraction, removal or sale of any mineral, tree or wood;
 - (c) any sum or benefit, in money or money's worth, derived from the sale of any immovable property or interest in immovable property, where the property was acquired in the course of a business the main purpose of which is the acquisition and sale of immovable property;
 - (d) any increase in the value of trading stock on hand at the time of transfer by sale or otherwise of a business or on the reconstruction of a company; and
 - (e) any subsidy derived in the carrying on of a business.

11. Emoluments received in arrears

Where arrears of emoluments earned in an income year are received by a person in the following or any subsequent income year, those emoluments shall be deemed to have been earned in the income year in which they are received.

12. Income received in anticipation

Where income is derived by a person in any year by way of premium or payment in advance or in any like manner by way of anticipation, the Commissioner may, on the written application of that person during the following year, apportion that income between the income year and any number of subsequent years not exceeding 5, and the part so apportioned to each of those years shall be deemed to be income derived in that year.

13. Valuation of trading stock

- (1) Where a person owns or carries on a business, the value of his trading stock at the beginning and at the end of every income year shall be taken into account in ascertaining whether or not he has derived income during that year under section 10(1)(b).
- (2) The value of the trading stock to be taken into account shall be determined on such basis as may be prescribed.

14. Transfer of trading stock with other assets or for inadequate consideration

- (1) Subject to the other provisions of this Act, where any trading stock is sold or otherwise transferred together with other assets, the part of the consideration attributable to the trading stock shall be determined by the Commissioner, and the part of the consideration so determined shall be deemed to be the price paid for the trading stock by the purchaser.
- (2) For the purposes of subsection (1), any trading stock which has been transferred otherwise than by sale shall be deemed to have been sold, and any trading stock so transferred and any trading stock which has been sold for a consideration other than cash shall be deemed to have realised the market price at the day on which it was so transferred or sold, but where there is no market price, trading stock shall be deemed to have realised a price determined by the Commissioner.
- (3) In this section "**trading stock**" includes any other property which, as and when realised, produces income for the person under section 10(2)(c).
- (4) Where any trading stock is sold or transferred without consideration in money or money's worth or for a consideration that is less than its market price or true value on the day of the sale or transfer -
 - (a) the trading stock shall be deemed to have been sold at and to have realised the market price on the day of the sale or transfer, but shall, where there is no market price, be deemed to have been sold at and to have realised a price determined by the Commissioner;
 - (b) the price which under this section the trading stock is deemed to have realised shall be taken into account in calculating the gross income of the person selling or transferring the trading stock;
 - (c) the person acquiring the trading stock shall, for the purpose of calculating his net income, be deemed to have purchased the trading stock at the price which under this section the trading stock is deemed to have realised.

15. Deemed income arising from expenditure or loss discharged

- (1) Where the amount of any expenditure or loss incurred by a person has been taken into account in calculating his net income for an income year, and the liability of the person in respect of that amount is subsequently discharged in whole or in part, the amount so discharged shall be deemed to be income derived in the year in which the amount is discharged.
- (2) For the purposes of this section, a liability in respect of expenditure or loss shall be deemed to have been discharged to the extent to which the person has been discharged from that liability without adequate consideration in money or money's worth.

16. Apportionment of income on incorporation and disincorporation

- (1) Where a business is transferred to a company on incorporation and the persons who carried on that business prior to incorporation are the shareholders in that company immediately after incorporation, the Act shall have effect as if -
 - (a) the business had not ceased or been transferred on incorporation; and
 - (b) at all times prior to incorporation the company had been carrying on the business.
- (2) Where a business is transferred by a company on disincorporation and the persons who carry on that business after disincorporation were the shareholders in that company immediately prior to disincorporation, the Act shall have effect as if -
 - (a) the business has not ceased or been transferred on disincorporation; and
 - (b) at all times prior to disincorporation that person or those persons had been carrying on the business.
- (3) Where incorporation or disincorporation takes place during an income year, the gross income of the business for that income year shall be apportioned between the company and the person carrying on the business on the basis of the proportion of the income year before and after incorporation or disincorporation.

Sub-Part B - Allowable Deductions**17. Deduction in connection with employment**

- (1)
 - (a) Any expenditure which is wholly, exclusively and necessarily incurred by a person in performing the duties of an office or employment shall be deductible from the gross income referred to in section 10(1)(a) in the income year in which the expenditure is incurred.
 - (b) Notwithstanding paragraph (a) but subject to paragraph (c), any expenditure incurred for attending seminars, workshops, symposiums and other training courses in connection with the duties of an office or employment by a member of a recognised professional body or for the payment of membership fees of a recognised professional body⁽¹⁾ shall be deductible from the gross income referred to in section 10(1)(a) in the income year in which the expenditure is incurred.
 - (c) The amount deductible under paragraph (b) shall not exceed 30,000⁽²⁾ rupees.
 - (d) No deduction under this section shall be allowed in respect of an income year where a deduction has been allowed under section 37C for that income year.⁽³⁾

(1) The words "or for the payment of membership fees of a recognised professional body" inserted by FA 2003. Effective as from income year commencing 1 July 2003..

(2) "20,000" replaced by "30,000" by FA 2003. Effective as from income year 2003/2004.

(3) Paragraph (d) added by FA 2001. Effective as from income year 2001-02.

- (2) The Commissioner may determine whether and to what extent an allowance made to a person constitutes a reimbursement of expenditure wholly, exclusively and necessarily incurred by that person in performing the duties of his office or employment and the allowance shall, to the extent so determined, not be included in his gross income.
- (3) Where the Commissioner is satisfied that the whole or part of any advantage has necessarily to be provided by an employer for a person for the performance of the duties of his office or employment, the advantage, or part thereof, shall not be included in the gross income of that person.
- (4)
 - (a) Subject to paragraph (b), a benefit to an employee from a payment by his employer to provide a pension or retiring allowance for the employee or his dependants and which is an allowable deduction under section 22 or 61, as the case may be, shall not be included in the gross income of the employee in the year in which the payment is made.
 - (b) Where the pension or retiring allowance is deemed to have been derived by the employee under section 5(2), it shall, subject to section 10(1)(a)(ii), be included in the gross income for the year in which the pension or retiring allowance is derived.
- (5) A benefit to an employee from a payment by his employer to a scheme approved by the Commissioner to provide against medical expenses for the employee or his dependants and which is an allowable deduction under section 22 or 61, as the case may be, shall not be included in the gross income of the employee in the year in which the payment is made.

18. Expenditure incurred in the production of income

- (1) Any expenditure or loss shall be deductible from the gross income, other than gross income specified in section 10(1)(a), of a person in the income year in which it is incurred to the extent to which it is exclusively incurred in the production of his gross income, other than gross income specified in section 10(1)(a), for that income year.
- (2) Any expenditure which satisfies the requirements of subsection (1), on or in relation to -
 - (a) minerals, trees or wood which when realised, produces gross income under section 10(1)(b); or
 - (b) immovable property, including the cost of acquisition, which when realised, produces gross income under section 10(2)(c),

shall be deductible from the gross income, other than gross income specified in section 10(1)(a), of a person in the income year in which he derives the gross income specified in this subsection.

- (3) Any expenditure, which satisfies the requirements of subsection (1), incurred by a person on the repair of premises, machinery or plant, or on rent, or on export duties, rates and taxes, other than income tax or any other tax on income or profits, shall be deductible from his gross income, other than gross income specified in section 10(1)(a), in the income year in which the expenditure is incurred.
- (4) An amount equal to 200 per cent of expenditure incurred by a person in an income year and which satisfies the requirements of subsection (1) shall be deductible from his gross income in that income year where the expenditure is incurred on -
 - (a) emoluments in respect of a disabled person; or
 - (b) emoluments and training costs in respect of an employee employed in any business set up in the Island of Rodrigues.⁽¹⁾
- (5) Subject to subsection (1) and section 26(1)(b) and (3), where any expenditure or loss incurred by a bank is not directly attributable to either its income derived from Mauritius or its foreign source income, the bank shall forward, together with its return of income which is required to be furnished under this Act, a certificate from a qualified auditor certifying that such expenditure or loss has been apportioned in a fair and reasonable manner, after taking into account any expenditure or loss incurred in the production of exempt income.⁽²⁾

19. Expenditure incurred on interest in the production of income

- (1) Subject to the other provisions of this section, where in an income year a person has incurred expenditure on interest in respect of capital employed exclusively in the production of gross income specified in section 10(1)(b), (c), or (d), as the case may be, he shall be allowed, in that income year, a deduction in respect of the interest from the gross income in the production of which the capital was employed.
- (2) The Commissioner may require a person to support his claim for deduction in respect of interest under subsection (1) by a certificate from a qualified auditor certifying that the amount of interest claimed has been incurred on capital employed exclusively in the production of gross income specified in section 10(1)(b), (c) or (d).
- (3) The Commissioner may refuse to allow a deduction on expenditure incurred as interest where he is satisfied that -
 - (a) the interest is payable to a non-resident who is not chargeable to tax on the amount of the interest; or
 - (b) the interest is not likely to be paid in cash within a reasonable time.

⁽¹⁾ Subsection (4) added by FA 1999. Effective as from income year 1999-00.

⁽²⁾ Subsection (5) added by FA 2005.

20. Losses

- (1) Where a person satisfies the Commissioner that he has in an income year incurred a loss in the production of gross income specified in **section 10(1)(b), (c) and (d)**⁽¹⁾, that loss -
 - (a) shall not be deducted from or set off against his gross income specified in section 10(1)(a) for that income year; but
 - (b) may be carried forward and set off against his gross income, other than gross income specified in section 10(1)(a), in the following income year and in the succeeding years.
- (2) For the purposes of this section, where any question arises under this section as to the quantum of losses available for set off or carry forward, the question shall be determined by the Commissioner.

21. Bad debts and irrecoverable sums

- (1) Subject to subsection (3), a person who derives gross income specified in 10(1)(b) in an income year may deduct the amount of a debt or sum which is proved to have become bad and to have been actually written off as a bad debt by the person in that income year.
- (2) Subject to subsection (3), a person who derives gross income, other than gross income specified in section 10(1)(b), may deduct any debt or sum not received in an income year but which is deemed to be derived in that income year and which is proved to have become irrecoverable by the person.
- (3) Any amount allowed as a deduction which is subsequently received by the person on account of any bad or irrecoverable debt shall be deemed to be gross income derived in the income year in which it is received.

22. Contributions to superannuation fund

- (1) Subject to subsection (2), an employer may deduct any amount irrevocably paid by him to provide -
 - (a) a pension or retirement allowance to his employees and their dependants under a superannuation fund; and
 - (b) for the medical expenses of his employees and their dependants under a scheme approved by the Commissioner.
- (2) Notwithstanding section 18, where an amount paid by an employer under subsection (1) is a lump sum payment in respect of past services of employees, one-tenth of the payment shall be deductible in the income year in which the payment is made and in each of the 9 succeeding years.

⁽¹⁾ The words “section 10(1)(b), (c) and (d)” replaced “section 10(1)(b) and (c)” by FA 2000. Effective as from 1.7.2000.

23. Pensions to former employees

- (1) Subject to subsection (2), the Commissioner may, in the case of a person deriving gross income specified in section 10(1)(b) allow a deduction in respect of any amount which is not deductible otherwise than under this section and which, in the opinion of the Commissioner, is reasonable in the particular circumstances of the case, paid by the person in that income year by way of a pension to any former employee in the business of that person, or to the surviving spouse of that employee, in consideration of the past services of that employee in that business of the person, where the Commissioner is satisfied that -
- (a) the pension is receivable by the recipient -
 - (i) by virtue of any enactment;
 - (ii) as of right under a written document for a fixed period or for life;
 - (iii) in the case of the surviving spouse, for a fixed period or for life or until he or she remarries; or
 - (iv) on grounds which the Commissioner determines to be compassionate grounds; and
 - (b) except in the case of the death of the employee while in the employment of the person, the employee did not retire from his employment before attaining the appropriate retiring age.
- (2) This section shall not apply where because of any relationship to or with the employer or otherwise the former employee or the surviving spouse had or has, in the opinion of the Commissioner, any control in relation to the payment of the pension by the person.
- (3) For the purposes of this section -
- "appropriate retiring age"** means -
- (a) not less than the age of 50;
 - (b) such earlier age as the Commissioner considers reasonable, having regard to the nature of the employment of the person or service or the general terms of employment in the business or occupation in which the person was employed;
 - (c) the age at which the person retired in the case of retirement on the ground of serious illness or permanent disability; or
 - (d) the age at which a person ceased to be employed in any full-time employment and the Commissioner is satisfied that he ceased to be so employed by reason of redundancy or other similar circumstances.

24. Annual allowance

- (1) Subject to the other provisions of this section, where, in an income year, a person has incurred capital expenditure on -
- (a) the acquisition, construction or extension of any industrial premises or of a hotel;
 - (b) the acquisition of plant or machinery;
 - (c) agricultural improvement on agricultural land;
 - (d) scientific research;⁽¹⁾
 - (e) the setting up of golf courses; or⁽²⁾
 - (f)⁽³⁾ the acquisition or improvement of any other item of a capital nature which is subject to depreciation under the normal accounting principles, other than non-industrial premises,
- he shall be allowed a deduction of the capital expenditure so incurred by way of an annual allowance in that income year and in each of the succeeding years at such rate as may be prescribed.
- (2)⁽⁴⁾ (a) Subject to paragraph (b), where, in an income year, a medical practitioner has incurred expenditure on improvements to his consulting and waiting rooms, he shall be allowed in that income year and in each of the 2 succeeding income years a deduction by way of annual allowance at the rate of 33 1/3 per cent of the expenditure so incurred.
- (b) No deduction shall be allowed under paragraph (a) where a deduction has been allowed under subsection (1) in respect of the same expenditure.
- (3)⁽⁵⁾ No annual allowance shall be allowed under this section unless -
- (a) the expenditure is incurred exclusively in the production of gross income; and
 - (b) the provisions of section 153(1) are complied with.
- (4)⁽⁶⁾ The total amount of allowance claimed under this section shall not exceed in the aggregate the amount of the capital expenditure incurred.
- (5)⁽⁶⁾ Subject to **subsection (6)**⁽⁷⁾, where, in an income year, a person sells or otherwise transfers an asset in respect of which an allowance has been allowed under this section at a price or for a consideration -

(1) The word "or" deleted by FA 2004. Effective as from year of Assessment 2003/04.

(2) Amended by FA 2004. Effective as from year of Assessment 2004/05. Previously -
 (e) the acquisition or improvement of any other item of a capital nature, other than non-industrial premises,

(3) Inserted by FA 2004. Effective as from income year 2004/05.

(4) Subsection (2) added by FA 2000. Effective as from income year 2000-01.

(5) Amended by FA 2004. Effective as from income year 2004/05. Previously was:

(3) No annual allowance shall be allowed under this section unless the expenditure is incurred exclusively in the production of gross income.

(6) Previous subsections (2), (3),(4), (5) and (6) renumbered (3), (4), (5), (6) and (7) respectively by FA 2000.

(7) The words "subsection (6)" replaced "subsection (5)" by FA 2000.

- (a) in excess of the amount to which the value of the asset has been reduced by the allowance, the excess to the extent of the amount of the allowance granted shall be deemed to be the gross income of the person in that income year; or
 - (b) which is less than the amount to which the value of the asset has been reduced by the allowance, the difference shall be allowed as a deduction from the gross income of the person in that income year.
- (6)⁽¹⁾ Where a person sells or otherwise transfers plant, **machinery or industrial premises**⁽²⁾ to a relative or to a related company and the plant, machinery or industrial premises sold or transferred is used by the relative or the related company for the production of gross income, the sale or transfer shall, unless the Commissioner directs otherwise, be deemed to have been made at a price equal to the base value of the plant, machinery or industrial premises at the date of sale or transfer.
- (7)⁽¹⁾ Where an investment approved by the Commissioner is made in a company holding a regional development certificate, the investment is deemed to be capital expenditure for the purposes of this section.⁽³⁾

25. Investment allowance

- (1) Subject to the other provisions of this section, where a person has incurred capital expenditure on -
- (a) the construction of industrial premises;
 - (b) the acquisition of new plant and machinery; or
 - (c) the acquisition of computer software,
- he shall be allowed a deduction of 25 per cent of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred.
- (2) No deduction shall be allowed under subsection (1) in respect of expenditure incurred in the acquisition of a road vehicle other than a new bus of a seating capacity of not less than 30.
- (3) Subject to subsection (4), where a person has incurred capital expenditure on -
- (a) the construction of industrial premises; or
 - (b) the acquisition of new plant and machinery for the processing of agricultural, fisheries or livestock products, **or for manufacture**,⁽⁴⁾

(1) Same footnote as in footnote (6) on Page 30.

(2) The words “, machinery or industrial premises” replaced the words “or machinery” by FA 2005. Effective as from the year of assessment commencing 1 July 2005.

(3) Subsection (7) added by FA 1998.

(4) The words "or for manufacture," inserted by FA 1999. Effective as from income year 1999-00.

in the Island of Rodrigues, he shall be allowed a deduction of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred.

- (4) No deduction shall be allowed under subsection (1) where the person is allowed a deduction under subsection (3).
- (5) No investment allowance shall be allowed under this section -
- (a)⁽¹⁾ unless
- (i) the expenditure is incurred exclusively in the production of gross income in the income year in which the expenditure is incurred; and
 - (ii) the provisions of section 153(1) are complied with.
- (b) in respect of expenditure incurred in the acquisition of machinery or plant which is used or second-hand at the date of its acquisition; or
- (c) where before the expiry of 5 years from the date on which the expenditure was incurred -
- (i) the industrial premises are sold, demolished or destroyed, or ceased to be used exclusively as industrial premises;
 - (ii) the plant or machinery is sold, scrapped or ceases to be used for the purposes of the trade carried on by the person; or
 - (iii) the trade carried on by the person is permanently discontinued.
- (6) **Subject to subsection (7),**⁽²⁾ where a deduction has been allowed under this section and any of the events specified in subsection (5)(c) occurs, the deduction allowed shall be withdrawn and the amount of the deduction so withdrawn shall be deemed to be the gross income of the person in the income year in which the event occurs.
- (7)⁽³⁾ (a) Subsection (6) shall not apply -
- (i) where a person sells or otherwise transfers plant or machinery to a relative or to a related company and the plant or machinery sold or transferred is used by the relative or the related company for the production of gross income;

⁽¹⁾ Amended by FA 2004. Effective as from income year 2004/05. Previously was:

(a) unless the expenditure is incurred exclusively in the production of gross income in the income year in which the expenditure is incurred;

⁽²⁾ The words "Subject to subsection (7)," inserted by FA 1999.

⁽³⁾ Subsection (7) amended by the Sugar Industry Efficiency Act 2001. Effective as from 17.9.2001 - Proclamation No. 15 of 2001. Previously FA 1999 -

(7) Subsection (6) shall not apply where a person sells or otherwise transfers plant or machinery to a relative or to a related company and the plant or machinery sold or transferred is used by the relative or the related company for the production of gross income.

- (ia)⁽¹⁾ where a person sells or otherwise transfers industrial premises to a relative or to a related company and the premises sold or transferred are used by the relative or the related company as industrial premises;
- (ii) in respect of industrial premises or plant or machinery sold or otherwise transferred by a person or body of persons engaged in a specified activity to a company engaged in a specified activity provided that the company or its holding company, as the case may be, satisfies the conditions specified in section 12 of the Sugar Industry Efficiency Act 2001.⁽²⁾
- (b) In this subsection -
- (i) **“specified activity”** means -
- (A) the growing of sugar cane;
- (B) the milling of sugar; or
- (C) the processing of sugar cane by-products including the production of firm or continuous electricity for export to the grid through the use of bagasse or coal, as the case may be.
- (ii) **“holding company”** has the same meaning as in the Companies Act 2001.⁽³⁾
- (8)⁽⁴⁾ Where an investment approved by the Commissioner is made in a company holding a regional development certificate, the investment is deemed to be capital expenditure for the purposes of this section.

26. Unauthorised deductions

- (1) **Notwithstanding sections 18 and 19 but**⁽⁵⁾ subject to the other provisions of this section, no deduction shall be made in respect of -
- (a) any investment, expenditure or loss to the extent to which it is capital or of a capital nature;
- (b) any expenditure or loss to the extent to which it is incurred in the production of income which is exempt income;

⁽¹⁾ Subparagraph (ia) inserted by FA 2005. Effective as from assessment year 2005-06.

⁽²⁾ Subparagraph (ii) amended by FA 2002. Previously Sugar Industry Efficiency Act 2001 -
(ii) in respect of industrial premises or plant or machinery sold or otherwise transferred by a person or body of persons engaged in a specified activity to a company engaged in a specified activity provided that the company is listed on the Stock Exchange and -
(A) has as shareholder the Trust established under the Sugar Industry Efficiency Act 2001, or any body controlled by the Trust or any specified entity; or
(B) sells or otherwise transfers any of its lands at a nominal price of one rupee to the Trust established under the Sugar Industry Efficiency Act 2001, or any body controlled by the Trust or to any specified entity.

⁽³⁾ Subparagraph (ii) amended by FA 2002. Previously Sugar Industry Efficiency Act 2001 -
(ii) **“specified entity”** has the same meaning as in the Sugar Industry Efficiency Act 2001.

⁽⁴⁾ Previous subsection (7) added by FA 1998 and renumbered (8) by FA 1999.

⁽⁵⁾ The words "Notwithstanding sections 18 and 19 but" inserted by FA 1999.

- (c) any reserve or provision of any kind;
 - (d) any expenditure or loss recoverable under a contract of insurance or of indemnity;
 - (e) any expenditure incurred in providing business entertainment or any gift;
 - (f) any tax payable under the Land (Duties and Taxes) Act 1984;
 - (g) income tax or foreign tax;
 - (h) any expenditure or loss to the extent to which it is of a private or domestic nature.
- (2) Where the Commissioner is satisfied that any expenditure of a capital nature in relation to alterations or improvements to any premises, machinery or plant, does not increase the capital value of the premises, machinery or plant, or that the expenditure increases the capital value by an amount less than the amount of the expenditure, he may allow such deduction as he thinks fit.
- (3) Where any expenditure or loss incurred by a person in the production of his gross income and exempt income is not directly attributable to the production of such income, that part of the expenditure or loss attributable to the production of the exempt income shall be disallowed in such proportion as may be prescribed⁽¹⁾.
- (4) Where a developer under the Morcellement Act 1990 incurs, in the ordinary course of his business, expenditure in respect of tax payable under the Land (Duties and Taxes) Act 1984, such expenditure shall be allowed as a deduction.

⁽¹⁾ The words “the gross income shall be allowed in such proportion and in such manner as may be prescribed” replaced by “the exempt income shall be disallowed in such proportion as may be prescribed: by FA 2003. Effective as from year of assessment 2003/2004.

Sub-Part C - Personal Reliefs and Deductions

27. Reliefs and deductions limited to individuals resident in Mauritius

No relief or deduction under this Sub-Part shall be allowed unless the person is resident in Mauritius in the income year in which the income is derived.

28. Emoluments relief

(1) Notwithstanding section 27, every person who derives emoluments in an income year shall be allowed, in that income year, a relief by way of deduction from his net income from emoluments of -

(a) an amount equal to **15 per cent**⁽¹⁾ of his net income from emoluments or **135,000 rupees**⁽²⁾, whichever is the lesser; and

(b) an amount equal to his pension or **75,000 rupees**⁽³⁾, whichever is the lesser.

(2) For the purposes of this section, "**pension**" means a pension -

(a) paid by virtue of any enactment other than the National Pensions Act;

(b) paid from a superannuation fund; or

(c) which is a pension deductible under section 23 or 62, as the case may be.

28A. Agricultural income relief⁽⁴⁾

(1) Notwithstanding section 27, every person who derives income from agriculture in an income year shall be allowed, in that income year a relief by way of deduction from his net income from agriculture of an amount equal to **15 per cent**⁽⁵⁾ of his net income from agriculture or **100,000 rupees**⁽⁶⁾, whichever is the lesser.

(1) The words "15 per cent" replaced "12 per cent" by FA 1998. Effective as from income year 1998-99.

(2) Amended by FA 2005. Effective as from income year 2005-06. Previously -

- ITA 1995 as amended - Income year 1996-97 - Rs 39,000
- FA 1997 - Income year 1997-98 - Rs 65,000
- FA 1998 - Income year 1998-99 - Rs 100,000
- FA 2002 - Income year 2002-03 - Rs 125,000

(3) Amended by FA 2002. Effective as from income year 2002-03. Previously -

- ITA 1995 as amended - Income year 1996-97 - Rs 32,500
- FA 1997 - Income year 1997-98 - Rs 55,000
- FA 1998 - Income year 1998-99 - Rs 65,000

(4) Section 28A added by FA 1997. Effective as from income year 1997-98

(5) The words "15 per cent" replaced "12 per cent" by FA 1998. Effective as from income year 1998-99.

(6) Amended by FA 1998. Effective as from income year 1998-99. Previously FA 1997 - income year 1997-98 - Rs 65,000

- (2) For the purposes of this section, net income from agriculture -
- (a) includes the share of an associate attributable to the net income derived from agriculture by a société;
 - (b) does not include any income from agriculture which is exempt income.

29. Relief for contribution to certain funds and schemes

Every person who, in an income year, contributes to such funds or schemes as may be prescribed shall, in that income year, be allowed a relief by way of deduction from his net income of the amount paid as contributions.

30. Interest relief

- (1) Subject to the other provisions of this section, every person shall, in an income year, be allowed a relief by way of deduction from his net income of any expenditure incurred in that income year on interest -
- (a) on a loan secured by mortgage or fixed charge on immovable property;
 - (b) on a loan raised on the security of an insurance policy on his life or on the life of his dependent spouse or on the life of his dependent children;
 - (c) on a loan raised on the security of a standing crop or the proceeds of a crop; or
 - (d) on a loan raised on the pledge of shares or debentures,

and used exclusively for the purchase of land to be used for the construction of his residence or for the purchase, construction or improvement of his residence⁽¹⁾ or for the financing of tertiary education of his dependent children.⁽²⁾

- (2) The deduction under subsection (1) shall, subject to subsection (3), not exceed -
- (a) **125,000 rupees⁽³⁾** for each spouse, in the case of a couple where neither spouse is a dependent spouse;
 - (b) **250,000 rupees⁽⁴⁾**, in the case of a couple, where one spouse is a dependent spouse or where only one of the spouses has contracted the loan; or⁽⁵⁾
 - (c) **250,000 rupees⁽⁶⁾**, in any other case.

(1) The words "and used exclusively for the purchase of land to be used for the construction of his residence or for the purchase, construction or improvement of his residence" inserted by FA 1999. Effective as from income year 1999-00.

(2) The words "or for the financing of tertiary education of his dependent children" added by FA 2001. Effective as from income year 2001-02.

(3) The words "125,000 rupees" replaced "100,000 rupees" by FA 2002. Effective as from income year 2002-03.

(4) The words "250,000 rupees" replaced "200,000 rupees" by FA 2002. Effective as from income year 2002-03.

(5) Paragraph (b) amended by FA 1997. Effective as from income year 1996-97. Previously ITA 1995 as amended -

(b) 200,000 rupees, in the case of a couple where one spouse is a dependent spouse; or

(6) The words "250,000 rupees" replaced "200,000 rupees" by FA 2002. Effective as from income year 2002-03.

- (3) Where, in the case of a couple, the loan is in the joint names of the spouses and neither spouse is a dependent spouse, the deduction under subsection (2)(a) shall be allowed in any proportion as may be claimed by the spouses, provided that, in the aggregate, the deduction does not exceed **250,000 rupees**⁽¹⁾.
- (4)⁽²⁾ The Commissioner may refuse to allow a deduction on expenditure incurred as interest where he is satisfied that -
- (a) the interest is payable to a non-resident who is not assessable to tax on the amount of the interest; or
- (b) the interest is not likely to be paid in cash within a reasonable time.
- (5) For the purposes of this section, **“loan”** does not include any credit facility given by way of bank overdraft.⁽³⁾

31. Relief for life insurance premium

- (1) Subject to the other provisions of this section **[and to section 35]**⁽⁴⁾, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of the amount paid as premium in that income year under a life insurance policy which secures a capital sum on death, whether or not in conjunction with any other benefit, on his life, the life of his dependent spouse or the life of any of his children who at the end of that income year was under the age of 18.
- (2) Where the life insurance policy is held in the joint names of the spouses, the deduction under subsection (1) shall be allowed in any proportion as may be claimed by the spouses provided that, in the aggregate, the deduction does not exceed the amount of premium paid.
- (3) Where an employer has provided an insurance or contribution for the benefit of a person, his spouse, children and other dependants in respect of a pension, annuity, lump sum, gratuity or other like benefit accruing on death or retirement of the person, otherwise than under a superannuation fund, and the amount of the premium or contribution is included in an income year in the gross income of the person in section 10(1)(a), the person shall be allowed a relief by way of deduction from his net income in respect of the amount of premium or contribution paid by the employer in that income year.
- (4) The relief under this section shall not, in the aggregate, exceed 80,000 rupees.⁽⁵⁾

(1) The words “250,000 rupees” replaced “200,000 rupees” by FA 2002. Effective as from income year 2002-03.

(2) Subsection (5) renumbered (4) by FA 1999, the previous subsection (4) being deleted. Effective as from income year 1999-00. Previously ITA 1995 as amended -

(4) A deduction under this section shall not be allowed where, in respect of the same loan, a deduction for interest incurred in the production of income has been allowed under section 19.

(3) Subsection (5) added by FA 2001. Effective as from income year 2001-02.

(4) The words “and to section 35” deleted by FA 1999. Effective as from income year 1999-00.

(5) Subsection (4) added by FA 1999. Effective as from income year 1999-00.

32. Relief for premium on personal pension scheme

Subject to section 35, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of the amount paid as premium in that income year under a personal pension scheme approved by the Commissioner, being a scheme which has as its main object the provision of a pension for himself or his dependent spouse.

33. Relief for premium on retirement annuity

Subject to section 35, every person who in an income year derives earned income -

- (a) from a non-pensionable office or employment; or
- (b) which is included in the gross income specified in section 10(1)(b),

shall be allowed a relief by way of deduction from his net income in respect of the amount paid as premium or contribution in that income year under an annuity contract or scheme approved by the Commissioner, being a contract or scheme which has as its main object the provision of life annuity for him in his old age.

34. Relief for contribution to medical scheme and for ambulance services⁽¹⁾

Subject to section 35, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of contributions made by him in that income year under a scheme approved by the Commissioner which has as its main object -

- (a) the refund of medical expenses incurred by him for himself and for his dependants; or
- (b) the provision of ambulance services to him and to his dependants.

⁽¹⁾ Section 34 amended by FA 2002. Effective as from income year 2002-03. Previously ITA 1995 as amended -

34. Relief for contribution to medical scheme

Subject to section 35, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of contributions made by him in that income year under a medical scheme approved by the Commissioner, being a scheme which has as its main object the provision for medical expenses of himself and of his dependants.

35. Savings relief⁽¹⁾

The relief by way of deductions under sections 32, 33 and 34 shall, in the aggregate, be limited to 20 per cent of the net income of the person.

36. Investment relief

(1) Subject to the other provisions of this section, every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of -

- (a)⁽²⁾ an amount paid as subscription in the share capital of a company which is listed on the Stock Exchange, **or of an authorised mutual fund⁽³⁾**;
- (b) investments made in -
 - (i) units; or
 - (ii) newly issued securities of an investment trust company; or
- (c) contributions made to -
 - (i) a medical savings scheme approved by the Commissioner; or
 - (ii) an investment club formed in accordance with the Stock Exchange Act 1988.

⁽¹⁾ Section 35 amended by FA 1999. Effective as from income year 1999-00. Previously -

- ITA 1995 as amended - Income year 1996-97

35. Savings relief

(1) The relief by way of deductions under sections 31, 32, 33 and 34 shall, in the aggregate, be limited to -

- (a) 60,000 rupees, in the case where the net income of the person does not exceed 400,000 rupees; or
- (b) 15 per cent of the net income of the person where his net income exceeds 400,000 rupees.

- FA 1997 - Income year 1997-98

35. Savings relief

The relief by way of deductions under sections 31, 32, 33 and 34 shall, in the aggregate, be limited to -

- (a) 80,000 rupees, in the case where the net income of the person does not exceed 400,000 rupees; or
- (b) 20 per cent of the net income of the person where his net income exceeds 400,000 rupees.

⁽²⁾ Amended by FA 2004. Effective as from income year 2004/05. Previously was:

- (a) **an amount paid as subscription in the share capital of a company^(A)** which is -
 - (i) a tax incentive company; or
 - (ii) listed on the Stock Exchange;

^(A) The words “an amount paid as subscription in the share capital of a company” replaced “an amount subscribed to the share capital issued by a company” by FA 1997. Effective as from income year 1996-97.

⁽³⁾ The words “, or of an authorised mutual fund” added by FA 2005. Effective as from the income year commencing 1 July 2005.

- (2)⁽¹⁾ Subject to subsections (3) and (4), the deduction allowable under subsection (1) shall be -
- (a) 40 per cent of the amount paid as subscription or of the investments in the newly issued securities of an investment trust company or contributions made, as the case may be; and
 - (b) 40 per cent of the excess of the investments in units held at the end of an income year over the investments in units held at the end of the immediately preceding income year.
- (3)⁽²⁾ Where, in an income year, 40 per cent of the amount paid as subscription or of the investments or contributions made, as the case may be, exceeds **50,000 rupees**⁽³⁾, the excess shall, subject to subsection (4), be deductible in the 2 succeeding income years following that income year.
- (4)⁽²⁾ The relief under this section shall not, in the aggregate, exceed **50,000 rupees**⁽³⁾ in any one income year.
- (5)⁽²⁾ Where the subscription is paid or the investments or contributions are made by a resident société, the relief under this section shall be allowed to each of the associates of the société in the proportion of his share in the income of the société.

-
- (1) Subsection (2) amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 as amended -
- (2) The maximum deduction allowable under subsection (1) shall be -
- (a) 40 per cent of the amount subscribed or of the investments or contributions made, as the case may be; or
 - (b) 75,000 rupees, whichever is the lesser.
- FA 1997 - Income year 1996-97
- (2) Subject to subsections (3) and (4), the deduction allowable under subsection (1) shall be -
- (a) 40 per cent of the amount paid as subscription or of the investments or contributions made, as the case may be; or
 - (b) 75,000 rupees, whichever is the lesser.
- (2) Subsections (3), (4) and (5) amended by FA 1997. Effective as from income year 1996-97. Previously ITA 1995 as amended -
- (3) Where the amount is subscribed or the investments or contributions are made by a resident société, the relief under subsection (1) shall, subject to subsection (2), be allowed to each of the associates of the société in the proportion of his share in the income of the société.
 - (4) No deduction under subsection (1) shall be allowed unless --
 - (a) the investment in shares, units or securities is held for a period of not less than 12 months; or
 - (b) the contributions made are not withdrawn before the lapse of a period of 12 months.
 - (5) A deduction under this section shall be allowed in respect of the income year in which the 12-month period specified in subsection (4) is completed.
- (3) The words “50,000 rupees” replaced “75,000 rupees” by FA 2000. Effective as from income year 2000-01.

- (6) Where a deduction under this section has been allowed for an income year and within a period of 12 months following that income year the shares, units or securities are sold or transferred otherwise than on death, or the contributions are reimbursed otherwise than on death, the deduction shall be withdrawn and the amount of the deduction so withdrawn shall be deemed to be the gross income of the person in the income year in which the sale or transfer or reimbursement takes place.⁽¹⁾
- (7) No deduction shall be allowed under this section where a person has claimed an exemption under **item 14**⁽²⁾ of Part IV of the Second Schedule in respect of the same investment.⁽³⁾

36A. Relief for shares traded on the Official List of the Stock Exchange⁽⁴⁾

- (1) Subject to the other provisions of this section, every person shall, in respect of shares traded on the Official List of the Stock Exchange, be allowed a relief by way of deduction from his net income -
- (a) for the income year ended 30 June 1999, the value of shares held by him at 30 June 1999; and
- (b) for the income year ending 30 June 2000, the excess of the value of shares held by him at 31 December 1999 over the value of shares held by him at 30 June 1999.
- (2) (a) For the purposes of subsection (1)(a), the value of shares held at 30 June 1999 shall be computed by deducting from the aggregate purchase value of shares acquired as from 15 June 1999, the aggregate sale value of any shares sold, transferred or otherwise disposed of during the period 15 to 30 June 1999, irrespective of the date on which the shares sold, transferred or otherwise disposed of were acquired.
- (b) For the purposes of subsection (1)(b), the value of shares held at 31 December 1999 shall be computed by deducting from the sum of the value of shares held at 30 June 1999 and the aggregate purchase value of shares acquired as from 1 July 1999, the aggregate sale value of any shares sold, transferred or otherwise disposed of during the period 1 July to 31 December 1999, irrespective of the date on which the shares sold, transferred or otherwise disposed of were acquired.

(1) Subsection (6) added by FA 1997. Effective as from income year 1996-97.

(2) The words "item 14" replaced "item 13" by FA 2002.

(3) Subsection (7) added by FA 2000. Effective as from income year 2000-01.

(4) Section 36A added by FA 1999. Effective as from 1.7.1999.

- (3) The relief under this section shall not, in the aggregate, exceed -
- (a) 10,000 rupees in respect of the income year ended 30 June 1999; and
 - (b) 10,000 rupees in respect of the income year ending 30 June 2000.
- (4) Where a person has been allowed a deduction under this section in respect of the income year ended 30 June 1999 and the value of shares held by him at 30 June 1999 exceeds the value of shares held by him at 31 December 1999, the excess, to the extent of the amount of relief allowed under this section, shall be withdrawn and the amount so withdrawn shall be deemed to be the gross income of the person for the income year ending 30 June 2000.
- (5) Subject to subsection (6), for the purposes of computing the excess amount of the relief to be withdrawn under subsection (4),
- (a) where the value of the shares held at 30 June 1999 and at 31 December 1999 does not each exceed 10,000 rupees, the excess amount of the relief to be withdrawn shall be the difference between the value of the shares held at 30 June 1999 and the value of the shares held at 31 December 1999;
 - (b) where the value of the shares held at 30 June 1999 exceeds 10,000 rupees but the value of the shares held at 31 December 1999 does not exceed 10,000 rupees, the value of the shares held at 30 June 1999 shall be deemed to be equal to 10,000 rupees;
 - (c) where the value of the shares held at 30 June 1999 and at 31 December 1999 exceeds 10,000 rupees, the excess amount of the relief to be withdrawn shall be deemed to be zero.
- (6) Where the value of shares held at 31 December 1999 exceeds the value of shares held at 30 June 2000, the latter value shall be used for the purposes of computing the amount of relief under subsection (1)(b) or the excess amount of relief to be withdrawn under subsection (4), as the case may be.
- (7) For the purposes of subsection (6), the value of shares held at 30 June 2000 shall be computed by deducting from the sum of the value of shares held at 31 December 1999 and the aggregate value of shares acquired as from 1 January 2000, the aggregate sale value of any shares sold, transferred or otherwise disposed of during the period 1 January to 30 June 2000, irrespective of the date on which the shares sold, transferred or otherwise disposed of were acquired.

36B. Relief for investment in Retirement Savings Scheme⁽¹⁾

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a relief by way of deduction from his net income in respect of investments made by him in that income year in such retirement savings scheme as may be prescribed.
- (2) The deduction allowable under subsection (1) shall not exceed 50,000 rupees.

37. Deduction for medical expenses

- (1) **Subject to the other provisions of this section,**⁽²⁾ every person shall, in an income year, be allowed a deduction from his net income in respect of any expenses incurred in that income year for medical treatment of himself, his dependent spouse or dependent children in a health institution or hospital.
- (2) **Subject to subsections (3) and (4),**⁽³⁾ the deduction allowable under subsection (1) shall be **75 per cent**⁽⁴⁾ of the difference between the expenses incurred and any amount received by him from whatever source in respect of the expenses so incurred or -
 - (a) **25,000**⁽⁵⁾ rupees, where the treatment is undergone in Mauritius; or
 - (b) **35,000**⁽⁶⁾ rupees, where the treatment is undergone outside Mauritius,whichever is the lesser.⁽⁷⁾
- (3)⁽⁸⁾ Where in an income year, **75 per cent**⁽⁴⁾ of the difference between the expenses incurred and any amount received by him from whatever source in respect of the expenses so incurred exceeds the deduction allowable under subsection (2)(a) or (b), the excess shall, subject to subsection (4), be deductible in the 2 succeeding income years following that income year.
- (4)⁽⁸⁾ The deduction under this section in any one income year shall not, in the aggregate, exceed the deduction allowable under subsection (2).

(1) Section 36B added by FA 2000. Effective as from income year 2000-01.

(2) The words "Subject to the other provisions of this section " replaced "Subject to subsection (2)" by FA 1998. Effective as from income year 1997-98.

(3) The words "Subject to subsections (3) and (4)," inserted by FA 1998. Effective as from income year 1997-98.

(4) The words "75 per cent" replaced "50 per cent" by FA 2002. Effective as from income year 2002-03.

(5) The word "25,000" replaced "20,000" by FA 2005. Effective as from income year 2005-06.

(6) The word "35,000" replaced "30,000" by FA 2005. Effective as from income year 2005-06.

(7) Subsection (2) amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended -

(2) The deduction allowable in subsection (1) shall be 50 per cent of the difference between the expenses incurred and any amount received by him from whatever source in respect of the expenses so incurred or 15,000 rupees, whichever is the lesser.

(8) Subsections (3) and (4) added by FA 1998. Effective as from income year 1997-98.

37A. Donations to charitable institutions⁽¹⁾

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of any donations made to a charitable institution.
- (2) The deduction allowable under subsection (1) shall not, in the aggregate, exceed **40,000 rupees⁽²⁾**.

37B. Contributions to the National Solidarity Fund and Prime Minister's Children's Fund⁽³⁾

Every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of any contributions made to:-

- (a) the National Solidarity Fund; or
- (b) the Prime Minister's Children's Fund.

37C. Expenditure incurred on education and training⁽⁴⁾

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of any **subscription, examination or course⁽⁵⁾** fees or expenses payable to a recognised institution for his education or training, whether by distance learning or otherwise.
- (2) The deduction allowable under subsection (1) shall not exceed **50,000⁽⁶⁾** rupees.

38.⁽⁷⁾ Basic personal deduction

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a deduction from his net income in that income year of an amount specified in the Third Schedule.

(1) Section 37A added by FA 1997. Effective as from income year 1996-97.

(2) The words "20,000 rupees" replaced "10,000 rupees" by FA 2000. Effective as from income year 2000-01.

The words "20,000 rupees" replaced by "40,000 rupees" by FA 2004. Effective as from income year 2004/05.

(3) Section 37B added by FA 1997. Effective as from income year 1996-97.

Section 37B amended by FA 2004. Effective as from income year 2004-05. Previously was:

37B. Contributions to the National Solidarity Fund⁽³⁾

Every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of any contributions made to the National Solidarity Fund established under the Finance and Audit Act.

(4) Section 37C added by FA 1997. Effective as from income year 1996-97.

(5) The words "subscriptions, examination or course" added by FA 2003. Effective as from year of asst 2003/2004.

(6) "25,000 rupees" replaced by "50,000 rupees" by FA 2003. Effective as from year of assessment 2003/2004.

(7) Section 38 amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended -

38. Basic personal deduction

Every person shall, in an income year, be allowed a deduction from his net income in that income year of an amount specified in the Third Schedule.

- (2) Notwithstanding section 27, where a person who, in an income year, is not resident in Mauritius proves to the satisfaction of the Commissioner that he is a citizen of Mauritius in that income year, the person shall be allowed a deduction under subsection (1) in that income year.

39. Deduction for dependent spouse

Every person -

- (a) who in an income year has his spouse living with him or whose spouse, if not living with him, is maintained by him otherwise than by an order of court; and
- (b) whose spouse does not derive any income, or if in receipt of income, derives net income and exempt income of an amount not exceeding the deduction allowable under this section,

shall be allowed a deduction from his net income in respect of his dependent spouse in that income year of an amount specified in the Third Schedule.

40. Deduction for alimony and maintenance

Every person shall, in an income year, be allowed a deduction from his net income in respect of alimony paid to a previous spouse whose marriage with him has been dissolved by a court of competent jurisdiction, or in respect of maintenance paid to his spouse in accordance with an order of a court, in that income year.

41. Deduction for dependent children

- (1) Subject to the other provisions of this section, every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of his dependent child, of an amount specified in the Third Schedule.
- (2)⁽¹⁾ No deduction shall be allowed in an income year under this section -
- (a) to a person and his spouse in respect of more than 3 children in the aggregate;
- (b) to a person where a deduction has been claimed by his spouse in respect of the same child; or
- (c) in respect of a child who has sufficient income for his own support.
- (3) For the purposes of **subsection (2)(c)**⁽²⁾, a child shall be deemed to have sufficient income for his own support in an income year where the amount of the net income and exempt income derived by him in that income year exceeds the amount of the **deductions allowable under this section and section 41A**⁽³⁾.

⁽¹⁾ Subsection (2) amended by FA 2002. Effective as from income year 2002-03. Previously ITA 1995 as amended -

(2) No deduction shall be allowed under this section -

(a) in respect of more than 3 children in an income year;

(b) in respect of a child who has sufficient income for his own support; or

(c) to a person where a deduction has been claimed by his spouse under this section.

⁽²⁾ The words "subsection (2)(c)" replaced "subsection (2)(b)" by FA 2002.

⁽³⁾ Amended by FA 2004. Word "deduction" replaced by "deductions allowable under this section and section 41A". Effective as from income year 2004/05.

41A. Deduction for educational expenses⁽¹⁾

- (1) Subject to subsections (2) and (3), every person shall, in an income year, be allowed a deduction from his net income in respect of school fees paid by him to a recognised educational institution for the education of his dependent child in respect of whom he has been allowed a deduction under section 41.
- (2) The deduction allowable under subsection (1) shall not exceed:
 - (a) 10,000 rupees in respect of a child receiving pre-primary, primary or secondary education;
 - (b) 80,000 rupees in respect of child receiving tertiary education in Mauritius
- (3) The deduction allowable under subsection (1) in respect of a child receiving tertiary education outside Mauritius shall be 80,000 rupees.
- (4) The deduction under subsection (2) shall be allowed on production of relevant receipts from the educational institution in respect of school fees paid to that institution.

42. Deduction for dependent handicapped child

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a deduction from his net income in that income year in respect of his dependent handicapped child who is over the age of 18 in that income year of an amount specified in the Third Schedule.
- (2) No deduction shall be allowed under this section -
 - (a) where in respect of the child, the person has claimed in that income year a deduction under section 41; **or**⁽²⁾
 - (b)⁽³⁾ where the spouse of the person has been allowed a deduction in that income year in respect of the same child.

⁽¹⁾ Section 41A added by FA 1998. Effective as from income year 1998-99. Section 41A amended by FA 2004. Effective as from income year 2004/05. Previously was:

41A. Deduction for educational expenses

- (1) Subject to subsection (2), every person shall, in an income year, be allowed a deduction from his net income in respect of expenses incurred in that income year by way of tuition fees and school fees for his dependent child in respect of whom a deduction has been allowed under section 41.
 - (2) The deduction allowable under subsection (1) shall not exceed 8,000 rupees.
- ⁽²⁾ The word "or" inserted by FA 1998. Effective as from income year 1998-99.
- ⁽³⁾ Paragraph (c) relettered (b) by FA 1998, the previous paragraph (b) being deleted. Effective as from income year 1998-99. Previously ITA 1995 as amended -
- (b) where the amount of the net income and exempt income of the child in that income year exceeds 15,000 rupees; or

42A. Deduction for other handicapped person⁽¹⁾

- (1) Subject to the other provisions of this section, every person who, being a tutor for handicapped persons, maintains in an income year a handicapped person shall be allowed a deduction from his net income in that income year in respect of that handicapped person of an amount specified in the Third Schedule.
- (2) No deduction shall be allowed under this section where a deduction for a handicapped person has been claimed under section 39, 41 or 42 in that income year in respect of the same person.
- (3) Where claims for deduction are made under this section by 2 or more taxpayers, the deduction shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of the handicapped person.
- (4)⁽²⁾ For the purposes of this section, "**tutor**" means a person who maintains a handicapped person who is connected with him or with his dependent spouse by blood relationship as parent, grandparent, brother, sister, uncle, aunt, nephew or niece.

⁽¹⁾ Section 42A added by FA 1998. Effective as from income year 1998-99.

⁽²⁾ Subsection (4) added by FA 2002. Effective as from income year 2002-03.

PART IV - CORPORATE TAXATION**43. Application of Part IV**

This Part shall apply to companies, unit trust schemes, trusts and sociétés.

Sub-Part A - Companies, unit trust schemes, trusts and sociétés**44. Companies**

Every company shall be liable to income tax on its chargeable income at the rate specified in **Part II or Part III**⁽¹⁾ of the First Schedule, as the case may be.

44A. Alternative minimum tax⁽²⁾

(1)⁽³⁾ Notwithstanding the other provisions of this Act, but subject to the other provisions of this section, where in the case of a company, the normal tax payable is less than 5 per cent of its book profit in an income year, the tax payable for that income year shall be deemed to be -

- (a) 5 per cent of its book profit in respect of that year; or
- (b) 10 per cent of the aggregate amount of any dividends declared and any amount distributed by way of shares in lieu of dividends in that year, whichever is lesser.

(2)⁽³⁾ This section shall not apply -

- (a) to a company which is exempt from the payment of income tax; or
- (b) where 10 per cent of the aggregate amount of any dividends declared and any amount distributed by way of shares in lieu of dividends by the company for the purposes of subsection (1) does not exceed the amount of the normal tax payable.

(1) The words "Part II or Part III" replaced "Part II, Part III or Part IV" by FA 2000. Effective as from year of assessment 2001-02.

(2) Section 44A added by FA 2004. Effective as from income year 2004-05.

(3) Subsections 1 and 2 amended by FA 2005. Effective as from the year of assessment 2005-06. Previously -

(1) Notwithstanding the other provisions of this Act, but subject to the other provisions of this section, where in the case of a company, the normal tax payable is less than 5 per cent of its book profit in an income year, the tax payable for that income year shall be deemed to be 5 per cent of its book profit or 10 per cent of any dividends declared in respect of that year, whichever is the lesser.

(2) This section shall not apply -

- (a) in respect of an income year, to a company which has not declared any dividend for that year;
- (b) to a company which is exempt from the payment of income tax; or
- (c) where the amount representing 10 per cent of dividends declared by the company for the purposes of subsection (1) does not exceed the amount of the normal tax payable.

- (3) Where a company derives gross income and any dividends, profits or gains referred to in **subsection (4)(a)**⁽¹⁾, any expenditure attributable to the production of the dividends, profits or gains shall be disallowed for the calculation of the book profit of the company for the purposes of this section.
- (4) For the purposes of this section -
- "book profit" means the profit computed in accordance with internationally accepted accounting practices -
- (a) as reduced by -
- (i) dividends receivable from resident companies;
 - (ii) profits on disposal **or revaluation**⁽²⁾ of fixed assets; and
 - (iii) profits or gains from sale **or revaluation**⁽²⁾ of securities, if any such item is credited to the profit and loss account; and
- (b) as increased by -
- (i) loss on disposal **or revaluation**⁽²⁾ of fixed assets; and
 - (ii) loss from sale **or revaluation**⁽²⁾ of securities, if any such item is debited to the profit and loss account;
- "normal tax payable" means the tax payable arrived at by multiplying the chargeable income of the company by the tax rate applicable to that company and after allowing for any credit to which the company may be entitled except a credit for any foreign tax.

45. Unit Trust Schemes

- (1) Every trustee of a unit trust scheme shall pay income tax on its chargeable income at the rate specified in Part II of the First Schedule.
- (2) Any gains derived by the trustee of a unit trust scheme on realisation of any investments shall be deemed not to be income derived by the trustee provided that at least 70 per cent of the gains -
- (a) is not distributed as income to the unit holders but is credited to the Unit Trust Fund of the scheme;
 - (b) is appropriated to meet realised losses; or
 - (c) is applied towards a capital purpose only.
- (3) Any distribution to a unitholder out of the net income derived by the unit trust schemes shall be deemed to be a dividend to a shareholder.

(1) The words "subsection (4)(a)" replaced the words "subsection (4)(a)(i)" by FA 2005. Effective as from assessment year 2005-06.

(2) The words "or revaluation" added by FA 2005. Effective as from assessment year 2005-06.

46. Trusts⁽¹⁾

- (1) Subject to section 7 and subsections (2) and (3) of this section, every trust shall be liable to income tax on its chargeable income at the rate specified in Part III of the First Schedule.
- (2) A trust⁽²⁾
- (a) of which the settlor is a non-resident or holds a Category 1 Global Business Licence or a Category 2 Global Business Licence under the Financial Services Development Act 2001 or another trust which qualifies under this subsection; and
- (b) (i) of which all the beneficiaries appointed under the terms of the trust are, throughout an income year, non-residents or holds a Category 1 Global Business Licence or a Category 2 Global Business Licence under the Financial Services Development Act 2001; or

(1) Section 46 amended by the Trusts Act 2001. Effective as from 1.12.2001 - Proclamation No.22 of 2001. Previously ITA 1995 as amended -

46. Trusts

- (1) (a) Subject to paragraph (b), every trust shall be liable to income tax on its chargeable income at the rate specified in **Part III**⁽ⁱ⁾ of the First Schedule.
 (b) A trust which is certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992 shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule.⁽ⁱⁱ⁾
- (2) The chargeable income under subsection (1) shall be the difference between -
 (a) the net income derived by the trust; and
 (b) the aggregate amount distributed to the beneficiaries under the terms of the trust deed.
- (3) **Subject to subsection (4)**,⁽ⁱⁱⁱ⁾ any amount distributed to the beneficiaries under the terms of the trust deed shall be deemed to be a charge under section 10(1)(d) and shall be liable to income tax in the hands of the beneficiaries.
- (4) A non-resident beneficiary of a trust which is certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992 **shall be exempt from income tax in respect of his income from the trust.**^(iv)
-
- (i) The words "Part III" replaced "Part IV" by FA 2000. Effective as from year of assessment 2001-02.
- (ii) Subsection (1) amended by FA 1997. Effective as from 1.7.1999. Previously ITA 1995 as amended -
 (1) Every trust shall be liable to income tax on its chargeable income at the rate specified in Part IV of the First Schedule.
- (iii) The words "Subject to subsection (4)," inserted by FA 1999. Effective as from 1.7.1999.
- (iv) The words "shall be exempt from income tax in respect of his income from the trust" replaced "shall be liable to income tax in respect of his income from the trust at the rate specified in Part II of the First Schedule" by FA 1999. Effective as from 1.7.1999
- (2) Subsection (2) amended by FA 2003. Effective as from year of assessment 2003/2004. Previously as amended by Trust Act 2001.
 A trust of which -
 the settlor is a non-resident; and
 all the beneficiaries appointed under the terms of the trust are, throughout an income year, non-resident, or hold a Category 1 Global Business Licence or a Category 2 Global Business Licence under the Financial Services Development Act 2001,
 shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule

- (ii) which is a purpose trust under the Trusts Act 2001 and whose purpose is carried out outside Mauritius,

shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule.

- (3) Where a trust which qualifies under subsection (2) deposits a declaration of non-residence for any income year with the Commissioner within 3 months after the expiry of the income year, it shall be exempt from income tax in respect of that income year.
- (4) The chargeable income under subsections (1) and (2) shall be the difference between -
- (a) the net income derived by the trust; and
- (b) the aggregate amount **of income**⁽¹⁾ distributed to the beneficiaries under the terms of the trust.
- (5) Any amount **of income**⁽²⁾ distributed to the beneficiaries under the terms of the trust shall be deemed to be a charge under section 10(1)(d) and shall be liable to income tax in the hands of the beneficiaries.
- (6) Notwithstanding subsection (5), a non-resident beneficiary of a trust shall be exempt from income tax in respect of his income under the terms of the trust.

47. Sociétés

- (1) No resident société shall be liable to income tax.
- (2) Subject to the other provisions of this Act, every associate of a resident société shall be liable to income tax on his share of income from that société.
- (3) The net income of an associate from a resident société shall be deemed to be the share to which he would have been entitled in the income of the société during an income year if the income had been wholly distributed among the associates.
- (4) For the purpose of calculating the net income of an associate specified in subsection (3), the associate shall be deemed -
- (a) to have derived that part of the gross income of the société; and
- (b) to have incurred that part of the allowable deductions of the société,

which bear the same proportion to the gross income or allowable deductions of the société as his share in the income of the société calculated in accordance with subsection (3) bears to the income of the société.

⁽¹⁾ Subsection (4)(b) amended by FA 2003. The words "of income" inserted immediately after the words "the aggregate amount". Effective as from year of assessment 2003/2004.

⁽²⁾ Subsection (5) amended by FA 2003. The words "of income" inserted immediately after the word "amount". Effective as from year of assessment 2003/2004.

- (5) Every associate of a société **holding a Category 1 Global Business Licence under the Financial Services Development Act 2001**⁽¹⁾ shall be liable to income tax in respect of his share of income in that société at the rate specified -
- (a) in Part I of the First Schedule where the associate is an individual, subject to a maximum rate of 15 per cent;
 - (b) in Part II of the First Schedule where the associate is a company.
- (6) Notwithstanding subsection (1), a société referred to in subsection (5) may, by notice in writing given simultaneously to the Commissioner and to **the Commission established under the Financial Services Development Act 2001**⁽²⁾, opt to be liable to income tax **at the rate specified in Part II of the First Schedule**.⁽³⁾
- (7) A non-resident société shall -
- (a) be liable to income tax as if the société were a company; and
 - (b) pay income tax on its chargeable income at a rate specified in Part II or **Part III**⁽⁴⁾ of the First Schedule, as the case may be.

48. Listed companies and subsidiaries of listed companies

- (1) Where, on the appropriate date specified in subsection (2), a company was a listed company or a subsidiary of a listed company, that company shall be liable to income tax for any year of assessment -
- (a) in the case where it is a tax incentive company, at the rate specified in Part II of the First Schedule; or
 - (b) in any other case, at the rate specified in Part III of the First Schedule.
- (2) The appropriate date shall be -
- (a) where section 118 applies, the date of the relevant annual balance of the company's accounts; or
 - (b) in any other case, the last day of the income year preceding that year of assessment.
- (3) For the purposes of this section -

(1) The words "holding a Category 1 Global Business Licence under the Financial Services Development Act 2001" replaced "which is certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992" by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001.

(2) The words "the Commission established under the Financial Services Development Act 2001" replaced "the Mauritius Offshore Business Activities Authority" by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001.

(3) The words "at the rate specified in Part II of the First Schedule" replaced "as a tax incentive company" by FA 2000. Effective as from year of assessment 2001-02.

(4) The words "Part III" replaced "Part IV" by FA 2000. Effective as from year of assessment 2001-02.

"**listed company**" means a company which has been admitted to, and has not been suspended or withdrawn from, the Official List; and

"**subsidiary of a listed company**" means a public company whose issued share capital is held by a listed company to the extent of at least 60 per cent.

49. Companies in the freeport zone⁽¹⁾⁽²⁾

- (1) Subject to the other provisions of this section, a private freeport developer or freeport operator shall be exempt from income tax.
- (2) Where a private freeport developer or freeport operator is authorised by virtue of its licence to carry out any specified manufacturing or processing activities, it shall, subject to subsection (3), be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule.
- (3) Where a private freeport developer or freeport operator referred to in subsection (2) is licensed prior to 1 June 2002 and is authorised to provide goods and services to a person outside the freeport zone -
 - (a) it shall be liable to income tax on its chargeable income computed by reference to its income derived from the provision

⁽¹⁾ Section 49 amended by FA 2002. Effective as from year of assessment 2002-03. Previously ITA 1995 as amended -

49. Companies in the freeport zone

- (1) Subject to subsection (2), the income derived by a company licensed under the Freeport Act 1992 shall be exempt from income tax.
- (2) Where the company derives income from any activity outside the freeport zone -
 - (a) it shall be liable to income tax on its chargeable income in respect of that activity at the rate specified in **Part II or Part III⁽ⁱ⁾ of the First Schedule, as the case may be;**⁽ⁱⁱ⁾ and
 - (b) its chargeable income shall be computed in such manner as may be prescribed.

⁽ⁱ⁾ The words "Part II or Part III" replaced "Part II, Part III or Part IV" by FA 2000. Effective as from year of assessment 2001-02.

⁽ⁱⁱ⁾ The words "Part II, Part III or Part IV of the First Schedule, as the case may be" replaced "Part IV of the First Schedule" by FA 1999. Effective as from 1.7.1999

⁽²⁾ Section 49 amended by FA 2003. Effective as from year of assessment 2003/2004. Previously ITA 1995 as amended by FA 2002 --

49. Companies in the freeport zone

- (1) A company licensed under the Freeport Act 2001 as -
 - (a) a private freeport developer shall be exempt from income tax;
 - (b) a third party freeport developer shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule;
 - (c) a freeport operator authorised by virtue of its licence to carry out any specified freeport processing activities shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule;
 - (d) a freeport operator authorised by virtue of its licence to carry out freeport activities other than those specified in paragraph (c) shall be exempt from income tax; or
 - (e) an occasional operator shall, subject to subsection (2), be liable to income tax on its chargeable income in respect of the activities covered by its licence at the rate specified in Part III of the First Schedule.
- (2) The chargeable income under subsection (1)(e) shall be computed in such a manner as may be prescribed.
- (3) Notwithstanding subsection (1)(c), a freeport operator referred to in that subsection and licensed on or before 1 June 2002 shall be exempt from income tax.

of those goods and services at the rate specified in Part II of the First Schedule; but

- (b) it shall be exempt from income tax in respect of its income other than its income referred to in paragraph (a).
- (4) Where a private freeport developer or freeport operator, other than one referred to in subsection (2) or (3), is authorised to provide goods and services to a person outside the freeport zone, it shall be liable to income tax on its income from the provision of those goods and services -
- (a) at the rate specified in Part II of the First Schedule where the sale is made to a company holding an investment certificate in respect of an export enterprise, **or export service enterprise, under the Investment Promotion Act or to a duty free shop under the Customs Act; and**⁽¹⁾
- (b) at the rate specified in Part III of the First Schedule, in any other case.
- (5) Where a company is licensed to carry out activities as an occasional operator, it shall be liable to income tax on its income derived from those activities at the rate specified in Part III of the First Schedule.
- (6) Every third party freeport developer shall be liable to income tax on its chargeable income at the rate specified in Part II of the First Schedule.
- (7) The chargeable income under subsections (2), (3) and (4) shall be computed in such manner as may be prescribed.
- (8) In this section, "freeport operator", "occasional operator", "private freeport developer" and "third party freeport developer" means a company licensed as such under the Freeport Act 2001.

50. Insurance, shipping, aircraft and other business

- (1) The net income of a company deriving income from insurance, shipping or aircraft business shall be ascertained in such manner as may be prescribed.
- (2) The Minister may, by regulations, make provision for the ascertainment of the net income of any other business.

⁽¹⁾ The words “, or export service enterprise, under the Investment Promotion Act or to a duty free shop under the Customs Act; and” replaced the words “ under the Investment Promotion Act; and” by FA 2005. Effective as from assessment year 2005-06.

Sub-Part B - Gross Income

51. Income included in gross income

Subject to the other provisions of this Act, the gross income of a company shall include the income referred to in section 10(1)(b), (c), (d) and (e).

52. Income received in anticipation

The provisions of section 12 shall apply in all respects to a company as they apply to an individual.

53. Valuation of trading stock

The provisions of section 13 shall apply in all respects to a company as they apply to an individual.

54. Transfer of trading stock with other assets or for inadequate consideration

The provisions of section 14 shall apply in all respects to a company as they apply to an individual.

55. Deemed income arising from expenditure or loss discharged

The provisions of section 15 shall apply in all respects to a company as they apply to an individual.

56. Apportionment of income on incorporation and disincorporation

The provisions of section 16 shall apply in all respects to a company as they apply to an individual.

Sub-Part C - Allowable Deductions

57. Expenditure incurred in the production of income

The provisions of section 18 shall apply in all respects to a company as they apply to an individual.

58. Expenditure incurred on interest in the production of income

The provisions of section 19 shall apply in all respects to a company as they apply to an individual.

59. Losses

- (1) (a) Where a company satisfies the Commissioner that it has in an income year incurred a loss, it may deduct that loss in computing its net income for that income year.
- (b) Where the amount of a loss cannot be fully relieved under paragraph (a), the company may claim that the unrelieved amount of the loss be carried forward and set off against its net income derived in the following income year and in the succeeding years, subject to such conditions as may be prescribed.

- (2) (a) Where a wholly owned subsidiary incorporated on or after 1 July 1993 which is a tax incentive company satisfies the Commissioner that it has in an income year incurred a loss, it may transfer in that income year any unrelieved loss to its holding company.
- (b) Any unrelieved loss specified in paragraph (a) shall be deemed to be incurred by the holding company in the income year in which the loss is transferred and shall be available for set off against the income of the holding company.
- (c) For the purposes of paragraphs (a) and (b), "**wholly owned subsidiary**" has the same meaning as in the Companies Act 1984.
- (3) (a) Subject to paragraph (c), where a miller who is not also a planter satisfies the Commissioner that he has in an income year incurred a loss, he shall be entitled to transfer in that income year any unrelieved loss to a planter related to the miller in proportion to the share of direct or indirect interest of the planter with the miller or of the miller with the planter.
- (b) Any unrelieved loss transferred under paragraph (a) shall be deemed to be incurred by the planter in the income year in which the loss is transferred and shall be available for set off against the net income of the planter.
- (c) This subsection shall apply to any loss incurred in the year of assessment 1994-95 and thereafter.
- (4)⁽¹⁾ (a) Where a subsidiary company which operates a business in the Island of Rodrigues satisfies the Commissioner that it has in an income year incurred a loss, it may transfer in that income year any unrelieved loss to its holding company in Mauritius.
- (b) Any unrelieved loss transferred in accordance with paragraph (a) shall be deemed to be incurred by the holding company in the income year in which the loss is transferred and shall be available for set off against the net income of the holding company.
- (5)⁽²⁾ For the purposes of subsection (3), a planter is related to a miller where the planter is -
- (a) the shareholder, other than an individual, of the miller;
- (b) the holding company of the miller;
- (c) the subsidiary of the miller;
- (d) the subsidiary of the holding company of the miller; or
- (e) the shareholder, other than an individual, of the holding company of the miller.

⁽¹⁾ Subsection (4) added by FA 1999. Effective as from income year 1999-00.

⁽²⁾ Previous subsection (4) renumbered (5) by FA 1999.

- (6)⁽¹⁾ (a) Notwithstanding the other provisions of this Act -
- (i) where a body of persons engaged in a specified activity sells or otherwise transfers, in an income year, its business to a company engaged in a specified activity, the body of persons may, in that income year, transfer any unrelieved loss to the company; or
 - (ii) where more than 50 per cent of the allotted shares of a body of persons engaged in a specified activity are sold or otherwise transferred in an income year to a company engaged in a specified activity, any unrelieved loss of the body of persons-
 - (A) shall be available in that income year to the body of persons for carry forward to the succeeding income year; or
 - (B) may be transferred to the company in proportion to its shareholding in the capital of the body of persons,

provided that the company or its holding company, as the case may be, satisfies the conditions specified in section 12 of the Sugar Industry Efficiency Act 2001.⁽²⁾
- (b) Any unrelieved loss transferred under paragraph (a) shall be deemed to be incurred by the company in the income year in which the loss is transferred and shall be available for set-off against the net income of the company.
- (c)⁽³⁾ For the purposes of paragraph (a), “**holding company**” and “**specified activity**” have the same meaning as in section 25.
- (7)⁽⁴⁾ Where any question arises under this section -
- (a) in relation to the quantum of losses available for set off or transfer;
 - (b) as to whether a planter is related to a miller; or
 - (c) as to any matter relating to the application of this section,
- the question shall be determined by the Commissioner.

(1) Subsection (6) added by the Sugar Industry Efficiency Act 2001. Effective as from 17.9.2001 - Proclamation No. 15 of 2001.

(2) Paragraph (a) amended by FA 2002. Previously Sugar Industry Efficiency Act 2001-

- (a) Where a body of persons engaged in a specified activity sells or otherwise transfers in an income year its business to a company engaged in a specified activity, the body of persons may in that income year transfer any unrelieved loss to the company provided that the company is listed on the Stock Exchange and -
 - (i) has as shareholder the Trust established under the Sugar Industry Efficiency Act 2001, or any body controlled by the Trust or any specified entity; or
 - (ii) sells or otherwise transfers any of its lands at a nominal price of one rupee to the Trust established under the Sugar Industry Efficiency Act 2001, or any body controlled by the Trust or to any specified entity.

(3) Paragraph (c) amended by FA 2002. Previously Sugar Industry Efficiency Act 2001 -

- (c) For the purposes of paragraph (a), “**specified activity**” and “**specified entity**” have the same meaning as in section 25

(4) Previous subsection (5) renumbered (6) by FA 1999 & renumbered (7) by the Sugar Industry Efficiency Act 2001.

59A.⁽¹⁾ Transfer of loss on takeover or merger⁽²⁾

- (1)⁽³⁾ Notwithstanding the other provisions of this Act, where –
- (a) a company takes over another company engaged in manufacturing activities; or
 - (b) 2 or more companies engaged in manufacturing activities merge into one company,
- any unrelieved loss of the acquiree may be transferred to the acquirer in the income year in which the takeover or merger takes place, on such conditions relating to safeguard of employment as may be approved by the Minister.
- (2) Any unrelieved loss transferred under subsection (1) shall be deemed to be incurred by the acquirer in the income year in which the loss is transferred and shall be available for set-off against the net income of the acquirer.
- (3)⁽⁴⁾ Where, at any time before the expiry of 3 years from the date of the takeover or merger, more than 50 per cent of the number of employees of the acquiree taken over by the acquirer or of the employees of both the acquiree and the acquirer, as the case may be, are made redundant, any loss transferred under subsection (1) shall be withdrawn and the amount of the loss so withdrawn shall be deemed to be the gross income of the acquirer in the income year in which the employees are made redundant.
- (4)⁽⁴⁾ For the purposes of this section -
- “acquiree” means a company of which the assets and liabilities have been acquired by another company through a takeover or merger and which is dissolved;
- “acquirer” means a company which has acquired the assets and liabilities of another company by means of a takeover or merger.

(1) Section 59A added by FA 2003. Effective as from year of assessment 2003/2004.

(2) The words “or merger” added by FA 2005. Effective as from assessment year 2005-06.

(3) Subsection (1) repealed and replaced by FA 2005. Effective as from assessment year 2005-06. Previously -

(1) Notwithstanding the other provisions of this Act, where a company takes over another company engaged in manufacturing activities, any unrelieved loss of the acquiree may be transferred to the acquirer in the income year in which the takeover takes place, on such conditions relating to safeguard of employment as may be approved by the Minister.

(4) Subsections (3) and (4) repealed and replaced by FA 2005. Effective as from assessment year 2005-06. Previously -

(3) Where, at any time before the expiry of 3 years from the date of the takeover or merger, more than 50 per cent of the number of employees of the acquiree taken over by the acquirer or of the employees of both the acquiree and the acquirer, as the case may be, are made redundant, any loss transferred under subsection (1) shall be withdrawn and the amount of the loss so withdrawn shall be deemed to be the gross income of the acquirer in the income year in which the employees are made redundant.

(4) For the purposes of this section -

(a) “acquiree” means a company which is dissolved after its assets and liabilities are taken over by the other company;

(b) “acquirer” means a company which has taken over another company.

60. Bad debts and irrecoverable sums

- (1) Subject to subsection (3), a company which derives gross income specified in section 10(1)(b) in an income year may deduct -
 - (a) the amount of a debt or sum which is proved to have become bad and to have been actually written off as a bad debt by the company in that income year; and
 - (b) in the case of banks or of financial institutions as may be approved by the Minister -
 - (i) the amount of any irrecoverable loan due by a company in liquidation in respect of which winding-up procedures have started; and
 - (ii) the amount of a specific loan due by a tax incentive company and which is considered to be a bad and irrecoverable debt, subject to a prescribed limit.
- (2) Subject to subsection (3), a company which derives gross income, other than gross income specified in section 10(1)(b), may deduct any debt or sum not received in an income year but which is deemed to be derived in that income year and which is proved to have become irrecoverable by the company.
- (3) Any amount allowed as a deduction under subsections (1) and (2) which is subsequently received by the company shall be deemed to be gross income derived in the income year in which it is received.

61. Contributions to superannuation fund

The provisions of section 22 shall apply in all respects to a company as they apply to an individual.

62. Pensions to former employees

- (1) Subject to subsection (2), the Commissioner may, in the case of a company deriving gross income specified in section 10(1)(b) allow a deduction in respect of any amount which is not deductible otherwise than under this section and which, in the opinion of the Commissioner, is reasonable in the particular circumstances of the case, paid by the company in that income year by way of a pension to any former employee in the business of the company, or to the surviving spouse of that employee, in consideration of the past services of that employee in that business of the company, where the Commissioner is satisfied that -
 - (a) the pension is receivable by the recipient -
 - (i) by virtue of any enactment;
 - (ii) as of right under a written document for a fixed period or for life;
 - (iii) in the case of the surviving spouse, for a fixed period or for life or until he or she remarries; or
 - (iv) on grounds which the Commissioner determines to be compassionate grounds; and

- (b) except in the case of the death of the employee while in the employment of the company, the employee did not retire from his employment before attaining the appropriate retiring age.
- (2) This section shall not apply where -
 - (a) the employee was or is a director of the company and was not in the full-time employment of the company; or
 - (b) in any other case, because of any relationship to or with the employer or otherwise the former employee or the surviving spouse had or has, in the opinion of the Commissioner, any control in relation to the payment of the pension by the company.

63. Annual allowance

The provisions of section 24 shall apply in all respects to a company as they apply to an individual.

64. Investment allowance

The provisions of section 25 shall apply in all respects to a company as they apply to an individual.

64A. Additional investment allowance⁽¹⁾

- (1) Subject to the other provisions of this section, where -
 - (a) a manufacturing company has incurred capital expenditure on the acquisition of state-of-the-art technological equipment; or
 - (b) an ICT company has incurred capital expenditure on the acquisition of new plant and machinery or computer software,

it shall, in addition to the deduction to which it may be entitled under section 64, be allowed a deduction of 25 per cent of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred.⁽²⁾
- (2) No deduction under subsection (1) shall be allowed in respect of expenditure incurred -
 - (a) in the acquisition of a road vehicle; or
 - (b) **in the case of a manufacturing company, on or after 1 July 2008.**⁽³⁾

⁽¹⁾ Section 64A added by FA 2000. Effective as from year of assessment 2001-02.

⁽²⁾ Subsection (1) amended by FA 2002. Effective as from year of assessment 2002-03. Previously FA 2000 - year of assessment 2001-02 -

(1) Subject to the other provisions of this section, where a manufacturing company has incurred capital expenditure on the acquisition of state-of-the-art technological equipment, it shall, in addition to the deduction to which it may be entitled under section 64, be allowed a deduction of 25 per cent of the capital expenditure so incurred by way of investment allowance in respect of the income year in which the expenditure is incurred.

⁽³⁾ The words "in the case of a manufacturing company, on or after 1 July 2004" replaced "on or after 1 July 2002" by FA 2002. The words "1 July 2004" replaced by "1 July 2008" by FA 2004. Effective as from asst. year 2005/06.

- (2A)⁽¹⁾ The deduction allowable under subsection (1) to a manufacturing company in respect of capital expenditure incurred on or after 1 July 2005 shall be at the rate of -
- (a) 20 per cent of the capital expenditure incurred in the income year ending on 30 June 2006;
 - (b) 15 per cent of the capital expenditure incurred in the income year ending on 30 June 2007; and
 - (c) 10 per cent of the capital expenditure incurred in the income year ending on 30 June 2008.
- (3) No investment allowance shall be allowed under this section where, before the expiry of 5 years from the date on which the expenditure was incurred -
- (a) the equipment is sold, scrapped or ceases to be used for the purposes of the business carried on by the company; or
 - (b) the business carried on by the company is permanently discontinued.
- (4) Where a deduction has been allowed under this section and any of the events specified in subsection (3) occurs, the deduction allowed shall be withdrawn and the amount of the deduction so withdrawn shall be deemed to be the gross income of the company in the income year in which the event occurs.

65. Pre-operational expenses of tax incentive companies

Where a company incorporated on or after 1 July 1993, being a tax incentive company, has incurred pre-operational expenses, it shall be allowed a deduction from its gross income of the expenses so incurred.

66. Contributions to road fund

A company which derives gross income specified in section 10(1)(b) may, in an income year, deduct from its gross income any expenditure incurred in that income year on contributions to any road fund approved by the Minister or set up under any enactment.

67. Donations to charitable institutions

- (1) Subject to subsection (2), every company shall, in an income year, be allowed a deduction from its gross income in that income year in respect of any donation made to a charitable institution.
- (2) The deduction allowable under subsection (1) shall not, in the aggregate, exceed **400,000 rupees**⁽²⁾.

⁽¹⁾ Paragraph (2A) added by FA 2004. Effective as from assessment year 2005/06.

⁽²⁾ The words "200,000 rupees" replaced "100,000 rupees" by FA 2000. Effective as from year of assessment 2001-02.
The words "200,000 rupees" replaced by "400,000 rupees" by FA 2004. Effective as from assessment year 2005-06.

67A. Marketing and promotional expenses⁽²⁾

A company engaged in tourism or export activities may, in an income year, deduct from its gross income twice the amount of any expenditure incurred in that income year on overseas marketing, export promotion including participation in international trade fairs, overseas advertising and preparation of tenders for the export of goods or services.

67B. Contributions to sport clubs and sport training centres⁽²⁾

(1)⁽³⁾ Subject to subsection (2), where in respect of an income year, a company proves to the satisfaction of the Commissioner that it has incurred expenditure on contributions to any sport club, Sport Federation, Multisport Organisation, the Trust Fund for Excellence in Sports established under the Finance and Audit (Trust Fund for Excellence in Sports) Regulations 2002 or any sport training centre set up by Government, it shall be allowed, in that income year, a deduction from its gross income in respect of the expenditure so incurred.

(2) The deduction allowable under subsection (1) shall not, in the aggregate exceed one million rupees.

(3)⁽⁴⁾ For the purposes of this section, "sport club", "Sport Federation" and "Multisport Organisation" have the same meaning as in the Sport Act 2001.

67C. Contributions to the National Solidarity Fund and Prime Minister's Children's Fund⁽⁵⁾

The provisions of section 37B shall apply in all respects to a company as they apply to an individual.

(1) Section 67A added by FA 1997. Effective as from year of assessment 1997-98.

(2) Section 67B amended by FA 1998. Effective as from year of assessment 1998-99. Previously FA 1997 - year of assessment 1997-98 -

67B. Contributions to sports clubs and sports training centres

(1) Subject to subsection (2), every company shall, in an income year, be allowed a deduction from its gross income in respect of any expenditure incurred in that income year on contributions to any sports club, or sports training centre set up by Government, certified by the Ministry of Youth and Sports as being a sports club or a sports training centre in that income year.

(2) The deduction allowable under subsection (1) shall not, in the aggregate, exceed 500,000 rupees.

(3) Subsection (1) repealed and replaced by FA 2004. Effective as from 17 August 2004. Previously was

(1) Subject to subsection (2), where in respect of an income year, a company proves to the satisfaction of the Commissioner that it has incurred expenditure on contributions to any sport club, sport federation, multisport federation, or sport training centre set up by Government, it shall be allowed, in that income year, a deduction from its gross income in respect of the expenditure so incurred.

(4) Subsection (3) repealed and replaced by FA 2004. Effective as from 17 August 2004. Previously was:

(3) For the purposes of this section, "**sport club**", "**sport federation**" and "**multisport federation**" have the same meanings as in the Physical Education and Sport Act 1984.

(5) Section 67C added by FA 1997. Effective as from year of assessment 1997-98. Section 67C retitled by FA 2004. Effective as from Assessment year 2005-06. Previously was:

67C. Contributions to the National Solidarity Fund

67D. Contributions to employees' share scheme⁽¹⁾

Every company shall, in an income year, be allowed a deduction from its gross income in respect of any contribution made in that income year to an employees' share scheme.

67E. Investment in start-up companies⁽²⁾

- (1) Where a company has subscribed in an income year to the share capital issued by a start-up company within 24 months of the date of the incorporation of the start-up company, the company shall be allowed in that income year and in each of the 2 succeeding income years a deduction from its gross income at the rate of $33 \frac{1}{3}$ per cent of the amount so invested.
- (2) No deduction under this section shall be allowed where a tax credit has been allowed under section 69 in respect of the same investment.
- (3) For the purposes of this section, a company incorporated under the Companies Act 1984 and engaged in the development and provision of services in respect of information technology, telecommunications and multimedia development shall be regarded as a start-up company for a period of 24 months as from the date of its incorporation, provided that more than half of the voting power at a general meeting is controlled by individuals who are the promoters of the company and have conceived the business project for which the company has been set up.

67F. Expenditure incurred in the setting up of social infrastructure⁽³⁾

Every company shall, in an income year, be allowed a deduction from its gross income in respect of any expenditure incurred in that income year for the setting up of such social infrastructure for the benefit of the community, as may be approved by the Minister.

67G. Contributions to the national ambulance services⁽³⁾

Every company shall, in an income year, be allowed a deduction from its gross income in respect of any contribution made in that income year towards the provision of national ambulance services.

68. Unauthorised deductions

The provisions of section 26 shall apply in all respects to a company as they apply to an individual.

(1) Section 67D added by FA 1999. Effective as from income year 1999-00.

(2) Sections 67E added by FA 2000. Effective as from year of assessment 2001-02.

(3) Sections 67F and 67G added by FA 2000. Effective as from year of assessment 2001-02.

Sub-Part D - Tax Credits

69. Investment tax credit

- (1)⁽¹⁾ Subject to the other provisions of this section and to section 72, where a company has subscribed in an income year to the share capital issued by a company which is listed on the Stock Exchange **or an equity fund**⁽²⁾ **or an authorised mutual fund**⁽³⁾, it shall be allowed a tax credit by way of deduction from its income tax otherwise payable for that income year and for each of the 2 subsequent income years of an amount equal to 10 per cent of the amount actually paid in cash.
- (2)⁽⁴⁾ No deduction under subsection (1) shall-
- (a) in any one income year exceed 300,000 rupees; or
 - (b) be allowed where a company has claimed an exemption under item 14 of Part IV of the Second Schedule in respect of the same investment.
- (3) Where -
- (a) the shares or any part of the shares are sold or transferred; or⁽⁵⁾
 - (b)⁽⁵⁾
 - (c) the company[, **other than an authorised mutual fund,**]⁽⁶⁾ reduces its capital and makes a repayment to the shareholder,
- no tax credit under this section in respect of those shares or any part thereof shall be allowed by way of deduction for the income year in which the sale, transfer, cessation or repayment takes place.
- (4) This section shall not apply to a company which is a tax incentive company.

(1) Subsection (1) of Section 67B amended by FA 2004. Words "a company which is a tax incentive company or" deleted. Effective as from assessment year 2005-06.

(2) The words "or an equity fund" inserted by FA 2002.

(3) The words "or an authorised mutual fund" added by FA 2005. Effective as from assessment year 2005-06.

(4) Subsection (2) amended by FA 2000. Effective as from year of assessment 2001-02. Previously ITA 1995 as amended -

(2) No deduction under subsection (1) shall in any one income year exceed 300,000 rupees.

(5) Subsection (3) amended by FA 2004. The word "or" added to paragraph (a) and paragraph (b) deleted. Effective as from assessment year 2005-06.

(6) The words " , other than an authorised mutual fund," deleted by FA 2005. Effective as from assessment year 2005-06.

69A⁽¹⁾. Special tax credit for investment in qualifying⁽²⁾ companies

- (1) Subject to the other provisions of this section, where a company has subscribed in an income year to the stated capital of a **qualifying⁽²⁾** company of an amount exceeding 60 million rupees or at least 20 per cent of the stated capital, whichever is the higher, it shall be allowed a tax credit by way of deduction from its income tax otherwise payable for the income year immediately preceding the income year in which the shares were acquired and at the option of the company -
 - (a) for each of the 3 subsequent income years, of an amount equal to 15 per cent of the amount actually paid in cash; or
 - (b) for each of the 5 subsequent income years, of an amount equal to 10 per cent of the amount actually paid in cash.
- (2) Subject to subsection (3), where the deduction under subsection (1) in respect of an income year exceeds the amount of income tax otherwise payable for that income year, the excess may be carried forward to the following income year.
- (3) No deduction under subsection (2) in respect of an investment shall be carried forward beyond a period of 5 consecutive income years starting from the income year in which the investment was made.
- (4) Where a deduction has been allowed under this section and the **qualifying⁽²⁾** company has not started operations by 30 June 2006, the deduction allowed shall be withdrawn and the total amount of tax credit claimed shall be deemed to be income tax payable to the Commissioner in the income year following the income year ending 30 June 2006.
- (5) Where -
 - (a) the shares or any part of the shares are sold or transferred;
 - (b) the **qualifying⁽²⁾** company reduces its capital and makes a repayment to the shareholder; or
 - (c) the trade carried on by the **qualifying⁽²⁾** company is permanently discontinued,no tax credit under this section in respect of those shares or any part thereof shall be allowed by way of deduction for the income year in which the sale, transfer, repayment or cessation takes place.
- (6) No deduction under this section shall be allowed where a company has claimed a deduction under section 69 in respect of the same investment.
- (7)⁽³⁾ For the purposes of this section, “qualifying company” means a company set up for the purpose of operating a spinning, weaving or dyeing factory.

(1) Section 69A added by FA 2003. Effective as from year of assessment 2003/2004.

(2) The word “qualifying” replaced the word “spinning” by FA 2005. Effective as from assessment year 2005-06.

(3) Subsection (7) added by FA 2005. Effective as from assessment year 2005-06.

70. Tax credit to modernisation and expansion enterprises

- (1) Subject to the other provisions of this section and to section 72, where a company which is the holder of **an investment certificate in respect of a modernisation and expansion enterprise, issued under the Investment Promotion Act 2000**⁽¹⁾ has incurred capital expenditure, of not less than 10,000,000 rupees within 2 years from the date of the issue of the certificate, on the acquisition of new plant and equipment or technology for modernisation and expansion, it shall be allowed a tax credit by way of deduction from the income tax otherwise payable by it of an amount equal to 10 per cent of the capital expenditure so incurred.
- (2) The tax credit under subsection (1) may be spread in such manner as the company may opt for over a period of 3 years starting from the income year in which the expenditure was incurred.
- (3) Where a tax credit under subsection (1) has for any income year been allowed and within 5 years following that income year -
 - (a) the company ceases to be engaged wholly or mainly in the qualifying activity; or
 - (b) the company sells or otherwise transfers the new plant and equipment or technology,an amount equal to the tax credit or the proportionate part of the tax credit allowed under this section shall be included in the income tax payable by the company in the income year in which the cessation, sale or transfer takes place.
- (4) The tax credit allowed under this section shall be in addition to the allowances to which the company is entitled under sections 63 and 64.
- (5) For the purposes of this section, "**qualifying activity**" has the meaning assigned to it in the Industrial Expansion Act 1993.
- (6) This section shall not apply to a company which is a tax incentive company.

⁽¹⁾ The words "an investment certificate in respect of a modernisation and expansion enterprise, issued under the Investment Promotion Act 2000" replaced "a modernisation and expansion enterprise certificate under the Industrial Expansion Act 1993" by FA 2001. Effective as from income year 2001-02.

71. Tax credit for exports

- (1) Subject to subsection (2) and to section 72, every company, engaged in the export of goods which are manufactured or produced in Mauritius or in the provision of services to a non-resident, shall, in an income year, be allowed a tax credit by way of deduction from the income tax otherwise payable by the company in that income year of such amount as may be prescribed.
- (2) Subsection (1) shall not apply to a company which is a tax incentive company.

72. Limitation to tax credits

Where, in an income year, the amount of income tax otherwise payable by a company after deducting the aggregate amount of tax credits specified in sections 69, 70 and 71 -

- (a) exceeds 15 per cent of its chargeable income, the aggregate amount of tax credits shall be allowed as a deduction; or
- (b) does not exceed 15 per cent of its chargeable income, the aggregate amount of tax credits shall be limited to such amount that would not reduce the tax payable after deducting that amount to less than 15 per cent of the chargeable income of the company.

PART V - INTERNATIONAL ASPECTS OF INCOME TAX

73. Definition of residence

For the purposes of this Act, "**resident**", in respect of an income year, when applied to -

- (a) an individual, means a person who -
 - (i) has his domicile in Mauritius unless his permanent place of abode is outside Mauritius;
 - (ii) has been present in Mauritius in that income year, for a period of, or an aggregate period of, 183 days or more; or
 - (iii) has been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 270 days or more;⁽¹⁾
- (b) a company, means a company which -
 - (i) is incorporated in Mauritius; or
 - (ii) has its central management and control in Mauritius;
- (c) a société -
 - (i) means a société which has its seat or *siège* in Mauritius; and
 - (ii) includes a société which has at least one associate or *associé* or *gérant* resident in Mauritius;
- (d) a trust, means a trust -
 - (i) where the trust is administered in Mauritius and a majority of the trustees are resident in Mauritius; or
 - (ii) where the settlor of the trust was resident in Mauritius at the time the instrument creating the trust was executed;
- (e) any other association or body of persons, means an association or body of persons which is managed or administered in Mauritius.

⁽¹⁾ Paragraph (a) amended by FA 1997. Effective as from income year 1996-97. Previously ITA 1995 as amended -

- (a) an individual, means a person who has been present in Mauritius -
 - (i) in that income year, for a period of, or an aggregate period of, 183 days or more; or
 - (ii) in that income year and the 2 preceding income years, for an aggregate period of 270 days or more;

73A. Residence in the case of company holding a Category 2 Global Business Licence⁽¹⁾

A company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001 shall not be resident for the purposes of section 76.

74. Income derived from Mauritius

- (1) Subject to subsection (2), income derived from Mauritius shall include -
- (a) emoluments derived from any office or employment, the duties of which are performed wholly or mainly in Mauritius, whether such emoluments are received in Mauritius or not;
 - (b) annuity, pension including a pension in respect of past services referred to in sections 23 and 62;
 - (c) income derived from any business carried on wholly or partly in Mauritius;
 - (d) income derived from any contract wholly or partly performed in Mauritius;
 - (e) income derived by a person in his capacity as owner of any immovable property in Mauritius;
 - (f) income derived from investment in shares, debentures or other securities in Mauritius;
 - (g) income derived by a person from money lent by him -
 - (i) in Mauritius; or
 - (ii) outside Mauritius to -
 - (A) a resident, other than a resident banking company, except where the money lent is used by the resident for the purpose of a business carried on by him outside Mauritius through a fixed establishment outside Mauritius; or
 - (B) a non-resident, if the money lent is used by the non-resident for the purpose of a business, other than the business of money-lending, carried on by him in Mauritius through a permanent establishment in Mauritius;
 - (h) premium or other like payment which is derived from property in Mauritius; **and**⁽²⁾
 - (i) income derived directly or indirectly from any other source in Mauritius; **and**].⁽²⁾
 - (j)⁽³⁾

(1) Section 73A added by the Companies Act 2001. Effective as from 1.12.2001 - Proclamation No. 21 of 2001.

(2) The word "and" added and the word "; and" deleted by FA 2001. Effective as from income year 2001-02.

(3) Paragraph (j) deleted by FA 2001. Effective as from income year 2001-02. Previously ITA 1995 as amended -

(j) income derived from outside Mauritius by a resident of Mauritius.

- (2) Where by reason of -
- (a) the manufacture, production, or purchase of goods in one country and their sale in another;
 - (b) successive steps of production or manufacture in different countries;
 - (c) the making of a contract in one country and its performance in another; or
 - (d) any other cause,
- the source of any income, other than income referred to in subsection (1)(e), is not exclusively in Mauritius, that income shall be apportioned between its source in Mauritius and its source elsewhere, or attributed to one of such sources to the exclusion of the other, in such manner as the Commissioner thinks fit, having regard to the nature and relative importance of the source of that income, and the income so apportioned or attributed to a source in Mauritius shall be regarded as derived from Mauritius.
- (3) For the purposes of subsection (1)(g), "**money lent**" includes -
- (a) any money advanced, deposited or otherwise let out, whether on current account or otherwise; and
 - (b) any credit given, including the forbearance of a debt, whether on current account or otherwise.

75. Application of arm's length test

- (1) This section shall apply to any case where -
- (a) any business or other income earning activity carried on in Mauritius -
 - (i) is controlled by a non-resident; or
 - (ii) is carried on by a non-resident company or by a company in which more than one half of the shares are held by or on behalf of a non-resident; or
 - (b) in the carrying on of any business or other income earning activity in Mauritius any person controlling that business or activity, by reason of his relationship or otherwise with any other person, is not in the opinion of the Commissioner at arm's length with that person with respect to any commercial or financial transaction; and
 - (c) it appears to the Commissioner that the business or other income earning activity in Mauritius produces no net income or less than the amount of net income which in the opinion of the Commissioner might be expected to be derived from that business or activity.
- (2) Where the conditions specified in subsection (1) are satisfied, the net income of any person carrying on a business or other income earning activity in Mauritius shall be the amount which the Commissioner determines would have been derived from that business or activity, had all its commercial and financial transactions and relations been wholly at arm's length.

- (3) The Minister may make such regulations as he thinks fit for the purposes of this section.

76. Arrangements for relief from double taxation

- (1) The Minister may enter into arrangements with the government of a foreign country -
- (a) with a view to affording relief from double taxation in relation to foreign tax imposed by the laws of that country and income tax; and
 - (b) for the exchange of information with a view to assisting -
 - (i) in the determination of credits and exemptions in respect of income tax and foreign tax;
 - (ii) in the prevention of fraud; or
 - (iii) in the administration of the laws in relation to income tax and foreign tax.
- (2) Notwithstanding this Act or any other enactment but subject to the other provisions of this section, an arrangement entered into under subsection (1) shall have effect in relation to income tax and according to its tenor.
- (3) An arrangement under subsection (1) may contain provision in relation to foreign tax and income tax -
- (a) for relief from tax;
 - (b) for assessing the income derived from sources in Mauritius by non-residents;
 - (c) for determining the income to be attributed to non-residents and their agencies, branches, or establishments in Mauritius;
 - (d) for determining the income to be attributed to residents who have special relationships with non-residents;
 - (e) for relief from tax for periods before the commencement of this Act or before the making of the arrangement; and
 - (f) as to income which is not itself subject to double taxation.
- (4) An arrangement under subsection (1) may at any time be amended or revoked by a subsequent arrangement, and the subsequent arrangement may contain such transitional provision as appears to the Minister to be necessary or expedient.
- (5) Where an arrangement is made under subsection (1), the obligations as to secrecy imposed under section 154 shall not prevent the Commissioner from disclosing to an officer authorised by the government with which the arrangement is made such information as is required to be disclosed under the arrangement.
- (6) The Minister may make such regulations as he thinks fit to give effect to any arrangement entered into under this section.

77. Credits in respect of foreign tax

- (1) Where a taxpayer derives income which is subject to foreign tax, the amount of foreign tax so paid shall be allowed as a credit against income tax payable in Mauritius in respect of that income.
- (2) The credit in respect of foreign tax shall, in the case of a dividend, include credit for any foreign tax imposed on the profits out of which that dividend is directly or indirectly paid.
- (3) The Minister may, by regulations, provide for the implementation of the provisions of this section and for the granting of credit for foreign tax in such manner and on such conditions as he thinks fit.

**PART VI - AGENTS, ABSENTEES AND NON-RESIDENTS
AND DECEASED PERSONS**

78. Liability of principal not affected

- (1) Nothing in this Act relating to an agent shall be construed so as to release the principal from liability to make returns and pay income tax, and the principal and agent shall be jointly and severally liable for the income tax.
- (2) Where 2 or more persons are liable as agents in respect of the same income tax, they shall be jointly and severally liable for it.

79. Provisions applying to agents

Subject to this Act, every agent shall -

- (a) be answerable for the doing of all such things as are required to be done under this Act in respect of the income derived by him in his representative capacity, or derived by the principal by virtue of the agency, and for the payment of income tax on it;
- (b) in respect of that income, make returns and be liable on that income but in his representative capacity only, and each return and tax liability shall be separate and distinct from any other;
- (c) be authorised and required to retain out of any money or other property received by him in his representative capacity so much as is sufficient to pay the income tax which is or will become payable in respect of that income;
- (d) not make any payment of income to a non-resident or absentee or transfer out of Mauritius any sum for the purpose of making any such payment, unless and until arrangements have been made to the satisfaction of the Commissioner for the payment of any income tax which is or will become payable in respect of that income;
- (e) be personally liable for the income tax payable in respect of the income to the extent of any amount that he has retained, or should have retained under paragraphs (c) and (d);
- (f) be indemnified for all payments which he makes under this Act or for any requirement of the Commissioner;
- (g) where another agent pays an amount for which they are jointly liable, be liable to pay to that agent his proportionate share of the amount so paid;
- (h) for the purpose of ensuring the payment of income tax, be liable, to the extent provided in paragraph (e), in respect of attachable property of any kind vested in him or under his control or management or in his possession to the same measures which the Commissioner may enforce against the property of any taxpayer in respect of income tax.

80. Income tax paid on behalf of another person

Every person who, under this Act, pays income tax for or on behalf of any other person may recover it from that other person as a debt in any court of competent jurisdiction or may retain or deduct it out of money at any time in his hands belonging or payable to that other person.

81. Agents of incapacitated persons, companies and bodies of persons

- (1) Every person who has the possession, control or disposal of any income derived by an incapacitated person shall be deemed to be the agent of the incapacitated person in respect of that income.
- (2) Every secretary, manager or other principal officer of a company, société or other body of persons shall be deemed to be the agent of the company, société or other body of persons in respect of income derived by it.
- (3) Every receiver or receiver and manager of the property of a company, or every liquidator of a company, shall be deemed to be the agent of the company in respect of any income derived by the company in any income year.
- (4) Every trustee shall be deemed to be the agent of a trust in respect of income derived by that trust.
- (5) Every trustee or manager of a unit trust scheme shall be deemed to be the agent of that unit trust scheme.
- (6) For the purposes of this section -

"incapacitated person" means a minor or a person suffering from mental or physical disability; and

"manager", in relation to a unit trust scheme, has the same meaning as in the Unit Trust Act 1989.

82. Agents of absentees and non-residents

- (1) Notwithstanding the fact that there may be another agent in Mauritius who shall continue to be liable as agent, but subject to this Act -
 - (a) every person who carries on business in Mauritius on behalf of a principal who is an absentee shall be deemed to be the agent of that principal in respect of all income derived from that business and shall be liable to income tax on it, whether or not any income derived by the principal is received by him;
 - (b) where a non-resident derives chargeable income from Mauritius from the business of shipping, the master of any ship and the captain of any aircraft shall be deemed to be the agent of that non-resident in respect of all income derived from the carriage of passengers, cargo or mail by that ship or aircraft and shall be liable to income tax on it, whether or not any income derived by the non-resident is received by him;

- (c) every person who in Mauritius collects or receives or in any way has the possession, control or disposal of any income derived by an absentee shall be deemed to be the agent of the absentee in respect of that income.
- (2) Where a non-resident sells goods -
- (a) by himself while in Mauritius; or
 - (b) through a person who is in Mauritius,
- and the goods are in Mauritius or are to be brought into Mauritius for the purpose or in pursuance or consequence of the sale, the non-resident shall be deemed to have sold the goods in the course of carrying on business in Mauritius, whether the contract of sale is made in or outside Mauritius.
- (3) Where goods are sold by a non-resident through a person who is in Mauritius, that person shall be deemed to be the agent of that non-resident in respect of all income derived from the business carried on in Mauritius by the non-resident and shall be liable to income tax on it, whether or not any income derived by the non-resident is received by him.

83. Deceased persons

- (1) Where a taxpayer dies, every person specified in subsection (3), shall, subject to subsections (2), (4), (5) and (6), be liable to income tax on all income derived by the taxpayer in his lifetime in the same manner in which the taxpayer would have been liable had he remained alive, and shall be deemed to be an agent of the deceased taxpayer.
- (2) The income tax payable in accordance with subsection (1) shall be reduced by -
- (a) 10,000 rupees; or
 - (b) an amount equivalent to half of any lump sum payable under any enactment on the death of the taxpayer by way of death gratuity or in commutation of pension or from a superannuation fund,
- whichever is the higher.
- (3) The persons specified for the purposes of subsection (1) shall be -
- (a) an heir who accepts the succession of the deceased simply ("purement et simplement") or under benefit of inventory;
 - (b) a surviving spouse;
 - (c) a universal legatee;
 - (d) an executor;

-
- (e) a notary acting as liquidator of the succession of the deceased;
 - (f) where there is no person specified in paragraph (a), (b) or (c), a legatee or donee; and
 - (g) where he is vested with the vacant succession of the deceased, the Curator of Vacant Estates.
- (4) Where a person specified in subsection (3) has distributed the whole of the estate of the deceased taxpayer and thereafter a change occurs in the rate of income tax, he shall not be liable for any additional income tax resulting from the change.
- (5) A person specified in subsection (3)(a), (b) or (f) shall not be liable under subsection (1) to any income tax in excess of his share in the estate of the deceased taxpayer.
- (6) Nothing in this section shall affect the rights of a person specified in subsection (3) over or against any heir, surviving spouse or legatee.

PART VII - ANTI-AVOIDANCE PROVISIONS**84. Interest on debentures issued by reference to shares**

Where a company has issued debentures to its shareholders or any class of shareholders, and the amount of the debentures issued to each shareholder has been determined by reference to the number, the nominal value or the paid-up value of the shares in that company or in any other company, whether or not that other company is being or has been wound up, that were held by or on behalf of the shareholder at the time the debentures were issued or at any earlier time, the interest paid by the company on the debentures so issued shall not be an allowable deduction and shall be deemed to be a dividend received from the company by the shareholders or class of shareholders of the company.

85. Excess of remuneration or share of profits

(1) Subject to subsection (3), where -

- (a) a taxpayer carries on any business or other income earning activity and employs a relative, or, being a company, employs a relative of a director or shareholder of the company, to perform services in connection with the business or activity;
- (b) a taxpayer carries on business or other income earning activity as an associate with any person, whether or not any other person is a member of the société; and
 - (i) a relative of the taxpayer is employed by the société to perform services in connection with the business or activity; or
 - (ii) where one of the associates is a company, a relative of a director or shareholder of the company is employed by the société to perform services in connection with the business or activity; or
- (c) a taxpayer carries on business or other income earning activity in association with a relative or with a company of which a director or shareholder is a relative of the taxpayer or, being a company, carries on business or other income earning activity in association with a relative of a director or shareholder of the company, whether or not any other person is a member of the société,

and the Commissioner is of opinion that the remuneration, salary, share of profits or other income payable to or for the benefit of that relative or company under the contract of employment or on the terms of the société exceeds the amount which is reasonable, having regard to the nature and extent of the services rendered, the value of the contributions made by the respective associates by way of services or capital or otherwise, and any other relevant matters, the Commissioner may apportion the net income of the business or other income earning activity, without deducting any amount payable to that relative or company, between the parties to the contract of employment or the associates or any of them in such shares and proportions as he considers reasonable, and the amounts so apportioned shall be deemed to be income derived by the persons to whom those amounts are so apportioned and by no other person.

- (2) Subject to subsection (3), where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by a person who is a relative of a director or shareholder of the company, is apportioned to that company in accordance with subsection (1), the amount so apportioned to the company shall be deemed to be a **benefit referred to in section 86A**⁽¹⁾ received by that person as a shareholder of the company.
- (3) This section shall not apply to a contract of employment or an agreement to form a société where -
- (a) the contract or agreement is in writing and signed by all parties;
 - (b) no associate and no person employed under the contract or agreement was a minor at the date on which the contract was signed;
 - (c) the contract or agreement is binding on the parties for a term of not less than 3 years and cannot be terminated by any party before the expiry of that term;
 - (d) each party to the contract has a real and effective control of the remuneration, salary, share of profit, or other income to which he is entitled under the contract; and
 - (e) the remuneration, salary, share of profits or other income payable to a relative or to a company of which a director or shareholder is a relative is not of such an amount that the transaction constitutes a gift or other disposition of property without adequate consideration in money or money's worth.

86. Excessive remuneration to shareholder or director

Where any sum paid or credited by a company, being or purporting to be remuneration for services rendered by a person who is a shareholder or director of the company, exceeds the amount which in the opinion of the Commissioner is reasonable, the amount of the excess shall not be an allowable deduction and shall be deemed to be a **benefit referred to in section 86A**⁽²⁾ received by that person as a shareholder of the company.

⁽¹⁾ The words "benefit referred to in section 86A" replaced "dividend" by FA 2001. Effective as from income year 2001-02.

⁽²⁾ The words "benefit referred to in section 86A" replaced "dividend" by FA 2001. Effective as from income year 2001-02.

86A. Benefit to shareholder⁽¹⁾

Where a benefit of any nature, whether in money or money's worth, other than payment of dividend, is made by a company to any shareholder or a relative of the shareholder, the value of that benefit, to the extent that it exceeds the payment, if any, made therefor, shall be deemed to be income referred to in section 10(1)(e) and received by the shareholder or the relative of the shareholder, as the case may be.

87. Excessive management expenses

- (1) Subject to subsection (2), where a person carries on any business or other income earning activity and the Commissioner is of the opinion that any management expenses incurred by him exceed the amount which is reasonable, having regard to the nature and extent of the management services rendered, the amount of the excess shall not be an allowable deduction.
- (2) This section shall not apply to the extent that the income of the taxpayer concerned is adjusted under section 84, 85 or 86.
- (3) For the purposes of this section, "**management expenses**" means any emoluments, fee, rent, commission, charge or other administration expense incurred in the general management of a business or other income earning activity.

88. Leases for other than an adequate rent

- (1) Where property owned by a person, by 2 or more persons whether jointly or in undivided ownership or by a société is leased to a relative of any of those persons or any associate of the société or to a related company, or where property owned by a company is leased to a shareholder or a relative of a shareholder or to any other person, and the rent is not an adequate rent for the property or the lease makes no provision for the payment of rent, there shall be deemed to be payable under the lease a rent that is equal to an adequate rent for the property, and that rent shall be deemed to be income derived by the lessor -
 - (a) where a rent is payable under the lease, in respect of the periods for which the rent is so payable; or
 - (b) where no rent is payable under the lease, in respect of such periods as the Commissioner determines.
- (2) The rent deemed to be payable under subsection (1) shall be deemed to accrue from day to day during the period in respect of which it is payable, and shall be apportioned accordingly.
- (3) For the purposes of this section, "**adequate rent**" means the amount of rent which the Commissioner determines to be adequate for the period for which the determination is made.

⁽¹⁾ Section 86A added by FA 2001. Effective as from income year 2001-02.

89. Rights over income retained

Where a person sells property or any right to income to a relative and retains or obtains the power to enjoy income arising from that property or from that right or retains or obtains the right to dispose of or direct or control the disposition of that income or of that property or right, the income shall be deemed to be income derived by the transferor and by no other person as if the sale had not taken place.

90. Transactions designed to avoid liability to income tax

(1) This section shall apply where any transaction has been entered into or effected and that transaction has, or would have had but for this section, the effect of conferring a tax benefit on a person, hereinafter referred to as relevant person, and having regard to -

- (a) the manner in which the transaction was entered into or carried out;
- (b) the form and substance of the transaction;
- (c) the result in relation to the operation of this Act that, but for this section, would have been achieved by the transaction;
- (d) any change in the financial position of the relevant person that has resulted, will result, or may reasonably be expected to result, from the transaction;
- (e) any change in the financial position of any person who has, or has had, any connection, whether of a business, family or other nature, with the relevant person, being a change that has resulted or may reasonably be expected to result from the transaction;
- (f) whether the transaction has created rights or obligations which would not normally be created between persons dealing with each other at arm's length under a transaction of the kind in question; and
- (g) the participation in the transaction of a corporation resident or carrying on business outside Mauritius,

the Commissioner may conclude that the person, or one of the persons, who entered into or carried out the transaction, did so for the sole or dominant purpose of enabling the relevant person, either alone or in conjunction with other persons, to obtain a tax benefit.

(2) Where subsection (1) applies the Commissioner shall assess the liability to tax of the relevant person-

- (a) as if the transaction or any part thereof had not been entered into or carried out; or
- (b) in such other manner as the Commissioner considers appropriate to counteract the tax benefit which would otherwise be obtained.

(3) For the purposes of this section -

"tax benefit" means the avoidance or postponement of the liability to pay income tax or the reduction in the amount thereof;

"transaction" includes a transaction, operation or scheme whether or not such transaction, operation or scheme is enforceable, or intended to be enforceable, by legal proceedings.

PART VIII - RETURNS, COLLECTION AND PAYMENT OF TAX

91. Due date for payment of income tax

Subject to the other provisions of this Act, income tax for any year of assessment shall, whether or not a return of income has been submitted, or an assessment has been made, be due on 1 July in that year.

Sub-Part A - Pay As You Earn (PAYE) System

92. Application of Sub-Part A

This Sub-Part shall apply to emoluments but shall not apply to emoluments derived by an exempt person.

93. Employer to withhold tax from emoluments

- (1) Every employer shall, at the time the emoluments are received by or made available to an employee, withhold income tax from the emoluments of that employee.
- (2) The tax shall be calculated -
 - (a) on the chargeable income of the employee determined under section 96; and
 - (b) in accordance with either Part A, Part B, Part C or Part D of the Fifth Schedule, as the case may be.
- (3) Every employer shall give to his employee a Statement of Emoluments and Tax Deduction in such manner as may be prescribed.

94. Registration of employers

Every employer shall register with the Commissioner in such manner and on such conditions as may be prescribed.

95. Employee declaration

- (1) Subject to subsections (2) and (3), every employee who, for an income year, is entitled to personal reliefs and deductions under sections 30, 31, 32, 33, 34, 36, **36B**⁽¹⁾, **37, 37A, 37B, 37C**⁽²⁾, 38, 39, 40, 41, **41A**, 42 and **42A**⁽³⁾ in respect of that income year and who wishes to have those deductions taken into account for the purposes of determining his chargeable income and the amount of income tax, if any, to be withheld from his emoluments under section 93 during that income year, shall submit to his employer an Employee Declaration Form in such manner and on such conditions as may be prescribed.
- (2) The relief by way of deductions under sections **[31]**,⁽⁴⁾ 32, 33 and 34 shall be subject to the limit under section 35.
- (3) Where any of the reliefs or deductions referred to in subsection (1) has been claimed, that relief or deduction shall not be claimed for the purposes of Sub-Part B of PART VIII.

(1) The figure "36B" inserted by FA 2000. Effective as from income year 2000-01.

(2) The figures "37, 37A, 37B, 37C" inserted by FA 1997. Effective as from income year 1997-98.

(3) The figures "41A" & "42A" inserted by FA 1998. Effective as from income year 1998-99.

(4) The figure "31," deleted by FA 1999. Effective as from income year 1999-00.

96. Ascertainment of chargeable income

- (1) Where an employee has submitted an Employee Declaration Form under section 95, his chargeable income in respect of each pay period shall, subject to subsections (3) and (4), be the difference between his emoluments for that pay period and the sum of -
- (a) the deductions allowable under sections 28 and 29 and which are attributable to that pay period; and
 - (b) such appropriate fraction as may be prescribed of the total amount of deductions claimed by the employee in his Employee Declaration Form.
- (2) (a) Where an employee has not submitted an Employee Declaration Form under section 95, his chargeable income in respect of each pay period shall, subject to subsections (3) and (4), be the difference between his emoluments for that pay period and the total amount of the deductions allowable under sections 28 and 29 attributable to that pay period.
- (b) Where any fees are payable -
- (i) by a company to any of its directors; or
 - (ii) by a statutory body to any member of its Board, Council, Commission, Committee or by whatever name called,
- whether or not the director or member, as the case may be, is an exempt person, and that director or member does not receive any other emoluments from that company or statutory body, the chargeable income of the director or member shall be the difference between the fees payable and the amount of the deduction allowable under section 28.⁽¹⁾
- (c) Where emoluments are derived from Mauritius by expatriate pilots and flight engineers approved by the Minister, the chargeable income of the pilot or flight engineer in respect of each pay period shall, subject to subsections (3) and (4) be the difference between his emoluments for that pay period and the total amount of the deductions allowable under sections 28 and 29 attributable to that pay period.

⁽¹⁾ Paragraph (b) amended by FA 2002. Effective as from income year 2002-03. Previously ITA 1995 as amended -

(b) Where any fees are payable to a director of a company, whether or not he is an exempt person, and that director does not receive any other emoluments from that company, his chargeable income shall be the difference between the fees payable and the amount of the deduction allowable under section 28.

- (d) Notwithstanding item 12 of Part II of the Second Schedule, a seaman who is employed on a vessel registered in Mauritius or on a foreign vessel may, by notice in writing given simultaneously to the Commissioner and to his employer, elect that his chargeable income shall, in respect of each pay period, be the amount of his emoluments for that pay period.⁽¹⁾
- (e)⁽²⁾ Where, in respect of an employee, tax has been withheld in an income year under section 93 on the chargeable income determined **under paragraphs (c) or (d)**⁽³⁾, the amount of tax so withheld shall be deemed to be the final amount of tax payable by that employee for that income year and in relation to that chargeable income, the provisions of Sub-Part C of PART VIII shall not apply.
- (3) Where an end-of-year bonus and leave pay prescribed by an enactment is received or made available to an employee other than an exempt person, the chargeable income on that bonus and leave pay shall be equal to the chargeable income on the emoluments exclusive of the bonus and leave pay for the month in which the bonus and the leave pay is received provided that the end-of-year bonus represents one month bonus.
- (4) Where the end-of-year bonus referred to in subsection (3) either exceeds or is less than one month bonus, the chargeable income shall be calculated proportionately.

97. Direction not to withhold tax

Where income tax is required to be withheld from the emoluments of an employee under this Sub-Part during an income year and the employee proves to the satisfaction of the Commissioner that he is not chargeable to income tax for that income year, the Commissioner may, by written notice under his hand to the employer, direct that no tax shall be withheld from the emoluments of that employee.

98. Decision as to whether an amount is emoluments

Where any question arises in relation to an employer or an employee as to whether any amount is or is not emoluments to which this Sub-Part applies, the question shall be decided by the Commissioner, whose decision shall be notified to the employer or employee in writing.

(1) Paragraph (d) added by FA 1998. Effective as from income year 1998-99.

(2) Previous paragraph (d) relettered (e) by FA 1998.

(3) The words "under paragraphs (c) or (d)" replaced "under paragraph (c)" by FA 1998. Effective as from income year 1998-99.

99. Obligation of employer to withhold tax

The obligation of an employer to withhold tax under section 93 shall prevail over -

- (a) any right or obligation to withhold any other amount from such payment; or
- (b) any law providing that the amount of any such payment shall not be reduced or be subject to attachment.

100. Payment of tax by employer

- (1) An employer who has withheld tax under this Sub-Part shall pay the tax so withheld within 20 days from the end of the month in which the tax was withheld in such manner as may be prescribed.
- (1A)⁽¹⁾ Every person registered as an employer for the purposes of PAYE who, at any time, has in his employment 50 or more employees shall, unless otherwise authorised, submit his PAYE return and remit the tax withheld electronically through such computer system as may be approved by the Commissioner under section 128A(1).
- (1B)⁽¹⁾ Every employer, irrespective of the number of employees in his employment, who submits his PAYE return and remits the tax withheld in the manner specified in subsection (1A), shall -
 - (a) notwithstanding subsection (1), pay the tax so withheld on or before the end of the month immediately following the month in which the tax was withheld; and
 - (b) continue to submit his PAYE return and remit the tax withheld electronically until such time as he ceases to be an employer.
- (2) An employer who has not withheld tax as required by this Sub-Part shall be liable to pay to the Commissioner the amount of tax which has not been so withheld but the employer shall be entitled to recover that amount from the employee.

101. Penalty for late payment of tax by employer

- (1) Where an employer fails to pay the amount of tax required to be withheld under this Sub-Part, he shall be liable to pay to the Commissioner, in addition to the tax, a penalty representing 2 per cent of the amount of the tax, excluding the penalty under this section, for each month or part of the month during which the tax remains unpaid .
- (2) The penalty under this section shall not, in the aggregate, exceed the amount of income tax remaining unpaid.

⁽¹⁾ Subsections (1A) & (1B) added by FA 2003. Effective as from year of assessment 2003/2004.

102. Priority over tax withheld

- (1) Notwithstanding any other enactment, tax withheld by an employer under this Sub-Part -
 - (a) shall be held on behalf of the Government of Mauritius; and
 - (b) shall not be subject to attachment in respect of any debt or liability of the employer.
- (2) In the event of the liquidation or bankruptcy of the employer, the amount withheld under this Sub-Part shall not form part of the estate in liquidation or bankruptcy and shall be paid in full to the Commissioner before any distribution of property is made.

103. Tax withheld deemed to be tax paid by employee

Any amount withheld as tax under this Sub-Part shall be deemed to be -

- (a) received by the employee at the time it was withheld; and
- (b) paid by him,

and shall be credited against the income tax liability of the employee for the income year in which the emoluments were paid.

104. Non-disclosure of information by employer

- (1) Subject to subsection (2), no employer shall disclose to any person other than the Commissioner, any information contained in the Employee Declaration Form submitted by an employee or any matter relating to this Sub-Part and concerning the employee.
- (2) Nothing in this section shall prevent the disclosure to an employee, or with his written consent to any other person, of any information or matter relating to this section concerning the employee.

Sub-Part B - Current Payment System (CPS)

105. Application of Sub-Part B

- (1) Subject to subsection (2), this Sub-Part shall apply to the gross income specified in section 10(1)(b), and rent specified in section 10(1)(c), derived by an individual.
- (2) This Sub-Part shall not apply to an individual -
 - (a) who is an exempt person;
 - (b) who derives gross income exclusively from rent of an amount not exceeding the amount specified in the Sixth Schedule; or
 - (c) who derives rent of an amount referred to in paragraph (b) and other gross income consisting exclusively of emoluments.

106. Statement of Income and payment of tax

- (1) Every person, other than an exempt person, who, in a CPS period, derives gross income falling under this Sub-Part -
 - (a) which exceeds the CPS threshold, whether or not he has a chargeable income for that period; or
 - (b) which does not exceed the CPS threshold but he has a chargeable income for that period,
 shall submit to the Commissioner, not later than 31 March immediately following that period, a Statement of Income in such manner and in such form as may be approved by the Commissioner and at the same time pay the tax, if any, in accordance with the Statement of Income.⁽¹⁾
- (2)⁽²⁾ The Statement of Income under subsection (1) shall **[,in respect of each quarter,]**⁽³⁾ show the gross income, the allowable deductions, the net income, the personal reliefs and deductions, the chargeable income and the tax payable thereon, if any.

⁽¹⁾ Subsection (1) amended and previous subsection (2) deleted by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended -

- (1) Every person, other than an exempt person, who, in a CPS quarter, derives gross income falling under this Sub-Part -
 - (a) which exceeds the CPS threshold, whether or not he has a chargeable income for that quarter; or
 - (b) which does not exceed the CPS threshold but he has a chargeable income for that quarter,
 shall submit to the Commissioner a Statement of Income in such manner and in such form as may be approved by the Commissioner and at the same time pay the tax if any, as follows -

In respect of quarter	Due date for submission of Statement of Income and payment of tax
1 July to 30 September	31 December
1 October to 31 December	31 March
1 January to 31 March	30 June.

- (2) Where the gross income of a person exceeds the CPS threshold in any one quarter in an income year, that person shall submit the Statement of Income for each of the remaining quarters in that income year, whether or not his gross income exceeds the CPS threshold.
- ⁽²⁾ Previous subsection (3) renumbered (2) by FA 1997.
- ⁽³⁾ The words “, in respect of each quarter,” deleted by FA 1997. Effective as from income year 1997-98.

- (3)⁽¹⁾ Where a resident société or the estate of a deceased person derives gross income referred to in section 105, the associate of the société or the beneficiary in the estate shall include in his Statement of Income his share of income from that gross income.

107. Ascertainment of chargeable income

- (1)⁽²⁾ Subject to subsection (2), the chargeable income of a person in respect of the CPS period in an income year shall, at the option of the person, be -
- (a) the difference between -
 - (i) 50 per cent of the net income for the year preceding that income year uplifted by 10 per cent or such other percentage as may be prescribed; and
 - (ii) 50 per cent of the personal reliefs and deductions to which the person is entitled under sections 28A, 30, 31, 32, 33, 34, 36, **36B**⁽³⁾, 37, 37A, 37B, 37C, 38, 39, 40, 41, **41A**, 42 and **42A**⁽⁴⁾ in respect of that income year; or
 - (b) the difference between -
 - (i) the gross income for that period, and
 - (ii) the sum of -
 - (A) the amount of allowable deductions for that period including any loss brought forward from the year preceding that income year that relates to the derivation of the gross income; and

⁽¹⁾ Previous subsection (4) renumbered (3) by FA 1997.

⁽²⁾ Subsection (1) amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended -

- (1) Subject to subsection (2), the chargeable income of a person in respect of each CPS quarter in an income year shall, at the option of the person, be -
- (a) the difference between -
 - (i) 25 per cent of the net income for the year preceding that income year uplifted by 10 per cent or such other percentage as may be prescribed; and
 - (ii) 25 per cent of the personal reliefs and deductions to which the taxpayer is entitled under sections 30, 31, 32, 33, 34, 36, 38, 39, 40, 41 and 42 in respect of that income year; or
 - (b) the difference between -
 - (i) the gross income for that quarter; and
 - (ii) the sum of -
 - (A) the amount of allowable deductions for that quarter including any loss brought forward from the year preceding that income year or any previous quarter, as the case may be, that relates to the derivation of the gross income; and
 - (B) 25 per cent of the personal reliefs and deductions to which the taxpayer is entitled under sections 30, 31, 32, 33, 34, 36, 38, 39, 40, 41 and 42 in respect of that income year.

⁽³⁾ The figure "36B" inserted by FA 2000. Effective as from income year 2000-01.

⁽⁴⁾ The figures "41A" & "42A" inserted by FA 1998. Effective as from income year 1998-99.

- (B) 50 per cent of the personal reliefs and deductions to which the person is entitled under sections 28A, 30, 31, 32, 33, 34, 36, **36B**⁽¹⁾, 37, 37A, 37B, 37C, 38, 39, 40, 41, **41A**, 42 and **42A**⁽²⁾ in respect of that income year.
- (2) The relief by way of deductions under sections **[31,]**⁽³⁾ 32, 33 and 34 shall be subject to the limit under section 35.
- (3) Where any of the reliefs or deductions referred to in subsection (1) has been claimed, that relief or deduction shall not be claimed for the purposes of Sub-Part A of PART VIII.

108. Calculation of tax

The income tax payable under this Sub-Part shall be calculated on the chargeable income ascertained under section 107 and in accordance with the Seventh Schedule.

109. Penalty for late submission of Statement of Income

Where a person fails to submit a Statement of Income under section 106, he shall be liable to pay to the Commissioner a penalty representing **5,000 rupees**⁽⁴⁾ per month or part of the month or such other amount as may be prescribed, until such time as the Statement of Income is submitted, **provided that the total penalty payable shall not exceed 50,000 rupees**⁽⁵⁾.

110. Penalty for late payment of tax under CPS

Where a taxpayer fails to pay any income tax due on or before the last day on which it is payable under section 106, he shall be liable to pay to the Commissioner, in addition to the tax, a penalty representing 25 per cent of the amount of tax remaining unpaid.

111. Return and payment of tax at end of income year

- (1) Every person who is required to submit a Statement of Income under section 106 shall, at the end of the income year, submit to the Commissioner the return required to be submitted under section 112.
- (2) Where the amount of tax payable on the chargeable income in accordance with the return referred to in subsection (1) exceeds the sum of -

(1) The figure "36B" inserted by FA 2000. Effective as from income year 2000/01.

(2) The figures "41A" and "42A" inserted by FA 1998. Effective as from income year 1998/99.

(3) The figure "31," deleted by FA 1999. Effective as from income year 1999-00.

(4) Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended - Rs 1,000.

(5) The words "provided that the total penalty payable shall not exceed 50,000 rupees" added by FA 2002. Effective as from 1.7.2002.

- (a) the **[aggregate]**⁽¹⁾ amount of any tax paid under this Sub-Part excluding any penalty under sections 109 and 110; and
- (b) any amount of tax withheld under Sub-Part A,

the person shall pay the difference at the time the return is submitted together with the penalty specified in subsection (3), if any.

- (3) Subject to subsection (4), where the amount of tax payable on the income falling under this Sub-Part exceeds the amount of any tax paid in accordance with the Statement of Income by more than 60 per cent of the amount of tax payable, the person shall, at the time the return under section 112 is submitted, pay, in addition to the difference referred to in subsection (2), a penalty representing 25 per cent of the amount in excess of the 60 per cent.⁽²⁾
- (4) The penalty under subsection (3) shall not apply where, in respect of the **CPS period**⁽³⁾ in an income year, the taxpayer has opted to compute his net income in accordance with section 107(1)(a)(i).

(1) The word “aggregate” deleted by FA 1997. Effective as from income year 1997-98.

(2) Subsection (3) amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended -

(3) Subject to subsection (4), where the difference referred to in subsection (2) exceeds 35 per cent of the tax payable on the income falling under this Sub-Part, the person shall pay, in addition to the difference, a penalty representing 25 per cent on the excess amount at the time the return under section 112 is submitted.

(3) The words “CPS period” replaced “CPS quarters” by FA 1997. Effective as from income year 1997-98.

Sub-Part C - Returns

112. Return and payment of tax by individuals

(1)⁽¹⁾ Subject to the other provisions of this Act, every individual who, whether or not he is a taxpayer, derives during an income year gross income falling under -

- (a) section 10(1)(a) exceeding 400,000 rupees; or
- (b) Sub-Part B of Part VIII exceeding the CPS threshold,

shall submit to the Commissioner, not later than 30 September following that income year, a return in such manner and in such form as may be approved by him specifying -

- (i) all income derived by the individual during that income year;
- (ii) the personal reliefs and deductions to which he is entitled in respect of that income year; and
- (iii) such other particulars as may be required by the Commissioner; and

at the same time pay any tax payable in accordance with his return.

(2)⁽¹⁾ The relief by way of deductions under sections 32, 33 and 34 shall be subject to the limit under section 35.

(3)⁽¹⁾ **Where, at the end of an income year, a person**⁽²⁾ has a chargeable income for that income year, he shall submit the return required to be submitted under subsection (1) and at the same time pay any tax payable.

(4)⁽¹⁾⁽³⁾

(1) Previous subsection (1) deleted and replaced by subsections(1) & (2) - FA 2001, the previous subsections (2) & (3) being renumbered (3) & (4) respectively. Effective as from **income year 2001-02**. Previously ITA 1995 as amended - see page 92

(2) The words "Where, at the end of an income year, a person" replaced "Subject to **subsection (4)**⁽ⁱ⁾, where, at the end of an income year, an exempt person" by FA 2002. Effective as from 1.7.2002.

⁽ⁱ⁾ The words "subsection (4)" replaced "subsection (3)" by FA 2001.

(3) See footnote (1) above. Subsection (4) as renumbered is deleted by FA 2002. Effective as from 1.7.2002. Previously ITA 1995 as amended -

(4) Subject to section 113, where, in respect of an income year, the tax on the chargeable income of an individual, **other than an individual falling under subsection (1)(a) or (1)(b)**⁽ⁱ⁾, whose gross income falls under Sub-Part A and Sub-Part B of Part VIII exceeds the amount of tax withheld and paid under those Sub-Parts for that income year by an amount not exceeding 250 rupees, that person shall be under no obligation to submit a return under this section or to pay that amount of tax.

⁽ⁱ⁾ The words "other than an individual falling under subsection (1)(a) or (1)(b)," inserted by FA 2001

Note : For provisions of section 112 for previous years : see pages 93 & 94

• **Income years 1996-97 to 1999-00**

112. Return and payment of tax by individuals

- (1) (a) Subject to the other provisions of this Act, every individual who is a taxpayer, or who derives gross income falling under Sub-Part B of Part VIII exceeding the CPS threshold, whether or not he is a taxpayer, shall submit to the Commissioner, not later than 30 September, a return in such manner and in such form as may be approved by him specifying -
- (i) all income derived by the individual during the preceding income year;
 - (ii) the personal reliefs and deductions to which he is entitled **[under sections 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41 and 42]**⁽¹⁾ in respect of the preceding income year; and
 - (iii) such other particulars as may be required by the Commissioner, and
- at the same time pay any tax payable in accordance with his return.
- (b) The relief by way of deductions under sections 31, 32, 33 and 34 shall be subject to the limit under section 35.
- (2) Subject to subsection (3), where, at the end of an income year, an exempt person has a chargeable income for that income year, he shall submit the return required to be submitted under subsection (1) and at the same time pay any tax payable.
- (3) Subject to section 113, where, in relation to an income year, an individual has a chargeable income on which the amount of tax due does not exceed 750 rupees, he shall be under no obligation to submit a return under this section or to pay any tax due on that chargeable income.
- (4) Subject to section 113, where, in respect of an income year, the tax on the chargeable income of an individual whose gross income falls under Sub-Part A and Sub-Part B of Part VIII exceeds the amount of tax withheld and paid under those Sub-Parts for that income year by an amount not exceeding 250 rupees, that person shall be under no obligation to submit a return under this section or to pay that amount of tax.

⁽¹⁾ The words "under sections 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41 and 42" deleted by FA 1997.

• **Income year 2000-01**

112. Return and payment of tax by individuals

- (1) (a) Subject to the other provisions of this Act, every individual who is a taxpayer, or who derives gross income falling under Sub-Part B of Part VIII exceeding the CPS threshold, whether or not he is a taxpayer, shall submit to the Commissioner, not later than 30 September, a return in such manner and in such form as may be approved by him specifying -
- (i) all income derived by the individual during the preceding income year;
- (ii) the personal reliefs and deductions to which he is entitled **[under sections 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41 and 42]**⁽¹⁾ in respect of the preceding income year; and
- (iii) such other particulars as may be required by the Commissioner, and
- at the same time pay any tax payable in accordance with his return.
- (b) The relief by way of deductions under sections **[31,]**⁽²⁾ 32, 33 and 34 shall be subject to the limit under section 35.
- (2) Subject to subsection (3), where, at the end of an income year, an exempt person has a chargeable income for that income year, he shall submit the return required to be submitted under subsection (1) and at the same time pay any tax payable.
- (3)⁽³⁾ Subject to section 113, where, in respect of an income year, the tax on the chargeable income of an individual whose gross income falls under Sub-Part A and Sub-Part B of Part VIII exceeds the amount of tax withheld and paid under those Sub-Parts for that income year by an amount not exceeding 250 rupees, that person shall be under no obligation to submit a return under this section or to pay that amount of tax.

(1) The words “under sections 28, 29, 30, 31, 32, 33, 34, 36, 37 , 38, 39, 40, 41 and 42” deleted by FA 1997.

(2) The figure “31,” deleted by FA 2000.

(3) Previous subsection (4) renumbered (3) by FA 2000, the previous subsection (3) being deleted. Effective as from income year 2000-01. Previously ITA 1995 as amended -

(3) Subject to section 113, where, in relation to an income year, an individual has a chargeable income on which the amount of tax due does not exceed 750 rupees, he shall be under no obligation to submit a return under this section or to pay any tax due on that chargeable income.

113. Power to require returns

- (1) For the purposes of ascertaining for any income year the chargeable income of a person -
- (a) who has not submitted a return under section 112 and the Commissioner has reason to believe that the person is a taxpayer; or
 - (b) who is not required to submit a return under section 112(3) **[or 112(4)]**⁽¹⁾,
- the Commissioner may, by notice in writing, require that person to submit to him a return in such manner and in such form as may be approved by him giving the particulars specified in section 112(1).
- (2) A person who has been required to submit a return under subsection (1) shall, not later than the date specified in the notice, submit to the Commissioner the return of income and at the same time pay any tax payable in accordance with that return together with the appropriate penalty under sections 121 and 122, if any.

114. Time limit to require returns

- (1) Subject to subsection (2), the Commissioner shall not, in a year of assessment, require an individual to submit a return required to be submitted under section 113 in respect of a period beyond 4 years of assessment preceding that year of assessment.
- (2) Where the Commissioner considers that a return under section 113 is required to be submitted in respect of a period beyond the time limit specified in subsection (1), he shall, by notice in writing to the person give reasons for which such return is required to be submitted.
- (3) Any person aggrieved by a notice under subsection (2) may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.⁽²⁾

⁽¹⁾ The words [or 112(4)] deleted by FA 2000. Effective as from income year 2000-01.

⁽²⁾ Subsection (3) amended by FA 2001. Previously ITA 1995 as amended -

⁽³⁾ Any person aggrieved by a notice under subsection (2) may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

115. Return by persons leaving Mauritius

Where a person, other than an exempt person, is about to leave Mauritius and his absence is unlikely to be temporary, he shall, before leaving, submit to the Commissioner in respect of the relevant income year a return in such manner and in such form as may be approved by him giving the particulars specified in section 112 and at the same time -

- (a) pay any tax payable in accordance with the return together with the appropriate penalty under sections 121 and 122, if any; or
- (b) give security to the satisfaction of the Commissioner for the payment of the income tax payable.

116. Return of income by companies

(1) Subject to the other provisions of this Act, every company, non-resident société, trust **other than a trust to which section 46(3) applies**⁽¹⁾ or trustee of a unit trust scheme, whether or not it is a taxpayer, shall submit to the Commissioner, not later than the date specified in subsection (2), a return in such manner and in such form as may be approved by him specifying -

- (a) all income derived by it during the preceding income year; and
- (b) such other particulars as may be required by the Commissioner, and

at the same time pay any tax payable in accordance with its return.

- (2) For the purposes of subsection (1), the date specified shall be -
- (a) where the company, non-resident société, trust or trustee of a unit trust scheme, as the case may be, has an approved return date, not later than 30 September following the income year; or
 - (b) in any other case, not later than **31 January**⁽²⁾ following the income year.

(3)⁽³⁾ Where a company is an employer submitting PAYE return and remitting tax withheld electronically under Sub-Part A of Part VIII, it shall, unless otherwise authorised, submit its return and pay any tax payable under subsection (1) electronically through such computer system as may be approved by the Commissioner.

(1) The words "other than a trust to which section 46(3) applies" added by the Trusts Act 2001. Effective as from 1.12.2001 - Proclamation No. 22 of 2001.

(2) The words "31 January" replaced "31 December" by FA 1997. Effective as from year of assessment 1997-98.

(3) Subsection (3) added by FA 2003. Effective as from 1st September 2003.

117. Return of income in special circumstances

Where -

- (a) a person -
 - (i) has ceased to derive gross income;
 - (ii) has ceased to carry on business in Mauritius;
 - (iii) is about to discontinue carrying on business in Mauritius; or
 - (iv) who is a non-resident trader;
- (b) a person is liable to income tax under section 83 on the death of a taxpayer in respect of all income derived by that taxpayer in his lifetime,

he shall forthwith submit to the Commissioner in respect of the relevant income year a return in such manner and in such form as may be approved by him giving the particulars specified in section 112 or 116, as the case may be, and at the same time pay any tax payable in accordance with that return together with the appropriate penalty under sections 121 and 122, if any.

117A.⁽¹⁾ Basis of assessment on commencement of business

- (1) Any person engaged in business and required to submit a return under section 112 or 116 shall, in respect of the commencement year of income, submit a return for a period not exceeding 12 months ending with the date of the annual balance of his accounts.
- (2) Where the annual balance of the accounts ends on a date other than 30 June, that date shall be deemed to be an approved return date for the purposes of section 116(2) and the return submitted under subsection (1) shall be deemed to have been made in relation to the income year ending on 30 June following that date.
- (3) For the purposes of this section, “commencement year of income” means the income year in which the business of a person commences.

⁽¹⁾ Section 117A added by FA 2005. Effective as from assessment year 2005-06.

118.⁽¹⁾ Approved return date

- (1) Any person engaged in business opting for *bona fide* commercial reasons to change his return date shall apply to the Commissioner, within 3 months of the date of his last balance sheet, for approval of the change.
- (2) The Commissioner shall not approve any change under this section where no return has been submitted under section 112 or 116 in respect of any of the last 3 income years.
- (3) The Commissioner may approve or refuse to approve the change under this section and shall give notice of his decision to the applicant within 30 days of the date of receipt of the application under subsection (1).
- (4) Where a change in return date is approved under this section, the basis on which the profit derived by the applicant from his business in the income year in which the return date is changed shall be computed in such manner as may be prescribed.

⁽¹⁾ Section 118 repealed and replaced by FA 2005. Previously was -

118. Approved return date

- (1) Any person required to submit a return under section 112 or 116 may, with the approval of the Commissioner, elect to submit a return for the period of 12 months ending with the date of the annual balance of his accounts, and that return shall, for the purposes of section 112 or 116, be deemed to have been made in relation to the income year ending with 30 June which follows the end of the period.
- (2) Where a return date is approved under this section, the Commissioner shall determine the basis on which the income derived by the person concerned in the income year in which the return date is changed and in the subsequent 2 years shall be computed, and that person shall be liable to income tax accordingly.
- (3) Where a person in relation to whom a return date has been approved under this section ceases permanently to carry on the business or any other income earning activity which he carried on at the time of the approval, the Commissioner shall determine the basis on which the income derived by the person concerned in the income year in which the cessation occurs and in the previous income year shall be computed and that person shall be liable to income tax accordingly.
- (4) The Commissioner may, after giving not less than 3 months' notice to a person who has made an election under subsection (1), withdraw his approval under that subsection.
- (5) A person who has made an election under subsection (1) may, with the Commissioner's prior written consent, elect for a new return date.

119. Return in respect of a trust or a resident société

- (1) Where, in an income year, the trustee of a trust **other than a trust to which section 46(3) applies**⁽¹⁾ has distributed to its beneficiaries under the terms of the trust deed any amount out of income of the trust, the trustee shall submit to the Commissioner, not later than 30 September following that income year, a return in such manner and in such form as may be approved by the Commissioner specifying -
 - (a) the full name of the beneficiaries and the amount distributed to each of them; and
 - (b) such other particulars as may be required by the Commissioner.
- (2) Every resident société shall, in respect of an income year, submit to the Commissioner, not later than 30 September following that income year, a return in such manner and in such form as may be approved by him specifying -
 - (a) all income derived by it during that income year;
 - (b) the full name of the associates and the share of income accruing to each of them; and
 - (c) such other particulars as may be required by the Commissioner.

120. Return in respect of the estate of a deceased person

- (1) Subject to subsection (4), where the estate of a deceased taxpayer has not been distributed, any person liable to income tax under section 83 shall submit to the Commissioner, not later than the date specified in subsection (2), a return in such manner and in such form as may be approved by him specifying -
 - (a) all income derived by the estate during the preceding income year;
 - (b) the full name of the beneficiaries and the respective share of their income in the estate; and
 - (c) such other particulars as may be required by the Commissioner.
- (2) For the purposes of subsection (1), the date specified shall be -
 - (a) where the estate has an approved return date, not later than 30 September following the income year; or
 - (b) in any other case, not later than 31 December following the income year.

⁽¹⁾ The words "other than a trust to which section 46(3) applies" added by the Trusts Act 2001. Effective as from 1.12.2001. - Proclamation No. 22 of 2001.

- (3) Every beneficiary of the estate shall be liable to income tax on his chargeable income including his share of the income derived from the estate.
- (4) The Commissioner may, by notice in writing, exempt the person from submitting the return under subsection (1) on such conditions as he thinks fit.

121. Penalty for late submission of return of income

- (1) Where -
 - (a)⁽¹⁾ a person deriving gross income -
 - (i) falling under section 10(1)(a) exceeding 400,000 rupees; or
 - (ii) specified in section 10(1)(b) and rent specified in section 10(1)(c),fails to submit a return under section 112; or
 - (b) a company, société, trust or trustee fails to submit a return under section 116,

the person shall be liable to pay to the Commissioner a penalty representing **5,000 rupees**⁽²⁾ per month or part of the month or such other amount as may be prescribed, until the time the return is submitted, **provided that the total penalty payable shall not exceed 50,000 rupees.**⁽³⁾

- (2) Where a company, société, trust or trustee submits a return under section 116 but does not attach to the return its profit and loss account and balance sheet or in the case of a trust or trustee such other appropriate statement of account, it shall be deemed not to have submitted a return under section 116 and shall be liable to pay to the Commissioner the penalty specified in subsection (1).
- (3) Where a person deriving gross income specified in section 10(1)(b) and rent specified in section 10(1)(c) submits a return under section 112 but does not attach to the return his profit and loss account and balance sheet or such other statement of account as may be necessary to ascertain his net income, he shall be deemed not to have submitted a return under section 112 and shall be liable to pay to the Commissioner the penalty specified in subsection (1).

⁽¹⁾ Paragraph (a) amended by FA 2002. Effective as from year of assessment 2002-03. Previously ITA 1995 as amended -

(a) a person deriving gross income specified in section 10(1)(b) and rent specified in section 10(1)(c) fails to submit a return under section 112; or

⁽²⁾ Amended by FA 1997. Effective as from year of assessment 1997-98. Previously ITA 1995 as amended - Rs 1,000 .

⁽³⁾ The words “, provided that the total penalty payable shall not exceed 50,000 rupees” added by FA 2000.

122. Penalty for late payment of tax [specified in return]⁽¹⁾

- (1) Subject to subsection (2), where a taxpayer fails to pay any income tax due on or before the last day on which it is payable under section 112 or 116, he shall be liable to pay to the Commissioner, in addition to the tax, a penalty representing 2 per cent of the amount of tax, excluding any penalty imposed under this section and under section 109, 110, 111 or 121, as the case may be, for each month or part of the month during which the tax remains unpaid.
- (2) The penalty under this section shall not, in the aggregate, exceed the amount of income tax remaining unpaid excluding any penalty imposed under this section and under section 109, 110, 111 or 121.

122A. Publication of names of companies not submitting returns⁽²⁾

- (1) Notwithstanding section 8A of the Unified Revenue Act 1983 and section 154 of this Act but subject to subsection (2), where a company fails to submit a return under section 116, the Commissioner may, without prejudice to any action he may take under this Act, with the approval of the Authority established under the Unified Revenue Act 1983, cause to be published, not later than 5 months after the due date, in 2 newspapers in circulation in Mauritius, the name of the company, the name and address of its directors and the year of assessment in respect of which the return has not been submitted.
- (2) The Commissioner shall, prior to the publication referred to in subsection (1), notify the company in writing of his intention to publish the name of the company in accordance with subsection (1), unless the company submits the return due within 7 days of the date of the notice.

122B. Automatic tax claim in case of non submission of return⁽³⁾

- (1) Where, in respect of a year of assessment -
 - (a) a person deriving gross income falling under Sub-Part B of Part VIII who is required to submit a return under section 112 or 113; or
 - (b) a company which is required to submit a return under section 116,does not submit such return, the Commissioner may, without prejudice to the other provisions of this Act, automatically issue a tax claim for that year of assessment to the person specifying the amount of income tax payable.
- (2) The amount claimed under subsection (1) shall be payable within 28 days of the date of issue of the tax claim.

(1) The words "specified in return" deleted by FA 1997.

(2) Section 122A added by FA 1999-00. Effective as from income year 1999-00.

(3) Section 122B added by FA 2002. Effective as from year of assessment 2002-03

-
- (3) Any person who disagrees with the amount of income tax claimed under subsection (1) shall, within the time limit specified in subsection (2) -
- (a) give written notice of his disagreement; and
 - (b) at the same time -
 - (i) submit the return of income for the relevant year of assessment; and
 - (ii) pay the income tax in accordance with the return of income, if any; and
 - (iii) pay the appropriate penalties.
- (4) Where a person complies with subsection (3), the tax claim under subsection (1) shall automatically lapse.
- (5) Where a person fails to comply with subsection (2) or (3), the Commissioner shall proceed -
- (a) to enforce payment of the tax claimed under Part XI; and
 - (b) to institute legal proceedings for failure to submit a return under section 112, 113 or 116.

PART IX - GENERAL POWERS OF COMMISSIONER

123. Power to require information

- (1) Every person shall, when so required by notice in writing, furnish to the Commissioner in such manner and in such form as may be approved by him, within the time specified in the notice, information and particulars relating to -
- (a) contracts for the provision of goods and services;
 - (b) rent or premium on property;
 - (c) dividends and interest paid;
 - (d) emoluments payable; and
 - (e) such other transactions,
- which the Commissioner considers necessary or relevant for the purposes of this Act and which may be in the possession or custody or under the control of that person.
- (2) Subject to subsection (3), any person shall, when so required by notice in writing, furnish to the Commissioner, within the time specified in the notice, information as to any money, funds or other assets which may be held by that person for, or of any money due by that person to, any other person.
- (3) Subsection (2) shall not apply to any person -
- (a) who, under any other enactment, is prohibited from communicating any information relating to any other person, but only in so far as that information is concerned; or
 - (b) who carries on a banking business, but only in so far as information relating to transactions made by any person with the bank are concerned.
- (4) Notwithstanding subsection (3)(b), **section 64 of the Banking Act 2004**⁽¹⁾ and any other enactment, the Commissioner may require from any person information relating to -
- (a) any amount paid as interest to depositors;
 - (b) any account or deposit operated, made or opened, as the case may be, by any client, customer or patron of that person, whether such account or deposit is in his own name, in a fictitious name or in the name of any other person, upon the Commissioner stating in writing that -
 - (i) he has reason to believe that the client, customer or patron has been convicted of an offence relating to dangerous drugs or has been or is illicitly in possession

⁽¹⁾ Subsection (4) amended by Banking Act 2004. The words "sections 39 and 51(2) of the Banking Act 1988" deleted and replaced by "section 64 of the Banking Act 2004". Effective date 10 November 2004 - Proclamation No. 39 of 2004.

of or has been or is illicitly dealing in dangerous drugs or dangerous weapons; and

- (ii) he reasonably requires the information in order to prevent any evasion of income tax or any fraud on the public revenue.
- (5) Where any person who is required to furnish any information under subsection (4)(b) considers that the Commissioner's request is unreasonable, he may **lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.**⁽¹⁾
- (6) At the hearing on the representations before the Committee, it shall be sufficient for the Commissioner to satisfy the Committee that he has reasonable grounds to request the disclosure of the information.⁽²⁾
- (7) For the purposes of this section, "**Commissioner**" includes the **Director-General**⁽³⁾ appointed under the Unified Revenue Act 1983.
- (8) Every person who fails to comply with a request made by the Commissioner under subsection (4)(b) shall, unless the request of the Commissioner has been cancelled **following the hearing on the representations before the Committee,**⁽⁴⁾ commit an offence and shall, on conviction **[by the Intermediate Court]**⁽⁵⁾, be liable to a fine which shall not exceed one million rupees.
- (9)⁽⁶⁾

(1) The words "lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983" replaced "appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984" by FA 2001.

(2) Subsection (6) amended by FA 2001. Previously ITA 1995 as amended -
(6) On an appeal it shall be sufficient for the Commissioner to satisfy the Tribunal that he has reasonable grounds to request the disclosure of the information.

(3) The words "Director-General" replaced "Director, Fiscal Investigations" by FA 1999. Effective as from 1.7.99. Previously FA 1998 - "Director, Fiscal Investigations" replaced "Commissioner for Fiscal Investigations"

(4) The words "following the hearing on the representations before the Committee" replaced "on appeal" by FA 2001.

(5) The words "by the Intermediate Court" deleted by Unified Revenue (Amendment) Act 2003.

(6) Subsection 9 deleted by Unified Revenue (Amendment) Act 2003, Previously Income Tax Act 1995 -

(9) Notwithstanding any other enactment, the Intermediate Court shall have jurisdiction to impose the fine specified in subsection (8).

124. Obligation to furnish information

- (1) Notwithstanding **section 27(6) of the Financial Services Development Act 2001**⁽¹⁾, every person, when so required by the Commissioner, shall, within the time fixed by the Commissioner, give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner –
- (a) to make an assessment or to collect tax; or
 - (b) to comply with any request for the exchange of information under an arrangement made pursuant to section 76⁽²⁾.
- (2) Any person, when so required by notice in writing, shall furnish to the Commissioner, within the time specified in the notice –
- (a) a certified copy of the profit and loss account and balance sheet, or such other statement of account as may be required, duly audited by a qualified auditor;
 - (b) a statement analysing all moneys or value received and payments made by the person, his spouse and minor children; **[and]**⁽³⁾
 - (c) a statement of all assets and liabilities of the person, his spouse and minor children;
 - (d) where the request relates to subsection (1)(b), such information as may be specified in the notice for the purpose of satisfying the request under that subsection.⁽⁴⁾

125. Production of books and records

The Commissioner may, for the purposes of ascertaining the tax liability of any person, require that person –

- (a) to produce for –
 - (i) examination, at such time and place as may be specified, books, accounts, records, registers, bank statements and other documents whether on computer or otherwise,⁽⁵⁾ which the Commissioner considers necessary and which may be in the possession or custody or under the control of that person;

(1) The words “section 27(6) of the Financial Services Development Act 2001” replaced “section 5 of the Mauritius Offshore Business Activities Act 1992” by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001.

(2) Subsection (1) amended by FA 2000. Effective as from 1.7.2000. Previously ITA 1995 as amended –

(1) Every person, when so required by the Commissioner, shall, within the time fixed by the Commissioner, give orally or in writing, as may be required, all such information as may be demanded of him by the Commissioner for the purpose of enabling the Commissioner to make an assessment or to collect tax.

(3) The word “and” deleted by FA 2000.

(4) Paragraph (d) added by FA 2000. Effective as from 1.7.2000.

(5) The words “whether on computer or otherwise,” added after the word “documents” by FA 2004. Effective as from 17 August 2004

- (ii) retention for such period as the Commissioner considers necessary any book, account, record, register, statement or document specified in subparagraph (i) and for taking copies or extracts therefrom;
- (b) to attend, at such time and place as the Commissioner may specify, for the purpose of being examined in respect of any transaction or matter relating to the income tax liability of that person.

126. Power of inspection

- (1) For the purposes of ascertaining the tax liability of any person or the tax paid or payable or for making any assessment under this Act or for the purpose of administering this Act, the Commissioner or any officer authorised by him may -
 - (a)⁽¹⁾ at all reasonable times, enter any business premises or place where any business is carried on or anything is done in connection with the business;
 - (b) inspect any information, book, record or other document, whether these are recorded in a computer system or otherwise, and retain any such information, book, record or document and take copies or extracts therefrom; and
 - (c) require the person carrying on the business or any of his employees or any other person on those premises or at that place to give him all reasonable assistance and to answer all proper questions either orally or in writing.
- (2) Any person who -
 - (a) fails to provide such assistance or to answer such questions as may be required under subsection (1);
 - (b) obstructs the Commissioner or any officer in the exercise of his powers under subsection (1),shall commit an offence.

126A. Power to access computers and other electronic devices⁽²⁾

- (1) For the purposes of ascertaining the tax liability of any person under this Act, the Commissioner may, subject to subsection (2), at any reasonable time -
 - (a) have access to -
 - (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his tax liability;

⁽¹⁾ Paragraphs (a), (b), (c) of Section 126(1) deleted and replaced by FA 2004. Effective as from 17 August 2004.

⁽²⁾ Paragraph 126A added by FA 2004. Effective as from 17 August 2004

- (ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;
 - (b) inspect and check the operation of any such computer, electronic till or other device and make extracts of any computer software, computer output or such other document used in connection therewith;
 - (c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section;
 - (d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.
- (2) Subsection (1) shall not apply to any banking business regulated by the Banking Act.

127. Time limit to require information and production of books and records

- (1) Subject to **subsections (2) and (3)**⁽¹⁾, the Commissioner shall not, in a year of assessment, require a person -
- (a) to furnish the information required to be furnished under sections 123(1) and 124; or
 - (b) to produce the books and records required to be produced under section 125,
- in respect of a period beyond 4 years of assessment preceding that year of assessment.
- (2) Where the Commissioner, in a year of assessment, requires a person to furnish information under section 124, or to produce books and records under section 125, for the purposes of examining a return submitted by that person under section 112, 113 or 116, the time limit under subsection (1) shall be a period of 4 years of assessment following the year of assessment in which the return is submitted.⁽²⁾
- (3)⁽³⁾ Where the Commissioner considers that the information or the books and records referred to in **subsection (1) or (2)**⁽⁴⁾ are required to be furnished or produced in respect of a period beyond the time limit specified in that subsection, he shall, by notice in writing to the person give reasons for which such information or such books and records are required.

(1) The words “subsections (2) and (3)” replaced “subsection (2)” by FA 2002. Effective as from 1.7.2002

(2) New subsection (2) inserted by FA 2002. Effective as from 1.7.2002

(3) Previous subsections (2) and (3) renumbered (3) and (4) respectively by FA 2002.

(4) The words “subsection (1) or (2)” replaced “subsection (1)” by FA 2002. Effective as from 1.7.2002

- (4)⁽¹⁾ Any person aggrieved by a notice under **subsection (3)**⁽²⁾ **may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.**⁽³⁾

128. Power to waive penalty

The Commissioner may waive the whole or part of any penalty imposed under this Act where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

128A. Use of computer system⁽⁴⁾

- (1) Notwithstanding the other provisions of this Act and subject to section 8D of the Unified Revenue Act 1983, the Commissioner may authorise a return, document and payment of income tax or any act or thing which is required to be done in relation thereto, to be made, submitted or done electronically through such computer system as may be approved by him.
- (2) A person who submits a return or document and pays income tax in the manner specified in subsection (1) shall continue to submit returns or documents and pay tax in that manner unless otherwise authorised by the Commissioner.
- (3) Where, immediately before the commencement of this section, a person has been submitting a return or document and has been paying income tax electronically, the computer system of that person shall be deemed to have been approved by the Commissioner for the purposes of subsection (1).
- (4) With effect from such date as may be notified in the *Gazette*, the Commissioner may direct that any matter, act or thing referred to in subsection (1) shall be made, submitted or done electronically, unless otherwise authorised.

(1) See footnote (3) on previous page.

(2) The words “subsection (3)” replaced “subsection (2)” by FA 2002. Effective as from 1.7.2002

(3) The words “may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” replaced “may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984” by FA 2001.

(4) Section 128A added by FA 2001.

PART X - ASSESSMENTS, OBJECTIONS AND REVIEW OF ASSESSMENTS⁽¹⁾

129. Commissioner may make assessments

- (1) Where, in respect of a year of assessment, the Commissioner -
- (a) is not satisfied with the return submitted by a person under **section 112, 113 or 116**⁽²⁾, as the case may be; or
 - (b) has reason to believe that a person who has not submitted a return of income is a taxpayer,

he may, according to the best of his judgement, make an assessment of the amount of chargeable income of, and income tax payable by, including any penalty under sections 109, 110, 111, 121 and 122, that person for that year of assessment and give him written notice of the assessment.

- (2) Where the Commissioner has given written notice to any person of an assessment under subsection (1), that person shall pay the income tax within 28 days of the date of the notice of assessment.

(3)⁽³⁾

130. Time limit to make assessments

- (1) Subject to subsection (2), the Commissioner shall not, in a year of assessment, make an assessment under section 129 in respect of a period beyond 4 years of assessment **preceding the year of assessment in which a return under section 112, 113 or 116, as the case may be, is made**⁽⁴⁾.
- (2) The Commissioner may, at any time, make an assessment under section 129 -
- (a) where a return of income under section 112 or 116, as the case may be, in respect of a year of assessment has not been made; or
 - (b) in case of fraud or wilful neglect.⁽⁵⁾

(1) Heading amended by FA 2001. Previously ITA 1995 as amended - **“ASSESSMENTS AND APPEALS”**

(2) The words “section 112, 113 or 116” replaced “section 112 or 116” by FA 2002. Effective as from 1.7.2002

(3) Subsection (3) deleted by FA 1997. Previously ITA 1995 as amended - “Any person who is aggrieved by an assessment under subsection (1) may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.”

(4) The words “preceding the year of assessment in which a return under section 112, 113 or 116, as the case may be, is made” replaced “preceding that year of assessment” by FA 2002. Effective as from 1.7.2002

(5) Subsection (2) amended by FA 2002. Effective as from 1.7.2002. Previously ITA 1995 as amended -

(2) The Commissioner may, in case of fraud or wilful neglect, at any time make an assessment under section 129.

131. Special assessments

- (1) Where the Commissioner is not satisfied with the return submitted by a person under section 115 or 117, as the case may be or has reason to believe that a person who has not submitted a return under those sections is a taxpayer, he may make an assessment of the amount of chargeable income of and income tax payable by, including any penalty under section 109, 110, 111, 121 or 122, as the case may be, that person and give him written notice of the assessment.
- (2) Notwithstanding section 112 or 116, where the Commissioner has made an assessment under subsection (1), he may in the notice require that person -
 - (a) to pay the income tax assessed within such time as may be specified in the notice; or
 - (b) to give security to the satisfaction of the Commissioner for the payment of the income tax.
- (3)⁽¹⁾

131A. Objection to assessments⁽²⁾

- (1) Subject to **subsection (6)**⁽³⁾, where a person who has been assessed to income tax under section 129 or 131 is dissatisfied with the assessment, he may, within 28 days of the date of the notice of assessment, object to the assessment by letter sent to the Commissioner by registered post.
- (2) Where a person makes an objection under subsection (1), he shall -
 - (a) specify in his letter of objection, in respect of each of the items in the notice of assessment, the detailed grounds of the objection; and
 - (b) at the same time pay 30 per cent of the amount of income tax claimed in the notice of assessment.⁽⁴⁾
- (3)⁽⁴⁾ Subsection (2)(b) shall not apply where a person objects exclusively to the amount of gross income assessed as emoluments or to the amount of personal reliefs and deductions under Sub-Part C of Part III allowed as deductions in the notice of assessment.

⁽¹⁾ Subsection (3) deleted by FA 1997. Previously ITA 1995 as amended -

(3) Any person who is aggrieved by an assessment under subsection (1) may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

⁽²⁾ Section 131A added by FA 1997.

⁽³⁾ The words "subsection (6)" replaced "subsection (5)" by FA 2002. Effective as from 1.1.2003

⁽⁴⁾ Subsection (2) deleted and replaced by subsections (2) & (3) - FA 2002, the previous subsections (3), (4), (5), (6), (7) & (8) being renumbered (4), (5), (6), (7), (8) & (9) respectively. Effective as from 1.1.2003. Previously FA 1997 -

(2) Where a person makes an objection under subsection (1), he shall specify fully in his letter of objection, in respect of each of the items in the notice of assessment, the grounds of the objection.

- (4)⁽¹⁾ Where a person who has made an objection under subsection (1), has not, for the relevant income year, submitted his Statement of Income under section 106 or his return of income under section 112, 115, 116 or 117, he shall, within 28 days of the date of the notice of assessment, comply with the provisions of those sections as appropriate.
- (5)⁽¹⁾ Any objection under this section and section 131B shall be dealt with independently by an objection unit set up by the Commissioner for that purpose.
- (6)⁽¹⁾ Where -
- (a) the Commissioner considers that the person has not complied with the provisions of subsection (2); or
 - (b) the person has not complied with the provisions of **subsection (4)**⁽²⁾,
- the objection shall be deemed to have lapsed and the Commissioner shall give notice thereof.
- (7)⁽¹⁾
- (a) Where it is proved to the satisfaction of the Commissioner that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (1), the Commissioner may consider the objection on such terms and conditions as he thinks fit.
 - (b) Where the Commissioner refuses to consider a late objection under this subsection, he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.
- (8)⁽¹⁾ Where a notice under **subsection (6) or (7)(b)**⁽³⁾ is given, the tax specified in the notice of assessment **together with any penalty under section 133**⁽⁴⁾ shall be paid within 28 days of the date of the notice under **subsection (6) or (7)(b)**⁽³⁾, as the case may be.
- (9)⁽¹⁾ Any person who is aggrieved by a decision under **subsection (6) or (7)(b)**⁽³⁾ **may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.**⁽⁵⁾

(1) See footnote (4) - previous page

(2) The words “subsection (4)” replaced “subsection (3)” by FA 2002. Effective as from 1.1.2003

(3) The words “subsection (6) or (7)(b)” replaced “subsection (5) or (6)(b)” by FA 2002. Effective as from 1.1.2003

(4) The words “together with any penalty under section 133” inserted by FA 2001. Effective as from income year 2001-02.

(5) The words “may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983” replaced “may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984” by FA 2001.

131B. Determination of objections⁽¹⁾

- (1) Subject to subsection (3), where the Commissioner does not refuse to consider an objection under section 131A, he shall -
 - (a) review the assessment;
 - (b) disallow or allow it in whole or in part; and
 - (c) where appropriate, amend the assessment to conform with his determination.
- (2) The Commissioner shall give notice of the determination to the person.
- (3) For the purposes of considering an objection and reviewing an assessment, the Commissioner may by notice, require the person, within the time fixed by the Commissioner, to comply with any of the provisions of sections 124 and 125.
- (4) Where the person fails to comply with a notice under subsection (3) within the time specified in the notice, the Commissioner may determine that the objection has lapsed and he shall give notice thereof.
- (5) Where a notice of determination under subsection (2) or (4) is given, the tax specified in the **notice of determination together with any penalty under section 133⁽²⁾** shall be paid within 28 days of the date of the notice of determination.
- (6) Where the objection is upheld in whole or in part, any amount of income tax paid under section 131A in excess of the amount determined to be properly payable, shall be refunded together with interest at the prevailing Bank rate, free of income tax, from the date the payment is received by the Commissioner to the date it is refunded.⁽³⁾
- (7)⁽⁴⁾ A notice of determination under subsection (2) or (4) in respect of an assessment made on or after 1 July 1997, shall be given to the person within 6 months of the date on which the objection is lodged.
- (8)⁽⁴⁾ Where the objection is not determined within the period specified in **subsection (7)⁽⁵⁾**, the objection shall be deemed to have been allowed by the Commissioner.
- (9)⁽⁴⁾ Any person who is aggrieved by a determination under this section **may lodge written representations with the Secretary, Assessment Review Committee in accordance with section 8E of the Unified Revenue Act 1983.**⁽⁶⁾

(1) Section 131B added by FA 1997.

(2) The words “notice of determination together with any penalty under section 133” replaced “notice of assessment” by FA 2001. Effective as from income year 2001-02.

(3) New subsection (6) inserted by FA 2002. Effective as from 1.1.2003.

(4) Previous subsections (6), (7) & (8) renumbered (7), (8) & (9) respectively by FA 2002

(5) The words “subsection (7)” replaced “subsection (6)” by FA 2002

(6) The words “may lodge written representations with the Secretary, Assessment Review Committee in accordance with section 8E of the Unified Revenue Act 1983” replaced “may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984” by FA 2001.

131C. Objection to determination of loss⁽¹⁾

- (1) Where a person is dissatisfied with a determination by the Commissioner of the quantum of losses available for set-off or carried forward under section 20 or 59, he may, within 28 days of the date of the notice of determination, object to the determination by letter sent to the Commissioner by registered post specifying in his letter of objection the detailed grounds of the objection.
- (2) An objection under subsection (1) shall be dealt with by an objection unit set up by the Commissioner for that purpose.
- (3)
 - (a) Where it is proved to the satisfaction of the Commissioner that, owing to illness or other reasonable cause, a person has been prevented from making an objection within the time specified in subsection (1), the Commissioner may consider the objection on such terms and conditions as he thinks fit.
 - (b) Where the Commissioner refuses to consider a late objection under paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.
- (4) Section 131B(1) to (4), (7), (8) and (9) shall apply in all respects for the determination of objections under this section as they apply for the determination of objections under section 131A.

132. Time limit to amend assessments

- (1) Subject to subsection (2), the Commissioner may amend an assessment made under section 129 or 131.
- (2) An assessment shall not be amended after 4 years of assessment from the year of assessment to which the assessment relates.

133. Penalty for non-payment of income tax assessed

- (1) Subject to subsection (2), where a person fails to pay any income tax payable on or before the last day on which it is payable under **section 129 or 131**,⁽²⁾ he shall be liable to pay to the Commissioner, in addition to the tax, a penalty representing 2 per cent of the amount of tax, excluding any penalty imposed under this section **and under section 109, 110, 111 or 121**⁽³⁾, for each month or part of the month during which the tax remains unpaid.
- (2) The penalty under this section and section 122 shall not, in the aggregate, exceed the amount of income tax, excluding any penalty imposed under this Act, remaining unpaid under section 129 or 131.⁽⁴⁾

⁽¹⁾ Section 131C added by FA 2003. Effective as from 1 July 2003.

⁽²⁾ The words "section 129 or 131" replaced "section 129, 131, 131A, 131B or 149" by FA 2001. Effective as from income year 2001-02. Previously FA 1997 - "section 129, 131, 131A, 131B or 149" replaced "section 129 or 131".

⁽³⁾ The words "and under section 109, 110, 111 or 121" inserted by FA 2002. Effective as from 1.7.2002.

⁽⁴⁾ Subsection (2) amended by FA 2002. Effective as from 1.7.2002. Previously ITA 1995 as amended -

(2) The penalty under this section shall not, in the aggregate, exceed the amount of income tax remaining unpaid under **section 129 or 131**⁽ⁱ⁾

⁽ⁱ⁾ The words "section 129 or 131" replaced "section 129, 131, 131A, 131B or 149" by FA 2001. Effective as from income year 2001-02. Previously FA 1997 - "section 129, 131, 131A, 131B or 149" replaced "section 129 or 131".

134. Representations to Assessment Review Committee⁽¹⁾

Any person who is aggrieved by a decision, or determination, under **sections 98, 114(2), 123(4), 127(2), 131A, 131B and 131C⁽²⁾** may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.

135. Conclusiveness of assessment

Except in proceedings **on objection to assessments under section 131A or⁽³⁾ on the hearing of representations⁽⁴⁾** under section 134 -

- (a) no assessment, decision or determination under this Act shall be disputed in any court or in any proceedings either on the ground that the person affected is not liable to income tax or the amount of tax due and payable is excessive or on any other ground; and
- (b) every assessment, decision or determination shall be final and conclusive and the liability of the person so affected shall be determined accordingly.

⁽¹⁾ Section 134 repealed and replaced by FA 2001. Previously ITA 1995 as amended -

134. Appeals

- (1) Any person who is aggrieved by a decision, or determination, **under sections 20, 59, 98, 114(2), 123(4), 127(2), 131A and 131B⁽¹⁾** may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.
- (2) Where on the determination of an appeal, the Tribunal orders a taxpayer to pay interest on the amount of tax payable, that interest shall be deemed to be income tax and shall be recoverable as such.
- (i) The words "under sections 20, 59, 98, 114(2), 123(4), 127(2), 131A and 131B" replaced "or an assessment, under sections 20, 59, 98, 114(3), 123(5), 127(3), **131A and 131B⁽ⁱⁱ⁾**" by FA 1999. Effective as from 1.7.99.
- (ii) The words "131A and 131B" replaced "129(3) and 131(3)" by FA 1997
- (2) The words "Sections 20,59,98,114(2),123(4),127(2),131A and 131B" replaced by "sections 98, 114(2), 123(4), 127(2), 131A, 131B and 131C" by FA 2003. Effective as from 1 July 2003.
- (3) The words "on objection to assessments under section 131A or" inserted by FA 1999.
- (4) The words "on the hearing of representations" replaced "on appeal" by FA 2001.

PART XI - RECOVERY OF TAX

136. Application of Part XI

This Part shall apply to any tax which has not been paid in accordance with section 100, 101, 106, 109, 110, 111, 112, 113, 115, 116, 117, 121, 122, **122B⁽¹⁾**, 129, 131, **131A, 131B⁽²⁾**, **133, 149** or⁽³⁾ **a decision of the Assessment Review Committee.**⁽⁴⁾

137. Recovery of tax in arrears from emoluments

- (1) The Commissioner may, for the purpose of securing and enforcing payment of income tax in arrears payable by an employee, issue a notice to the employer requiring him to make deductions from the emoluments of that employee on account of income tax payable by him.
- (2) The deductions shall be made at such times and in such amount as the Commissioner may specify in the notice.
- (3) The aggregate of the amount of tax deducted under this section and tax withheld under Sub-Part A of Part VIII shall not, except at the employee's request, exceed one third of his emoluments.
- (4) An employer to whom a notice under subsection (1) has been issued shall pay the tax deducted under this section to the Commissioner within 20 days from the end of the month in which the tax was deducted.
- (5) The provisions of sections 100, 101, 102, 103 and 104 shall apply to this section and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the provisions of this section.

138. Recovery of tax by attachment

The Commissioner may, without prejudice to any other remedy which he may have, enforce payment of any tax under this Act by attachment in the same manner as is provided in the Attachment (Rates and Taxes) Act.

139. Recovery of tax by distress and sale

- (1) The Commissioner may issue a warrant in a form specified in Part I of the Eighth Schedule to an usher of the Supreme Court to recover income tax by distress and sale of the goods, chattels and effects of the person charged or of the person answerable for its payment.
- (2) Three days' notice of such sale shall be given in the Gazette.

(1) The figure "122B" inserted by FA 2002. Effective as from year of assessment 2002-03.

(2) The figures "131A, 131B" inserted by FA 1997.

(3) The words "133, 149 or a determination of the Tribunal under section 6 of the Tax Appeal Tribunal Act 1984" replaced "133 or 149" by FA 2000. See footnote (4)

(4) The words "a decision of the Assessment Review Committee" replaced "a determination of the Tribunal under section 6 of the Tax Appeal Tribunal Act 1984" by FA 2001.

140. Contrainte

- (1) Where any income tax is due under this Act, the Commissioner may apply to a Judge in Chambers for an order (Contrainte) to issue against the debtor.
- (2) Any order issued under subsection (1) shall -
 - (a) be served on the debtor; and
 - (b) be executory.
- (3) Any debtor aggrieved by an order issued under subsection (1) may within 10 days of the service of the order appeal to the Supreme Court.
- (4) No costs shall be awarded against an unsuccessful party except disbursement for -
 - (a) stamp duty under the Stamp Duty Act 1990;
 - (b) service of the order; and
 - (c) execution of the order.

140A. Proceedings for temporary closing down of business⁽¹⁾

- (1) Where a person fails to pay any amount of income tax assessed under this Act, the Commissioner may notify the person in writing of his intention to close down part or the whole of the business of that person for a temporary period not exceeding 14 days, unless the person, within a period of 7 days of the date of the notice -
 - (a) pays the amount of income tax unpaid; or
 - (b) gives security to the satisfaction of the Commissioner for payment of the amount of the income tax unpaid.
- (2)
 - (a) Where the person fails to comply with the notice issued under subsection (1), the Commissioner may, with the concurrence of the Revenue Authority established under the Unified Revenue Act, make an application under oath, in such form as may be prescribed, to a District Magistrate for an order to close down part or the whole of the business of that person for a period not exceeding 14 days.
 - (b) Where an application under oath is made to a Magistrate in the manner specified in paragraph (a), the Magistrate may forthwith grant the application.
 - (c) Upon granting an application under paragraph (b), the Magistrate shall issue an order to an Usher, in such form as may be prescribed, to close down the business of the person in

⁽¹⁾ Section 140A added by FA 2002

- (3) Where an Usher executes an order under subsection (2), he shall affix in a conspicuous place on the front of the premises of the business or part of the business which has been closed, a notice duly certified by the Commissioner bearing the words "CLOSED TEMPORARILY FOR NOT PAYING INCOME TAX".
- (4) Where an order under subsection (2) has been executed and the person -
 - (a) effects payment of the amount of income tax unpaid; or
 - (b) gives security to the satisfaction of the Commissioner for payment of the amount of the income tax unpaid,the order shall lapse and the Commissioner shall, in writing, notify the person accordingly.
- (5) Any person who, contrary to the order, carries on the business or part of the business concerned or who commits any act in breach of the order under this section, shall commit an offence.

141. Privilege

- (1) The Government shall have, in respect of any income tax due and so long as the income tax is not paid in full, a privilege on all immovable properties belonging to the person by whom the income tax is payable.
- (2) Where the Commissioner thinks it necessary for securing the recovery of any income tax due to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical memoranda in the form specified in Part II of the Eighth Schedule and shall forthwith notify the person by whom the income tax is payable of the deposit of the memoranda.
- (3) The Conservator of Mortgages shall, upon deposit of the memoranda, inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the income tax is payable, and shall return one of the memoranda to the Commissioner with a statement written or stamped on it to the effect that the privilege has been duly inscribed.
- (4) Where a privilege is inscribed under this section, it shall take effect from the date of the inscription.
- (5) Where any income tax in respect of which an inscription has been taken under this section is paid in full or the tax liability is discharged, the Commissioner shall forthwith send to the Conservator of Mortgages a request in the form specified in Part III of the Eighth Schedule to erase the inscription.

- (6) The inscription of a privilege under this section shall be erased by the Conservator of Mortgages at the request of the Commissioner.
- (7) Any inscription or erasure which is required to be taken or made under this section shall be free from stamp duty under the Stamp Duty Act 1990 or registration dues leviable under the Registration Duty Act or any other costs.

142. Uninscribed privilege

- (1) Notwithstanding section 141, but subject to subsection (2), the privilege for the recovery of direct taxes under Articles 2148 and 2152 of the Code Napoleon shall operate on account of income tax payable under this Act independently of and without the necessity for inscription, upon -
 - (a) personal property wherever found;
 - (b) the proceeds of the sale of immovable property; and
 - (c) the crops, fruits, rents and revenues,
belonging to the person owing the tax.
- (2) The privilege conferred under subsection (1) shall operate only in respect of tax payable in any one year of assessment, at the discretion of the Commissioner, and shall rank immediately after the privilege for judicial costs.

143. Security

- (1) The Commissioner may, for the purposes of securing payment of any income tax due, order a person to furnish security in such manner and in such amount as the Commissioner thinks fit.
- (2) Any person who fails to comply with an order under subsection (1) shall commit an offence.

144. No limitation of action for recovery of tax

No law relating to the limitation of action shall bar or affect any action or remedy for recovery of income tax.

PART XIA - COMMISSIONER, LARGE TAXPAYER DEPARTMENT⁽¹⁾

144A. Interpretation of Part XIA

In this Part -

“Commissioner, Large Taxpayer Department,” means the Commissioner, Large Taxpayer Department, referred to in section 8B of the Unified Revenue Act 1983;

“large taxpayer” has the same meaning as in section 8B of the Unified Revenue Act 1983.

144B. Administration of Income Tax enactments by Commissioner, Large Taxpayer Department

- (1) Notwithstanding the other provisions of this Act or any regulations made thereunder, the Commissioner, Large Taxpayer Department, shall administer the Income Tax enactments in so far as they relate to large taxpayers.
- (2) Where, according to the records of the Commissioner of Income Tax, a person qualifies as a large taxpayer -
 - (a) the Commissioner of Income Tax shall -
 - (i) transfer all accounts, returns, assessments and other documents in respect of that person, to the Commissioner, Large Taxpayer Department; and
 - (ii) as from the date of transfer under subparagraph (i), cease to administer income tax in relation to that person; and
 - (b) the Commissioner, Large Taxpayer Department shall, as from the date of the transfer, administer income tax in respect of that person.

⁽¹⁾ Part XIA repealed and replaced by FA 2001. Previously FA 1999 - effective as from 1.12.1999 (Proclamation No. 19 of 1999) -

PART XIA - COMMISSIONER OF INLAND REVENUE

144A. Payment of tax under PAYE

- (1) Notwithstanding sections 100 and 101 and regulations 22(5) and (6) of the Income Tax Regulations 1996, where in respect of a month, an employer submits a single return for both PAYE and VAT **or a return for VAT or PAYE⁽ⁱ⁾** to the Commissioner of Inland Revenue under section 8B of the Unified Revenue Act 1983 and pay tax, if any, in accordance with that section, he shall be deemed to have submitted and paid tax, if any, to the Commissioner under this Act for that month.
- (2) For the purposes of this section, **“VAT”** has the same meaning as in the Value Added Tax Act 1998.

144B. Power to require information and production of books and records

Without prejudice to section 127(2) of this Act and to sections 7A and 8 of the Unified Revenue Act 1983, where, in respect of a period, the Commissioner of Inland Revenue is satisfied that a person has complied with the requirements of any of the provisions of section 8C of the Unified Revenue Act 1983, that person shall be deemed to have complied with the requirements under section 123, 124, 125 or 126 of this Act, as the case may be, for that period.

⁽ⁱ⁾ The words “or a return for VAT or PAYE” inserted by FA 2000.

- (3) Where in respect of an income year, a person qualifies as a large taxpayer, he shall -
- (a) immediately notify in writing the Commissioner of Income Tax of that fact;
 - (b) in respect of that income year and subsequent income years, submit his return of income and pay the income tax due, if any, to the Commissioner, Large Taxpayer Department; and
 - (c) discharge all his obligations under the Income Tax enactments towards the Commissioner, Large Taxpayer Department.

PART XII - OFFENCES**145. Offences relating to PAYE**

- (1) Any person who -
- (a) fails to register as an employer;
 - (b) fails to pay the amount of tax required to be withheld;
 - (c) fails to pay the amount of tax in arrears required to be deducted;
 - (d) fails to give the Statement of Emoluments and Tax Deduction to his employee; or
 - (e) submits to his employer an Employee Declaration Form which is incorrect or false in any material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

- (2) Any person who -
- (a) gives a Statement of Emoluments and Tax Deduction which is false or misleading in any material particular;
 - (b) without lawful authority discloses any information concerning his employee,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

146. Offences relating to CPS

- (1) Where a person fails to submit a Statement of Income under section 106, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.
- (2) Where a person furnishes a Statement of Income under section 106 which is false or misleading in any material particular, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

147. Offences relating to returns, books and records

- (1) Any person who wilfully and with intent to evade income tax -
- (a) submits a false return of income;
 - (b) gives any false information;
 - (c) prepares or maintains or authorises the preparation or maintenance of any false books, records or documents or falsifies or authorises the falsification of any books, records or documents;
 - (d) produces for examination any false books, records or documents;
 - (e) makes default in the performance of any duty imposed on him under this Act;
 - (f) refuses or fails, to attend and give evidence when required by the Commissioner or to answer truly and fully to any question put to him or to produce any document required of him; or
 - (g) misleads or attempts to mislead the Commissioner, in relation to any matter or thing affecting his own or any other person's liability to income tax,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

- (2) Where a person is convicted under subsection (1), he shall, in addition to any penalty imposed under subsection (1), be ordered by the court to pay an amount which shall be equivalent to 3 times the difference between -
- (a) the income tax to which he is liable; and
 - (b) the income tax paid or payable in terms of any return of income submitted.

148. Other offences

- (1) Any person who -
 - (a) fails to submit a return of income;
 - (b) fails to furnish information and particulars required for the purposes of this Act;
 - (c) fails to keep books and records;
 - (d) fails to produce books and records for examination;
 - (e) fails to pay any tax payable under this Act; or
 - (f) otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

- (2) Any person who commits an offence in respect of which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 5,000 rupees.
- (3) Where a person is convicted under subsection (1)(a) for failure to furnish a return of income, he shall, in addition to any penalty imposed under subsection (1), be ordered by the court to furnish the return within such time as the court may order.

148A Prosecution by Commissioner⁽¹⁾

- (1) The Commissioner may institute criminal proceedings against any person for failure to submit a return under section 112, 113, 116, 119 or 120.
- (2) In any proceedings under this section, a certificate in writing signed by the Commissioner certifying that the return so required has not been received from the person shall, in the absence of proof to the contrary, be evidence of the fact stated therein.

149. Compounding of offences

- (1) The Commissioner may, with the concurrence of the **Revenue Authority established under the Unified Revenue Act 1983⁽²⁾**, compound any offence committed by a person under this Act, where such person agrees in writing to pay such amount acceptable to the Commissioner representing -
 - (a) any income tax unpaid; and
 - (b) an amount not exceeding the maximum pecuniary penalty imposable under this Act for such offence.

⁽¹⁾ Section 148A added by FA 1998.

⁽²⁾ The words "Revenue Authority established under the Unified Revenue Act 1983" replaced "Unified Revenue Board" by FA 1998.

- (2) Every agreement under subsection (1) shall be made in writing under the hand of the Commissioner and the person and witnessed by an officer.
- (3) Every agreement under this section shall be final and conclusive and a copy thereof shall be delivered to the person.
- (4) Where the Commissioner compounds an offence in accordance with this section -
 - (a) the amount for which the offence is compounded shall be deemed to be tax assessed under this Act and shall be recoverable as income tax; and
 - (b) no further proceedings shall be taken in respect of the offence so compounded against the person.

150. Tax payable notwithstanding prosecution

Any person convicted of an offence under this Act or who has agreed to the compounding of an offence under section 149 shall not be relieved of his liability for payment of any income tax due.

PART XIII - MISCELLANEOUS

151. Ascertainment of income tax in certain cases

- (1) Where, for any of the purposes of this Act, including the application of the provisions of any double taxation arrangement, it is necessary to ascertain the amount of income tax payable by a taxpayer in respect of any income of a particular nature or from a particular source derived by him in an income year, the amount of income tax shall be the product of the formula set out in subsection (2).
- (2) The formula referred to in subsection (1) shall be -

$$\frac{a}{b} \times c$$

- where
- a is the amount in respect of which it is necessary to ascertain the amount of tax;
 - b is the amount of the income that was taken into account in calculating c;
 - c is the amount of income tax payable by the taxpayer before allowing any credit for foreign income tax in respect of income derived by him in that income year.

- (3) Any reference to "income" in subsection (2) shall be construed as a reference to income reduced by any deduction, allowance or relief that may properly be regarded as referring to that income, in particular,
- (a) income derived by way of emoluments reduced by emoluments relief;
 - (b) income derived from any business including agricultural activities, reduced by -
 - (i) the amount of interest paid on capital employed in the course of those activities; and
 - (ii) allowances allowed for assets used for the purposes of those activities.

152. Refund of excess income tax

- (1) Where, in respect of an income year, an employee whose gross income consists exclusively of emoluments, has, under PAYE, suffered tax of an amount in excess of the income tax liability on his chargeable income, he may claim a refund of the tax so paid or suffered or of the excess amount, as the case may be, by submitting a return of income for that income year in accordance with section 112.⁽¹⁾

⁽¹⁾ Subsection (1) amended by FA 2001. Effective as from income year 2000-01. Previously ITA 1995 as amended -

- (1) Where, in respect of an income year -
- (a) an individual whose tax liability on his chargeable income does not exceed 750 rupees has paid or suffered tax; or
 - (b) an employee whose gross income consists exclusively of emoluments, has under PAYE suffered tax of an amount in excess of the income tax liability on his chargeable income,
- he may claim a refund of the tax so paid or suffered or of the excess amount, as the case may be, by submitting a return of income for that income year in accordance with section 112.

- (2) (a) A refund under subsection (1) shall be made within 3 months of the date of submission of the return of income.
- (b) Where the refund is made after 3 months from the date the return of income is submitted, the refund shall carry interest free of income tax at the prevailing Bank rate.
- (3) Any person may make a claim to the Commissioner for a refund of tax paid in excess within 4 years of assessment after the end of the year of assessment in respect of which the tax was overpaid.
- (4) Where a claim is made under subsection (3) and the Commissioner is satisfied that the claimant is entitled to the refund, he shall refund the amount of tax so paid in excess.
- (5) No refund under this section shall be made where the amount claimed does not exceed 25 rupees.

153. Keeping of books and records

- (1)⁽¹⁾ Every person carrying on business or deriving income other than emoluments shall keep a full and true record, whether on computer or otherwise, in the English or French language, of all transactions and other acts engaged in by him that are relevant for the purpose of enabling his gross income and allowable deductions under this Act to be readily ascertained by the Commissioner.
- (2) Every employer shall keep -
 - (a) records showing emoluments paid to each employee and tax withheld from those emoluments; and
 - (b) the Employee Declaration Forms furnished by his employees.
- (3) Every book, record or document required to be kept under this section shall be kept for a period of at least 5 years after the completion of the transaction, act or operation to which it relates.

154. Secrecy

- (1) Subject to subsection (4) and section 76, every officer shall -
 - (a) before he begins to perform his duties under this Act, take an oath of fidelity and secrecy in conformity with this section;
 - (b) maintain and aid in maintaining the confidentiality and secrecy of any matter relating to this Act which comes to his knowledge.
- (2)⁽²⁾ Except for the purposes of -

⁽¹⁾ Subsection (1) deleted and replaced by FA 2004. Effective as from 17 August 2004.

⁽²⁾ Subsection (2) deleted and replaced by FA 2004. Effective as from 17 August 2004. Previously was -

(2) Except for the purpose of administering this Act or any other revenue law **or the National Pensions (Registration of Employers) Regulations 1977^(a)**, or where he is authorised to do so by the Minister, no officer shall communicate to any person any matter relating to this Act.

(i) The words "or the National Pensions (Registration of Employers) Regulations 1977" inserted by FA 2000.

- (a) this Act;
 - (b) any other revenue law;
 - (c) the National Pensions (Registration of Employers) Regulations 1977;
 - (d) the Prevention of Corruption Act 2002; or
 - (e) the Dangerous Drugs Act,
- or where he is authorised in writing to do so by the Minister, no officer shall communicate to any person any matter relating to this Act.
- (3) Except where it is necessary to do so for the purpose of administering this Act or any other revenue law **or the National Pensions (Registration of Employers) Regulations 1977⁽¹⁾**, no officer shall be required to produce in any court any document or to divulge or communicate to any court any matter coming to his knowledge in the performance of his duties as an officer.
- (4) Nothing in this section shall prevent the disclosure to a taxpayer or, with his written consent, to any other person of -
- (a) a document submitted to the Commissioner by the taxpayer;
 - (b) an assessment made upon the taxpayer; or
 - (c) the amount of income tax paid or due by the taxpayer.
- (5) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

155. Service of documents

- (1) Any return, Statement of Income, payment or other document required or authorised to be served on or given or made to the Commissioner shall be sent by ⁽²⁾ post to or left at the office of the Commissioner.
- (2)⁽³⁾ Where any return, Statement of Income, payment or other document is sent by post to the Commissioner, the date of the postmark shall be deemed to be the date on which the return, Statement of Income, payment or other document has been served, given or made.
- (3) Any notice of assessment, determination or other notice required to be served on or given to any person by the Commissioner may be served or given by -
- (a) delivering it personally to him; or
 - (b) leaving it at or sending it to his usual or last known business or private address.

(1) The words “or the National Pensions (Registration of Employers) Regulations 1977” inserted by FA 2000

(2) The word “registered” deleted by FA 2004. Effective as from 17 August 2004.

(3) Subsection (2) replaced by FA 2004. Effective as from 17 August 2004. Previously was

(2) Any return, Statement of Income, payment or other document sent by registered post to the Commissioner under subsection (1) shall be post free and the date of the postmark shall be deemed to be the date on which the return, Statement of Income, payment or other document has been served, given or made.

- (4) Where a person -
- (a) refuses to accept delivery of a letter addressed to him; or
 - (b) fails to take delivery of such a letter which he has been informed awaits him at a post office,

the document shall be deemed to have been served on him on the date on which he refused to accept the letter or was informed that the letter was at the post office.

156. Validity of notice of assessment or determination

The validity of a notice of assessment or a determination made under this Act shall not be affected by reason of an error or mistake or omission as to -

- (a) the name or address of the person;
- (b) the date or period;
- (c) the description of any income; or
- (d) the amount of income tax assessed,

if the person intended to be assessed or affected is sufficiently designated and the error or mistake or omission is not likely to deceive or mislead that person.

157. Power to write off arrears of tax

Notwithstanding section 144, the Commissioner may, subject to the approval of the **Revenue Authority established under the Unified Revenue Act 1983**,⁽¹⁾ write off any arrears of tax which, in his opinion, are required to be written off.

158. Remission of tax

The Minister may remit or order the refund of the whole or part of any income tax other than the tax payable under section 149.

159. Rulings

- (1) Any person who derives or may derive any income may apply to the Commissioner for a ruling as to the application of this Act to that income.
- (2) An application under this section shall be in writing and shall -
 - (a) include full details of the transaction relating to the income together with all documents relevant to the transaction;
 - (b) specify precisely the question as to which the ruling is required;
 - (c) give a full statement setting out the opinion of that person as to the application of this Act to that income; and
 - (d) be accompanied by such fee as may be prescribed.
- (3) The Commissioner shall, within 30 days of the receipt of an application under this section, give a ruling on the question to the applicant.

⁽¹⁾ The words "Revenue Authority established under the Unified Revenue Act 1983" replaced "Unified Revenue Board" by FA 1998

- (4) Subject to subsection (5), a ruling under this section shall be binding upon the Commissioner.
- (5) Where there is any material difference between the facts relating to the transaction and the details contained in the application, the ruling shall not be binding upon the Commissioner.
- (6) A ruling under this section shall be published by the Commissioner in such manner as he thinks fit except that the identity of the person to whom it relates shall not be indicated.
- (7) Subject to subsection (8), any person may rely upon a ruling published under subsection (6) as a statement binding on the Commissioner as to the application of this Act to the facts set out in that ruling.
- (8) The Commissioner may, by publication in the *Gazette*, notify that a ruling which has been published shall cease to be binding with effect from a date which shall not be earlier than the date of the notice.

159A.⁽¹⁾ Statement of Practice

The Commissioner shall, from time to time, issue and publish Statements of Practice in relation to the application of specific provisions of this Act.

160. Jurisdiction of Magistrate

(1)⁽²⁾ Notwithstanding -

- (a) section 114(2) of the Courts Act; and
- (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall **subject to subsection (2)**⁽³⁾ have jurisdiction to try an offence under this Act or any regulations made under this Act and may impose any penalty provided by this Act.

(2)⁽⁴⁾ The prosecution for an offence under the sections of the Act specified in the Fifth Schedule to the Unified Revenue Act shall take place, at the sole discretion of the Director of Public Prosecutions, before the Revenue Division of the Supreme Court, the Intermediate Court, or the District Court.

161. Regulations

- (1) The Minister may -
 - (a) make such regulations as he thinks fit for the purposes of this Act;
 - (b) by regulations, amend the Schedules, other than **PART I, PART II and PART III**⁽⁵⁾ of the First Schedule, the Fifth Schedule and the Seventh Schedule.
- (2) Any regulations made under this section may provide for the levying of fees and charges.

(1) Section 159A added by FA 2005.

(2) Existing provisions numbered (1) by FA 2003.

(3) Inserting in the new subsection (1) the words "subject to subsection (2)" just after the words "a Magistrate shall" by FA 2003.

(4) Adding after the new subsection (1) the new subsection numbered (2) by FA 2003.

(5) The words "PART I, PART II and PART III" replaced "PART I, PART II, PART III and PART IV" by FA 2000. Effective as from year of assessment 2001-02.

161A. Transitional provisions⁽¹⁾***Taxation of qualified corporations⁽²⁾***

- (1) (a)⁽³⁾ Subject to paragraph (c), a qualified corporation may, at any time, by irrevocable notice in writing given simultaneously to the **Commissioner, and to the Commission or the Bank of Mauritius, as the case may be⁽⁴⁾**, elect to be governed by this Act.
- (b) Where a **qualified corporation⁽⁵⁾⁽⁶⁾** has made an election under paragraph (a), it shall be liable to income tax in the same manner as a tax incentive company in respect of its income as from the income year in which the notice is given.
- (c) Subject to paragraphs (d) and (e), where a **qualified corporation⁽⁷⁾** has not made an election under paragraph (a) it shall, notwithstanding section 162(1) of this Act, be governed by the Income Tax Act 1974 in relation to-
- (i) the ascertainment of its chargeable income;
 - (ii) the rate at which income tax is calculated;
 - (iii) the exemption from income tax of interest and of any dividends paid out of its income; and
 - (iv) the submission of its annual return of income.
- (d) Where a **qualified corporation⁽⁷⁾** which is a société does not elect to be governed by this Act, the société may, by notice in writing given simultaneously to the Commissioner and to the **Commission⁽⁸⁾**, opt not to be liable to income tax.
- (e) Where a société has exercised an option under paragraph (d), every associate of the société shall be liable to income tax in respect of his share of income in that société at the rate specified in paragraph 6 of the First Schedule to the Income Tax Act 1974.

(1) Section 161A added by FA 2000.

The amendments (2), (3), (5), (7) and (8) were made by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001 -

(2) The words "Taxation of qualified corporations" replaced "Taxation of offshore corporations".

(3) Previous paragraph (a) - FA 2000 -

(a) Subject to paragraph (c), an offshore corporation may, at any time, by irrevocable notice in writing given simultaneously to the Commissioner and to the Authority or, where the offshore corporation is a bank, to the Bank of Mauritius, elect to be governed by this Act.

(4) The words "Commissioner and to the Commission or the Bank of Mauritius, as the case may be" replaced "Commissioner and to the Commission" by Banking Act 2004. Effective as from 10 November 2004 - Proclamation No. 39 of 2004.

(5) The words "a qualified corporation other than a trust under the Offshore Trusts Act 1992" replaced "an offshore corporation"

(6) The words "other than a trust under the Offshore Trusts Act 1992" deleted by Banking Act 2004. Effective as from 10 November 2004 - Proclamation No. 39 of 2004.

(7) The words "a qualified corporation" replaced by "an offshore corporation".

(8) The words "Commission" replaced "Authority"

- (f) **A company holding a management licence shall**⁽¹⁾
- (i) notwithstanding this Act, be governed by the Income Tax Act 1974 in respect of its income prior to 1 July 1998; and
- (ii) be liable to income tax in the same manner as a tax incentive company in respect of its income as from 1 July 1998.
- (g)⁽²⁾ **“Commission”** means the Commission established under the Financial Services Development Act 2001;
- “company holding a management licence”** means a company holding a management licence under the Financial Services Development Act 2001;
- “qualified corporation”**⁽³⁾ means –
- (a) a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001, or
- (b) a bank holding a banking licence under the Banking Act 2004 so far as its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001 are concerned, and having been in operation before 1 July 1998.
- (h) **Where a qualified corporation**⁽⁴⁾ does not make an election under paragraph (a) by 30 June 2002, **the qualified corporation**⁽⁵⁾ shall be deemed to be liable to income tax in the same manner as a tax incentive company in respect of its

The amendments (1), (2), (4) and (5) were made by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001 -

- (1) The words “A company holding a management licence shall” replaced “An offshore management company shall”
- (2) Previous paragraph (g) - FA 2000 -
 (g) For the purposes of this subsection-
“Authority” has the same meaning as in the Mauritius Offshore Business Activities Act 1992;
“offshore corporation” means a corporation holding a certificate issued under, or an offshore trust as defined in, the Mauritius Offshore Business Activities Act 1992, or a corporation holding an Offshore Banking Licence issued under the Banking Act 1988, and having been in operation before 1 July 1998;
“offshore management company” means a company holding an offshore companies management licence under section 23, or a company holding an offshore certificate under section 16, of the Mauritius Offshore Business Activities Act 1992, and providing management services to offshore companies or international companies or acting as corporate trustee.
- (3) Paragraph (g) amended by Banking Act 2004. New definition for “qualified Corporation”. Effective date 10 November 2004. Proclamation No. 39 of 2004. Previously -
“qualified corporation” means a corporation holding a Category Global Business Licence under the Financial Services Development Act 2001 or a trust under the Offshore Trusts Act 1992 or a bank holding a **category 2 Banking Licence**⁽ⁱ⁾ under the Banking Act 1988, and having been in operation before 1 July 1998.
 (i) The words “Category 2 Banking Licence” replaced “Class B Banking Licence” FA 2002.
- (4) The words “Where a qualified Corporation [other than a trust under the Offshore Trusts Act 1992]”⁽ⁱⁱ⁾ replaced “Where an Offshore Corporation”.
- (5) The words “the qualified corporation [other than a trust under the Offshore Trusts Act 1992]”⁽ⁱⁱⁱ⁾ replaced “the offshore corporation”
 (iii) The words “other than a trust under the Offshore Trusts Act 1992” deleted by Banking Act 2004. Effective as from 10 November 2004 – Proclamation No. 39 of 2004.

income for the year of assessment commencing on 1 July 2003 and for every subsequent year of assessment.

Tax credits for companies

- (2) (a) Notwithstanding this Act, relief in respect of investments made in certain companies under section 34A of the Income Tax Act 1974, or in respect of capital expenditure incurred under section 54J of the Income Tax Act 1974, prior to 1 July 1995 shall continue to be allowed as tax credits.
- (b) Any tax credit allowable under sections 69 and 70 shall, in respect of investments made or capital expenditure incurred, prior to 1 July 1995, not be taken into account for the purposes of calculating the limitation to tax credits under section 72.
- (c)⁽¹⁾ Tax credit in respect of any amount paid prior to 1 July 2004 as subscription in the share capital of a company which is a tax incentive company shall continue to be allowed, provided that the requirements of section 69 are satisfied.

Investment tax credits for individuals

- (3) Notwithstanding this Act, relief in respect of investments made in certain companies under section 34A of the Income Tax Act 1974 prior to 1 July 1996 shall continue to be allowed as investment tax credit.

Savings

- (4) Notwithstanding section 162 and subject to the other provisions of this section, the Income Tax Act 1974 and the Income Tax (Collection, Recovery and Repayment) Act shall remain in force until the coming into operation of this Act.

Interest Relief

- (5)⁽²⁾ Any credit facility obtained by way of bank overdraft prior to 1 July 2001 shall qualify as a loan until 30 June 2002 for the purposes of section 30, provided that the requirements of the provisions of that section are satisfied.
- (6)⁽²⁾ Section 30(2) and (3) shall not apply in respect of loans raised prior to 1 June 1996.⁽³⁾

⁽¹⁾ New paragraph (c) in subsection (2) added by FA 2004. Effective as from 17 August 2004.

⁽²⁾ Subsection (5) amended and subsection (6) deleted by FA 2001. Effective as from income year 2001-02. Previously FA 2000 -

(5) Section 30(2) and (3) shall apply in respect of loans raised on or after 1 June 1996.

(6) The provisions of section 30 prior to the coming into force of section 10(e) of the Finance Act 1999 shall continue to apply in respect of loans raised prior to 1 July 1999.

⁽³⁾ New Subsections (6) and (6A) added by FA 2003. Deemed to have come into operation as from the income year commencing 01.07.2001.

(6A)⁽¹⁾ Subject to subsections (2), (3), (4) and (5) of section 30, any interest paid in respect of a loan raised during the period 1 June 1996 to 30 June 1999 and -

- (a) secured by mortgage or fixed charge on immovable property;
- (b) raised on the security of an insurance policy on his life or on the life of his dependent spouse or on the life of his dependent children;
- (c) raised on the security of a standing crop or the proceeds of a crop; or
- (d) raised on the pledge of shares or debentures,

shall qualify as a deduction under that section.

Exempt income

(7) The amendments made-

- (a) to item 3 of Part III of the Second Schedule to the Act by the Income Tax (Amendment of Schedule) Regulations 2000; and
- (b) to regulation 3(2) of, and the First Schedule to, the Income Tax Regulations 1996 by the Income Tax (Amendment) Regulations 2000,

shall not apply to bonds and debentures, the prospectus in respect of which was issued prior to 31 March 2000.

Contributions to superannuation fund

(8) (a) Where the terms of the instrument establishing a superannuation fund established prior to 27 February 1999 do not contain the provisions of regulation 5(2)(c)(xvii) and (xviii) of the Income Tax Regulations 1996, the employer shall, not later than 30 June 2001, apply to the Commissioner under regulation 5(4) of those regulations to vary the terms of the instrument in order to incorporate therein those provisions.

(b) Where an employer-

- (i) makes an application under subparagraph (a), the Commissioner shall approve the variation with effect from the commencement date of the fund in respect of employees in the service of the employer as at 1 July 2000; or
- (ii) fails to make an application under subparagraph (a), the Commissioner shall direct the employer to include the provisions of regulation 5(2)(c)(xvii) and (xviii) of the Income Tax Regulations 1996 in the terms of the instrument of the fund with effect from the commencement date of the fund.

⁽¹⁾ See footnote (3) - previous page.

- (c) Where a direction is issued under subparagraph (b)(ii), the provisions of regulation 5(2)(c)(xvii) and (xviii) of the Income Tax Regulations 1996 shall be deemed to have been included in the terms of the instrument of the fund with effect from the commencement date of the fund in respect of employees in the service of the employer as at 1 July 2000.

Investment relief

- (9)⁽¹⁾ Relief in respect of any amount paid prior to 1 July 2004 as subscription in the share capital of a company which is a tax incentive company shall continue to be allowed provided that the requirements of section 36 are satisfied.

162. Repeal and savings

- (1) **Subject to section 161A⁽²⁾**, the Income Tax Act and the Income Tax (Collection, Recovery and Repayment) Act are repealed.
- (2) Notwithstanding the repeal of the Income Tax Act and the Income Tax (Collection, Recovery and Repayment) Act, any act or thing done under those Acts shall be deemed to have been done under this Act.

163. Commencement

Subject to section 161A⁽²⁾, this Act shall come into operation -

- (a) in relation to an individual, on 1 July 1996 in respect of the income year commencing on 1 July 1996 and in respect of every subsequent income year; and
- (b) in relation to any other person, on 1 July 1996 in respect of the year of assessment commencing on 1 July 1996 and in respect of every subsequent year of assessment.

⁽¹⁾ Subsection (9) inserted by FA 2004. Effective as from 17 August 2004.

⁽²⁾ The words "Subject to section 161A" replaced "Subject to section 11 of the Finance Act 1995" by FA 2000.

FIRST SCHEDULE
(section 4)

Rates of income tax

PART I - INDIVIDUALS⁽¹⁾

Chargeable income	Rate of tax
On the first 25,000 rupees	10 per cent
On the next 25,000 rupees	20 per cent
On the next 450,000 rupees	25 per cent
On the remainder	30 per cent

- ⁽¹⁾ Part I amended by FA 2004. Effective as from income year 2004-05. Previously -
- ITA 1995 as amended – Income year 1996-97

PART I - INDIVIDUALS

Chargeable income	Rate of tax
On the first 15,000 rupees	5 per cent
On the next 20,000 rupees	15 per cent
On the next 20,000 rupees	25 per cent
On the remainder	30 per cent

- FA 1999 – Income year 1999-2000

PART I - INDIVIDUALS

Chargeable income	Rate of tax
On the first 15,000 rupees	5 per cent
On the next 25,000 rupees	15 per cent
On the next 25,000 rupees	25 per cent
On the remainder	28 per cent

- FA 2000 – Income year 2000-2001

PART I - INDIVIDUALS

Chargeable income	Rate of tax
On the first 25,000 rupees	15 per cent
On the remainder	25 per cent

PART II - TAX INCENTIVE COMPANIES⁽¹⁾

The rate of tax on chargeable income shall be 15 per cent.

PART III⁽²⁾ - OTHER COMPANIES

The rate of tax on chargeable income shall be **25 per cent⁽³⁾**.

⁽¹⁾ Part II amended by FA 2000. Effective as from year of assessment 2001-02. Previously - ITA 1995 as amended - Year of assessment 1996-97

PART II - TAX INCENTIVE COMPANIES

The rate of tax on chargeable income shall be 15 per cent.

- FA 1998 – Year of assessment 1998-99

PART II - TAX INCENTIVE COMPANIES

1. Subject to item 2, the rate of tax on chargeable income shall be 15 per cent.
 2. In respect of a tax incentive company specified in item 16(a) or 16(b) of Part V of the First Schedule and which elects, by notice in writing given simultaneously to the Authority or the Bank of Mauritius respectively, and to the Commissioner to pay income tax at a rate exceeding 15 per cent, the rate of tax on its chargeable income shall be the rate specified in that notice.
- ⁽²⁾ Previous PART IV renumbered PART III by FA 2000, the previous PART III being deleted. Effective as from year of assessment 2001-02. Previously ITA 1995 – year of assessment 1996-97

PART III - STOCK EXCHANGE COMPANIES

The rate of tax on chargeable income shall be 25 per cent in respect of the following -

1. A company listed on the Stock Exchange other than a tax incentive company
 2. A subsidiary of a listed company other than a subsidiary which qualifies as a tax incentive company.
- ⁽³⁾ The words “25 per cent” replaced “35 per cent” by FA 2000. Effective as from year of assessment 2001-02.

PART IV⁽¹⁾ - LIST OF TAX INCENTIVE COMPANIES

- | | | | |
|-------------------|---|---|-------------------------|
| 1. ⁽²⁾ | A company holding an investment certificate in respect of an export enterprise⁽³⁾ |] | under |
| 2. ⁽²⁾ | A company holding an investment certificate in respect of a strategic local enterprise |] | the |
| 3. ⁽²⁾ | A company holding an investment certificate in respect of modernisation and expansion enterprise other than a company engaged in the manufacture of excisable goods under the Excise Act 1994 |] | Investment
Promotion |
| 4. ⁽²⁾ | A company holding an investment certificate in respect of an industrial building enterprise |] | Act |
| 5. ⁽²⁾ | A company holding an investment certificate in respect of a pioneer status enterprise |] | 2000 |
| 6. ⁽²⁾ | A company registered with the Small and Medium Industries Development Organisation | | |
| 7. | A company holding an export service certificate under the Export Service Zones Act 1981 | | |
| 8. ⁽⁴⁾ | A company operating an aerodrome | | |
| 9. ⁽⁴⁾ | A company holding an investment certificate in respect of hotel development under the Investment Promotion Act 2000 | | |
| 10. | An investment trust company listed on the Stock Exchange or designated as an approved investment institution under section 50A of the Stock Exchange Act 1988 | | |
| 11. | An authorised mutual fund under the Companies Act 1984 | | |

⁽¹⁾ Previous PART V renumbered PART IV by FA 2000.

⁽²⁾ Items 1-6 amended by FA 2001. Effective as from income year 2001-02. Previously ITA 1995 as amended -

- | | | | |
|----|---|---|-------------------|
| 1. | A company holding an export enterprise certificate |] | |
| 2. | A company holding a strategic local enterprise certificate |] | under |
| 3. | A company holding a modernisation and expansion enterprise certificate other than a company engaged in the manufacture of excisable goods under the Excise Act 1994 |] | the
Industrial |
| 4. | A company holding an industrial building enterprise certificate |] | Expansion |
| 5. | A company holding a pioneer status certificate |] | Act |
| 6. | A company registered with the Small and Medium Industries Development Organisation |] | 1993 |

⁽³⁾ **Exempt from income tax from year of assessment 1997-98 to year of assessment 2000-01.** Previously Second Schedule, Part I, Item 28 which was added by FA 1996 and deleted by FA 1998 -

28. A company holding an export enterprise certificate under the Industrial Expansion Act 1993

⁽⁴⁾ Items 8 & 9 amended by FA 2001. Effective as from income year 2000-01. Previously ITA 1995 as amended -

8. A company holding a development certificate under the Development Incentives Act
9. A company holding a hotel management service certificate under the Hotel Management (Incentives) Act 1982, notwithstanding section 7 of that Act

12. A trustee of a unit trust scheme
13. A company holding a housing development certificate issued by the Minister
- 14.⁽¹⁾ A polyclinic holding an investment certificate in respect of health services under the Investment Promotion Act 2000
15. A manufacturing company
- 16.⁽²⁾ A corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001
17. A société which opts to be liable to income tax under section 47(6)
18. A company engaged wholly in the management of -
 - (a) a venture capital fund;
 - (b) a company holding an investment certificate in respect of a strategic local enterprise under the Investment Promotion Act 2000⁽³⁾
19. A venture capital fund
20. A bus company operating a bus or a fleet of buses and holding a road service licence in respect of those buses

⁽¹⁾ Item 14 amended by FA 2001. Effective as from income year 2001-02. Previously ITA 1995 as amended -

14. A polyclinic holding a health development certificate under the Health Development Certificate Act 1992

⁽²⁾ Item 16 amended by Banking Act 2004. Effective date 10 November 2004. Proclamation No. 39 of 2004. Previously was:

16. (a) A corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001.

(b) A bank holding a Category 2 Banking Licence⁽ⁱ⁾ under the Banking Act 1988 in respect of the business activities covered by that licence⁽ⁱⁱ⁾

(i) The words "Category 2 Banking Licence" replaced "Class B Banking Licence" by FA 2002

(ii) The words "in respect of the business activities covered by that licence" added by GN 124 of 2002 - 13.08.2002.

Item 16 amended by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001. Previously -

• ITA 1995 as amended -

16. A corporation certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992

• FA 1998 -

16. (a) A corporation certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992

(b) A company holding an Offshore Banking Licence under the Banking Act 1988.

⁽³⁾ Paragraph (b) of item 18 amended by FA 2001. Effective as from income year 2001-02. Previously -

• ITA 1995 as amended -

18. A company engaged wholly in the management of a venture capital fund.

• GN 4 of 1998 - 19.12.1997

18. A company engaged wholly in the management of -

(a) a venture capital fund;

(b) a company holding a strategic local enterprise certificate under the Industrial Expansion Act 1993.

- 21.⁽¹⁾ A company engaged in the agro-based industry and holding in that respect, an investment certificate under the Investment Promotion Act or a certificate under Part VIII of the Industrial Expansion Act, as the case may be
22. A company deriving at least 75 per cent of its gross income from agriculture, **[other than sugar cane cultivation, but including]**⁽²⁾ fishery and livestock
- 23.⁽³⁾ A company whose main activity is to provide lease financing, as may be approved by the Financial Services Commission established under the Financial Services Development Act 2001
- 24.⁽⁴⁾ A company deriving at least 75 per cent of its gross income from construction activities in Mauritius
- 25.⁽⁵⁾ A company duly authorised by the Financial Services Commission established under the Financial Services Development Act 2001, to conduct business in -
- (a) actuarial services and related activities;
 - (b) investment management expertise and services;
 - (c) investment management and advisory services;
 - (d) investment management, pension fund management, investment advice and portfolio and asset management;
 - (e) investment advisory and management services to funds and other corpus in relation to portfolio investments;
 - (f) treasury management within the same group.
- 26.⁽⁵⁾ A company holding an investment certificate in respect of fishing development under the Investment Promotion Act
- 27.⁽⁵⁾ A company holding an investment certificate in respect of leisure development under the Investment Promotion Act
- 28.⁽⁶⁾ A company holding an investment certificate under the Investment Promotion (Regional Development Scheme) Regulations 2001
- 29.⁽⁷⁾ A company engaged in the hotel industry

-
- (1) Item 21 amended by GN 124 of 2002 - 13.8.2002. Previously ITA 1995 as amended -
21. A company engaged in the agro-based industry approved by the Minister of Agriculture and Natural Resources
- (2) The words "other than sugar cane cultivation, but including" deleted by FA 1999. Effective as from income year 1999-00.
- (3) Item 23 amended by GN 124 of 2002 - 13.8.2002. Previously ITA 1995 as amended -
23. A company whose main activity is to provide lease financing, as may be approved by the Minister
- (4) Item 24 deleted and replaced by FA 2004. Effective as from 1 July 2004. Previously was:
24. A company deriving at least 75 per cent of its gross income from the construction of buildings, roads, **bridges and dams**⁽ⁱ⁾
(i) The words "bridges and dams" replaced "and bridges" by FA 2000. Effective as from year of assessment 2000-01
- (5) Items 25, 26 and 27 amended by GN 124 of 2002 - 13.8.2002. Previously FA 1997 - year of assessment 1997-98
25. A company holding a pioneer financial services certificate issued by the Minister
26. A company holding a fishing development certificate issued by the Minister to whom responsibility for the subject of fisheries is assigned
27. A company holding a leisure development certificate issued by the Minister to whom responsibility for the subject of leisure is assigned.
- (6) Item 28 amended by GN 124 of 2002 - 13.8.2002. Previously FA 1998-
28. A company holding a regional development certificate issued **[under the Development Incentives Act]**⁽ⁱ⁾ by the Minister to whom responsibility for the subject of regional development is assigned
(i) The words "under the Development Incentives Act" deleted by FA 2001. Effective as from income year 2001-02
- (7) Item 29 added by FA 1999. Effective as from income year 1999-00.

- 30.⁽¹⁾ An ICT company
- 31.⁽²⁾ A company operating a duty free shop, other than a duty free shop at the port or airport, under the Customs Act 1988
- 32.⁽²⁾ A company approved by the Minister responsible for the subject of education or by the Tertiary Education Commission established under the Tertiary Education Commission Act 1988, as a company engaged in the provision of **pre-primary, primary**,^{(2)(b)} secondary or tertiary education, as the case may be
- 33.⁽³⁾ A company holding an investment certificate under the Investment Promotion (Regional Headquarters Scheme) Regulations 2001.
- 34.⁽⁴⁾
- 35.⁽⁵⁾ A company deriving at least 75 per cent of its gross income from the provision of training and registered as such with the Industrial and Vocational Training Board
- 36.⁽⁵⁾ A company duly licensed to carry on the business of restaurant
- 37.⁽⁵⁾ A company carrying on business as -
- (a) tour operator;
 - (b) scuba diving centre or helmet diving centre;
 - (c) cruise or boat house operator;
 - (d) big game fishing operator;
 - (e) musical and other entertainment services provider,⁽⁶⁾**
- and registered as such with the Ministry responsible for the subject of tourism

⁽¹⁾ Item 30 amended by GN 124 of 2002 - 13.8.2002. Previously -
FA 1999 - income year 1999-00

30. A company deriving at least 75 per cent of its gross income from software development
FA 2000 - year of assessment 2001-02 -

30. A company deriving at least 75 per cent of its gross income from software development, hosting of web sites or multimedia development

⁽²⁾ Items 31& 32 added by FA 1999. Effective as from income year 1999-00.

^{(2)(b)} The words "pre-primary, primary" added by FA 2003. Effective as from year of assessment 2003/2004.

⁽³⁾ Item 33 amended by GN 124 of 2002 - 13.8.2002. Previously GN 55 of 2000 - 18.4.2000 -

33. A company holding a regional headquarters certificate issued by the Minister to whom responsibility for the subject of industry is assigned and deriving at least 80 per cent of its gross income from outside Mauritius

Item 33 replaced by FA 2004. Effective as from Assessment year 2003/04. Previously was:

33. A company holding an investment certificate under the Investment Promotion (Regional Headquarters Scheme) Regulations 2001 and deriving at least 80 per cent of its gross income from outside Mauritius

⁽⁴⁾ Item 34 deleted by GN 124 of 2002 - 13.8.2002. Previously FA 2000 - year of assessment 2001-02 -

34. A company operating as internet service provider or network service provider

⁽⁵⁾ Items 35 to 38 added by FA 2000. Effective as from year of assessment 2001-02.

⁽⁶⁾ Paragraph (e) added by GN 124 of 2002 - 13.8.2002.

-
- 38.⁽⁵⁾ A company set up to operate the Stock Exchange established under the Stock Exchange Act 1988
- 39.⁽¹⁾ A company set up to provide a central depository, clearing and settlement service to the Stock Exchange established under the Stock Exchange Act 1988
- 40.⁽²⁾ A company holding a management licence under the Financial Services Development Act 2001
- 41.⁽³⁾ A company managing an equity fund
- 42.⁽⁴⁾ A company licensed under section 14 of the Financial Services Development Act 2001 to conduct business activity in the financial services sector, other than insurance business.
- 43.⁽⁵⁾ A guarantee fund established under section 3(8)(a) of the Securities (Central Depository, Clearing and Settlement) Act.

(1) Item 39 added by FA 2000. Effective as from year of assessment 2001-02.

(2) Item 40 amended by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001. Previously FA 2000 - year of assessment 2001-02 - 40. A company holding an offshore companies management licence under section 23, or a company holding an offshore certificate under section 16, of the Mauritius Offshore Business Activities Act 1992, and providing management services to offshore companies or international companies or acting as corporate trustee

(3) Item 41 added by GN 124 of 2002 - 13.8.2002.

(4) Item 42 added by FA 2003. Effective as from year of assessment 2003/2004.

(5) Item 43 added by FA 2004. Effective as from 1 July 2004.

SECOND SCHEDULE
(section 7)
Exempt Income

PART I - INCOME DERIVED BY -

1. A charitable institution or a charitable trust.
2. A société de secours mutuels.
3. A benevolent association.
4. A trade union.
5. A co-operative society registered under the Co-operative Societies Act.
6. A local authority.
7. The National Pensions Fund established under the National Pensions Act.
8. The registered owner of a foreign vessel from the operation of the vessel.
9. The registered owner of a local vessel registered in Mauritius provided the income is derived from deep sea international trade only.
10. The Agricultural Research Fund.
11. The Food and Agricultural Research Council.
12. The Mauritius Sugar Authority.
13. The Mauritius Sugar Industry Research Institute.
14. The Mauritius Sugar Terminal Corporation.
15. The Sugar Employees Fund.
16. The Sugar Industry Pension Fund.
17. The Sugar Insurance Fund.
18. The Sugar Planters Fund.
19. The Sugar Investment Trust.
20. A trust in respect of a superannuation fund.
21. A superannuation fund.
22. An investment club formed in accordance with the Stock Exchange Act 1988.

23. A non-citizen who is approved by the Minister or is a member of a class approved by the Minister, from personal or professional services performed by him within Mauritius, where in the opinion of the Minister -
- (a) the services rendered or to be rendered by the non-citizen are primarily and principally directed at assisting the Government in the development of Mauritius; and
 - (b) the income derived by the non-citizen is liable to income tax in another country.
24. A non-citizen who is approved by the Minister or is a member of a class approved by the Minister -
- (a) from personal or professional services performed by him in Mauritius for or on behalf of an employer who is also a non-citizen; or
 - (b) from any maintenance allowance, scholarship or bursary provided for or paid to him,
- where the income is derived by him during and in respect of his presence in Mauritius for the purpose of providing professional or expert advice or assistance, teaching or lecturing, making investigations, or receiving education, training or experience, under an arrangement for assistance entered into by the Government of Mauritius with the government of any other country or with an international organisation for the purpose of providing, on any basis, professional, expert, educational, economic, technical or cultural assistance or administrative or other training, or the means or facilities for investigations.
25. A non-resident expatriate engineering and support service personnel required by a pioneer status enterprise or by any company engaged in electronics and high-technology activities for the installation and maintenance of equipment and training of local staff.
- 26.⁽¹⁾
27. An international organisation approved by the Minister.
- 28.⁽²⁾ (a) A company holding a Human Resource Development Certificate provided that -
- (i) the company starts operations within a period not exceeding 3 years of 1 July 2001; and
 - (ii) the period of exemption of the income of the company does not exceed 5 income years as from the income year in which the company starts operations.
- (b) Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraph (a) during the period of exemption of its income shall be available for carry forward under section 59.

⁽¹⁾ Item 26 deleted by FA 2004. Effective as from 1 July 2004.

⁽²⁾ Item 28 added by FA 2001. Effective as from income year 2001-02. See footnote relating to item (1) of Part IV of First Schedule.

- 29.⁽¹⁾ (a) A company holding an investment certificate under the Investment Promotion (ICT Scheme) Regulations 2002, provided that the period of exemption of the income of the company shall, subject to paragraphs (b) and (c), be limited up to the income year ending 30 June 2008.
- (b) A company holding an investment certificate issued prior to 1 July 2008 in respect of business process outsourcing/back office operations, call centres or contact centres under the Investment Promotion (ICT Scheme) Regulations 2002 may, within 60 days of the date of the investment certificate, by irrevocable notice in writing to the Commissioner, elect to have two-thirds of its net income exempted.
- (c) Where a company has made an election in accordance with paragraph (b), two-thirds of its net income shall be exempted from income tax.
- (d)⁽²⁾ Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraphs (a) and (c) during the period of exemption of its income shall be available for carry forward under section 59.
- 30.⁽³⁾⁽⁴⁾
- 31.⁽³⁾ An equity fund.
- 32.⁽³⁾ A non-citizen from outside Mauritius and who is resident in Mauritius.
- 33.⁽⁵⁾ (a) **A company set up for the purpose of operating a spinning, weaving or dyeing factory⁽⁶⁾**, provided that -
- (i) the company starts operations by 30 June 2006, and
- (ii) the period of exemption of the income of the company does not exceed 10 income years as from the income year in which the company starts operations.
- (b) Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraph (a) during the period of exemption of its income shall be available for carry forward under section 59.
- 34.⁽⁷⁾ A trust set up under the Trusts Act 2001 to administer an employees' share scheme.
- 35.⁽⁷⁾ The Employees' Real Estate Investment Trust referred to in section 10A of the Employees' Welfare Fund Act.

(1) Item 29 amended by GN 150 of 2002 - 20.9.2002. Previously GN 124 of 2002 - 13.8.2002 - 29. A company holding an investment certificate in respect of specified information and communication services under the Investment Promotion (ICT Scheme) Regulations 2002 provided that the period of exemption of the income of the company shall be limited up to the year of assessment ending 30 June 2009.

(2) Item 29(d) inserted by FA 2003. Effective as from year of assessment 2003/2004.

(3) Items 30 to 32 added by GN 124 of 2002 - 13.8.2002.

(4) Item 30 deleted by FA 2003. Effective as from year of assessment 2003/2004.

(5) Item 33 added by FA 2003. Effective as from year of assessment 2003/2004.

(6) The words "A company set up for the purpose of operating a spinning, weaving or dyeing factory" replaced the words "A company engaged in spinning" by FA 2005. Effective as from assessment year 2005-06.

(7) Items 34 and 35 added by FA 2004. Effective as from 17 August 2004.

PART II - EMOLUMENTS

1. Emoluments derived from the office of the President or Vice-President.
2. Any lump sum or gratuity paid under a pension law.
3. Income derived by way of basic retirement pension payable under the National Pensions Act.
4. The first **1,400,000 rupees**⁽¹⁾ of any sum received by way of severance allowance determined in accordance with the Labour Act.
5. **The first 1,400,000 rupees**⁽¹⁾ **of any sum received by way of retiring allowance by a person**⁽²⁾ who has attained the appropriate retiring age and retires after completing not less than 10 years' employment on such conditions as may be prescribed.

For the purposes of this item -

"employment" includes any employment of the taxpayer -

- (a) with any company which in the opinion of the Commissioner -
 - (i) consisted wholly or substantially of the same shareholders; or
 - (ii) was under the control of the same persons, as the company from whose employment the taxpayer retired;
- (b) with the same employer, whether or not the business of the employer was the same;
- (c) in the same business, whether or not there had been a change of ownership of the business; or
- (d) which, in the opinion of the Commissioner, was substantially the same employment as that from which the taxpayer retired.

"specified sum"⁽³⁾

6. Any lump sum received by way of death gratuity or as consolidated compensation for death or injury or as commutation of pension and paid -
 - (a) by virtue of any enactment;
 - (b) from a superannuation fund; or
 - (c) under a personal pension scheme approved by the Commissioner.

(1) The words "one million rupees" deleted and replaced by the words "1,400,000 rupees". Amended by FA 2003. Effective as from income year 2002/2003.

(2) The words "The first one million rupees of any sum received by way of retiring allowance by a person" replaced "That portion of the retiring allowance which does not exceed the specified sum paid to a person" by GN 158 of 1998. Effective as from 1.7.97.

(3) The definition of "specified sum" deleted by GN 158 of 1998. Effective as from 1.7.97. Previously ITA 1995 as amended - **"specified sum"** means an amount equal to one third of the emoluments of a person from an employment in the 36 months preceding the date of his retirement.

7. That portion of any sum payable by the Government of Mauritius by way of a gratuity in relation to a public officer employed on a contract which is equivalent to 7½ per cent of the basic salary payable under the contract in respect of the contract period.
8. Any rent allowance payable to a person appointed to an office in -
 - (a) the Police Force;
 - (b) the Fire Services;
 - (c) the Forests Division of the Ministry of Agriculture and Natural Resources;
 - (d) the Prisons and Industrial School Service;
 - (e) the Ministry of Fisheries;
 - (f) the Department of Civil Aviation; and
 - (g) the Fire Unit of the Mauritius Marine Authority.
9. Any housing allowance not exceeding 100 rupees per month payable by an employer to an employee under any enactment or by virtue of an award made under an enactment.
10. Any transport allowance payable by an employer to an employee by virtue of the terms and conditions of service equivalent to -
 - (a) the return bus fare between residence and place of work;
 - (b) commuted travelling allowance and travel grant payable by the Government of Mauritius and the local authority to their employees;
 - (c) the actual allowance paid or 25 per cent of the monthly basic salary up to a maximum of **6,200 rupees**⁽¹⁾, whichever is the lesser, provided that the employee makes use of a private car registered in his own name for attending duty and for the performance of the duties of his office or employment.
11. Any reimbursement of medical expenses to home-based staff of overseas missions.
12. The emoluments derived by a seaman who is employed on a vessel registered in Mauritius or on a foreign vessel.

⁽¹⁾ Amended by FA 2003 by deleting “5,730 rupees” and replacing by “6,200 rupees”. Effective as from income year 2003/2004.

- ITA 1995 as amended - Rs 4,000
- FA 1997 - Income year 1996-97 - Rs 5,250
- FA 2001 - Income year 2001-02 - Rs.5,730

13. That portion of the emoluments of an expatriate employee, **or of a specified Mauritian employee**⁽¹⁾ of a pioneer status enterprise, an export enterprise, a company engaged in electronics and high-technology activities, **a company holding a regional headquarters certificate**,⁽²⁾ or a company engaged wholly in the management of a venture capital fund, that will, in respect of an income year, reduce his tax liability otherwise payable on the emoluments derived by him from the enterprise or company to 50 per cent, provided that the number of employees entitled to the exemption shall not exceed 2 for each enterprise or company, as the case may be, **and that the period of exemption granted to the expatriate employee and specified Mauritian employee does not exceed, in the aggregate, 4 income years for each enterprise or company.**⁽³⁾

(1) The words ", or of a specified Mauritian employee" inserted by FA 1999. Effective as from income year 1999-00.

(2) The words "a company holding a regional headquarters certificate" inserted by GN 55 of 2000 - 18.4.00

(3) The words "and that the period of exemption granted to the expatriate employee and specified Mauritian employee does not exceed, in the aggregate, 4 income years for each enterprise or company" added by FA 1999. Effective as from income year 1999-00.

14. (a)⁽¹⁾ That portion of the emoluments of an expatriate employee or of a specified Mauritian employee of a company -
- (i) operating in the freeport zone;
 - (ii) duly authorised by the Financial Services Commission established under the Financial Services Development Act 2001, to conduct any of the business activities referred to in item 25 of Part IV of the First Schedule;
 - (iii) holding a Category 1 Global Business Licence under the Financial Services Development Act 2001;
 - (iv)⁽²⁾ holding a banking licence under the Banking Act 2004 and who is employed by that company to carry out banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001; **[or]**⁽³⁾
 - (v) managing an equity fund; or⁽⁴⁾
 - (vi)⁽⁵⁾ engaged in spinning activities,

that will, in respect of an income year, reduce the tax liability of the employee otherwise arising from the emoluments derived by him from the company to 50 per cent, provided that the period of exemption granted to the employee does not exceed, in the aggregate, 4 income years for each company.

(1) Paragraph (a) amended by GN 124 of 2002 - 13.8.2002. Previously ITA 1995 as amended -

(a)⁽¹⁾That portion of the emoluments of an expatriate employee, or of a specified Mauritian employee⁽²⁾ of a company operating in the freeport zone, of a company holding a pioneer financial services certificate,⁽³⁾ or holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988⁽⁴⁾, that will, in respect of an income year, reduce his tax liability otherwise payable on the emoluments derived by him from the company to 50 per cent, provided that the period of exemption granted to the expatriate employee and specified Mauritian employee does not exceed, in the aggregate, 4 income years for each enterprise or company.⁽⁵⁾

(1) Previous provisions lettered as paragraph (a) by FA 1999.

(2) The words ",or of a specified Mauritian employee" inserted by FA 1999. Effective as from income year 1999-00.

(3) The words "of a company holding a pioneer financial services certificate" inserted by FA 1997. Effective as from income year 1996-97

(4) The words "holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988" replaced "of such other kind of corporation as may be approved by the Minister" by the Financial Services Development Act 2001. Effective as from 1.8.2001- Proclamation No. 8 of 2001

(5) The words "provided that the period of exemption granted to the expatriate employee and specified Mauritian employee does not exceed, in the aggregate, 4 income years for each enterprise or company" added by FA 1999. Effective as from income year 1999-00.

(2) Paragraph (iv) deleted and replaced by Banking Act 2004. Effective as from 10 November 2004. Proclamation No. 39 of 2004. Previously was

(iv) "holding a Category 2 Banking Licence under Banking Act and who is employed by that company to carry out the business activities covered by that licence; or"

(3) The word "or" at the end of paragraph (iv) deleted by FA 2004. Effective as from year of assessment 2004-05.

(4) The comma at the end of subparagraph (v) deleted and replaced by "; or" by FA 2004.

(5) Subparagraph (vi) added by FA 2004. Effective as from Assessment year 2004/05.

- (b)⁽¹⁾ For the purposes of paragraph (a) and item 13 –
- (i) **”specified Mauritian employee”** means an employee who is a citizen of Mauritius and who has, immediately before taking up employment in Mauritius, been abroad for a period of, or an aggregate period of, 270 days or more in each of the 10 income years immediately preceding the income year in which he is employed in Mauritius;
 - (ii) **“company”** means a company which is resident in Mauritius.
15. Emoluments of a non-citizen who holds office in Mauritius as an official of a Government other than the Government of Mauritius and is posted to Mauritius for that purpose.
16. Director's fees payable to a non-resident director of a company.
- 17.⁽²⁾ Any advantage in money or in money's worth received as lump sum by an employee voluntarily terminating his contract of employment in the context of a factory closure pursuant to the Cane Planters and Millers Arbitration and Control Board Act or under the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act 2001.

⁽¹⁾ Paragraph (b) amended by FA 2000. Effective as from 1.7.2000. Previously FA 1999 - income year 1999-00.

(b) For the purposes of paragraph (a) and item 13, "specified Mauritian employee" means an employee who is a citizen of Mauritius and who has, immediately before taking up employment in Mauritius, been abroad for a period of, or an aggregate period of, 270 days or more in each of the ten income years immediately preceding the income year in which he is employed in Mauritius.

⁽²⁾ Item 17 added by the Sugar Industry Efficiency Act 2001. Effective as from 17.9.2001 - Proclamation No. 15 of 2001.

- 18.⁽¹⁾ (a) That portion of the emoluments of an expatriate employee or of a specified Mauritian employee of a company holding an investment certificate in respect of specified information and communication services under the Investment Promotion (ICT Scheme) Regulations 2002 that will, in respect of an income year, reduce the tax liability of the employee otherwise arising from the emoluments derived by him from the company to 50 per cent provided that the number and the full names of the expatriate employees or specified Mauritian employees and the period of the exemption in respect of each of the employees are specified by the Board of Investment established under the Investment Promotion Act.
- (b) For the purposes of paragraph (a), “**specified Mauritian employee**” has the same meaning as in item 14(b)(i).

⁽¹⁾ Item 18 added by GN 124 of 2002 - 13.8.2002

PART III - DIVIDENDS, INTEREST AND ROYALTY

- 1.⁽¹⁾ Dividends -
- (a) paid by a company resident in Mauritius;
 - (b) paid by a co-operative society registered under the Co-operative Societies Act; or
 - (c) receivable from outside Mauritius by a company holding a regional development certificate.
2. (a) The first **100,000 rupees**⁽²⁾ receivable in any income year by an individual personally or as an associate in a société or as a beneficiary in the estate of a deceased person in respect of interest on -
- (i) Government securities;
 - (ii) bills issued by the Mauritius Civil Service Mutual Aid Association Ltd; or
 - (iii) fixed deposit or savings accounts in Mauritius with a bank or other institution authorised by any other enactment to accept money on fixed deposit or savings accounts and to pay interest on it in Mauritius.
- (b) Where, in the case of a couple, the interest receivable referred to in paragraph (a) is in the joint name of the spouses and neither spouse is a dependent spouse, the exemption under paragraph (a) shall be allowed in any proportion as may be claimed by the spouses, provided that, in the aggregate, the exemption does not exceed **200,000 rupees**⁽³⁾.

⁽¹⁾ Item 1 amended by FA 2000. Effective as from 1.7.2000. Previously ITA 1995 as amended -

1. Dividends -

- (a) receivable by a company from another company which is liable to income tax at the rate specified in Part IV of the First Schedule;
- (b) paid by a tax incentive company;
- (c) paid by a company listed on the Stock Exchange or by a subsidiary of that company;
- (d) paid out of income derived by a company from the operations of -
 - (i) a gaming house; or
 - (ii) a coin-operated machine, pursuant to a gaming house licence or a licence to operate a coin-operated machine issued under the Gaming Act;
- (e) paid to non-resident shareholders of companies which own foreign vessels to the extent that they were paid out of income derived from the operation of the vessels;
- (f) paid by the Sugar Investment Trust;
- (g) paid by a co-operative society registered under the Co-operative Societies Act;
- (h) paid by a company licensed under the Freeport Act 1992;⁽ⁱ⁾
- (i) paid by a company which is liable to income tax at the rate specified in Part IV of the First Schedule to any other person;⁽ⁱⁱ⁾
- (j) receivable from outside Mauritius by a company holding a regional development certificate.⁽ⁱⁱⁱ⁾

⁽ⁱ⁾ Item 1 (h) added by FA 1996 Effective as from year of assessment 1996-97.

⁽ⁱⁱ⁾ Item 1 (i) added by FA 1996. Effective as from year of assessment 1997-98.

⁽ⁱⁱⁱ⁾ Item 1 (j) added by FA 1998.

⁽²⁾ Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended - Rs 50,000.

Words "75,000 rupees" replaced by "100,000 rupees" by FA 2004. Effective from income year 2004-05

⁽³⁾ Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended - Rs 100,000.

Amended by FA 2004. Effective as from income year 2004-05. Previously was "150,000 rupees"

3. Interest payable on -
- (a) a tax reserve certificate issued under the Tax Reserve Certificates Act;
 - (b) a debenture issued under the Loans Act or a loan chargeable on the Consolidated Fund where the debenture was issued or the loan was made with the condition that the interest on it would be so exempt;
 - (c) a balance maintained in a **bank holding a banking licence under the Banking Act 2004**⁽¹⁾ by an individual who is not resident in Mauritius;
 - (d)⁽²⁾ a deposit made and maintained for a continuous period of not less than 3 years by an individual in a bank holding a banking licence or in a non-bank financial institution authorised to carry on deposit-taking business in Mauritius under the Banking Act 2004;
 - (e)⁽³⁾ such bonds, bearing interest at progressive or variable rate and issued by the Bank of Mauritius, as may be approved by the Minister;
 - (f)⁽³⁾ call and deposit accounts held with any bank under the **Banking Act 2004**⁽⁴⁾ by a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001;⁽⁵⁾

(1) The words "bank holding a banking licence under the Banking Act 2004" replaced "domestic bank" by Banking Act 2004. Effective as from 10 November 2004 - Proclamation No. 39 of 2004.

Item 3(c) amended by FA 2000. Effective as from 1.7.2000. Previously ITA 1995 as amended -

(c) a balance maintained by a non-resident at any bank in Mauritius;

(2) Item 3(d) deleted and replaced by Banking Act 2004. Effective date 10 November 2004. Proclamation No. 39 of 2004. Previously -

(d) a deposit made and maintained for a continuous period of not less than 3 years by an individual in a domestic bank or in non-bank financial institution authorised to carry on deposit-taking business in Mauritius by the Central Bank under section 13A(2) of the Banking Act 1988;

Item 3(d) amended by GN 184 of 1998 - 11.12.98. Previously ITA 1995 as amended -

(d) a deposit made and maintained for a continuous period of not less than 3 years in a domestic bank by an individual;

(3) Items 3(g), 3(i) and 3(j) renumbered 3(e), 3(f) and 3(g) by GN 43 of 2000, the previous items 3(e), 3(f) and 3(h) being deleted. Effective on 31.3.2000. Previously ITA 1995 as amended -

(e) bonds issued by such statutory bodies and such bodies corporate as the Minister may prescribe;

(f) such bonds, satisfying the requirements of the Stock Exchange Act 1988 for quotation on the Official List; **as may be approved by the Minister**⁽ⁱ⁾

(h) debentures issued by companies -

(i) engaged in the cultivation of sugar cane or in the manufacture of sugar;

(ii) engaged in the production of firm electrical power; or

(iii) to finance such plan or scheme,
as may be approved by the Minister.

(i) The words "as may be approved by the Minister" deleted by FA 1997. Effective as from income year 1997-98.

(4) The words "Banking Act 1988" replaced by the words "Banking Act 2004" by FA 2005.

(5) Item 3(f) amended by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001. Previously FA 1997 - Income year 1997-98 -

(f) call and deposit accounts held with any domestic bank or offshore bank by a corporation certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992;

(See also footnote (3) above)

- (g)⁽¹⁾ bank deposits held as guarantee by a company engaged in aircraft leasing and approved by the Minister;
 - (h)⁽²⁾ the Special Savings Scheme for Public Officers administered by the Accountant-General;
 - (i)⁽³⁾ a loan made to the Employees' Real Estate Investment Trust referred to in section 10A of the Employees' Welfare Fund Act.
4. Any interest and bonus derived from the Housing Savings Scheme of the Mauritius Housing Corporation Ltd.
 - 5.⁽⁴⁾ Interest paid to a non-resident not carrying on any business in Mauritius by a corporation holding a Category 1 Business Licence under the Financial Services Development Act 2001 or by a bank holding a banking licence under the Banking Act 2004 in so far as the interest is paid out of the gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001.
 - 6.⁽⁵⁾ Royalty payable to a non-resident by a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or by a bank holding a banking licence under the Banking Act 2004 in so far as the royalty is paid out of gross income derived from its banking transactions with non-residents and corporations holding a Global Business Licence under the Financial Services Development Act 2001.

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- (1) Item 3 (g) added by FA 1997. Effective as from income year 1997-98.
 - (2) Subparagraph (h) added and full stop at end of paragraph (g) replaced by a semi-colon by FA 2004. Effective as from assessment year 2004-05.
 - (3) New paragraph (i) added by FA 2004. Effective as from Assessment year 2004/05.
 - (4) Item 5 amended by Banking Act 2004. Effective date 10 November 2004. Proclamation No. 39 of 2004 - Previously -
 5. Interest paid to a non-resident not carrying on any business in Mauritius by a corporation holding a Category 1 Business Licence under the Financial Services Development Act 2001 or by a bank under the Banking Act in so far as it relates to its business covered by a Category 2 Banking Licence.
 Item 5 amended by GN 124 of 2002 - 13.8.2002. Previously ITA 1995 as amended -
 5. Interest paid to a non-resident by a corporation of a kind approved by the Minister.
 - (5) Item 6 amended by Banking Act 2004. Effective date 10 November 2004. Proclamation No. 39 of 2004. - Previously -
 6. Royalty payable to a non-resident by a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or by a bank holding a Category 2 Banking Licence(i) under the Banking Act 1988 or a trust, as the case may be.
 - (i) The words "Category 2 Banking Licence" replaced "Class B Banking Licence" by FA 2002.
 Item 6 amended by the Financial Services Development Act 2001. Effective as from 1.8.2001 - Proclamation No. 8 of 2001. Previously - FA 1996 as amended by GN 79 of 1996 - year of assessment 1996-97-
 6. Royalty payable to a non-resident.
 - FA 1999 - Effective as from 1.7.1999
 6. Royalty payable to a non-resident by an offshore corporation holding a certificate or licence under the Mauritius Offshore Business Activities Act 1992, the Offshore Trusts Act 1992 or the Banking Act 1988, as the case may be.

- 7.⁽¹⁾ Dividends or other distributions paid by a company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001 to any person.
- 8.⁽¹⁾ Interest paid by a company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001 to a non-resident.

⁽¹⁾ Items 7 & 8 added by the Companies Act 2001. Effective as from 1.12.2001 - Proclamation No. 21 of 2001.

PART IV - MISCELLANEOUS

1. Gains or profits derived from the sale of units or of securities **[quoted on the Official List or on such Stock Exchanges or other exchanges and capital markets as may be approved by the Minister]** ⁽¹⁾.
- 2.⁽²⁾
- 3.⁽³⁾ The income derived from a sugar growing unit -
 - (a) in the case of a couple, where the income is in their joint names, in respect of the first 120 tonnes of sugar accruing, provided that the exemption is allowed in the same proportion as the income is declared by the couple in their tax returns; or
 - (b) in any other case, in respect of the first 60 tonnes of sugar accruing,

on such conditions as may be prescribed.
4. Payments to a planter in respect of bagasse for uses other than the manufacture of sugar.
- 5.⁽⁴⁾
- 6.⁽⁴⁾
7. 50 per cent of the premium paid by the Mauritius Sugar Syndicate to millers producing such types of sugar as may be approved by the Mauritius Sugar Authority.
8. 50 per cent of the incremental net income obtained through an increase in output from a sugar growing unit after at least 50 per cent of the land cultivated in cane are incorporated in one or more Land Area Management Units, on such conditions as may be prescribed.

(1) The words “quoted on the Official List or on such Stock Exchanges or other exchanges and capital markets as may be approved by the Minister” deleted by FA 2000. Effective as from 1.7.2000.

(2) Item 2 deleted by FA 2000. Effective as from 1.7.2000. Previously ITA 1995 as amended –

2. Gains or profits derived from the sale of securities by a venture capital fund.

(3) Item 3 amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended –

3. The income derived from a sugar growing unit in respect of the first 40 tonnes of sugar accruing, on such conditions as may be prescribed.

(4) Items 5 and 6 deleted by FA 2004. Effective as from Assessment year 2005/06. Previously was:

5. 75 per cent of the proceeds from the sale of bagasse by a miller to another miller for the purpose of generating firm electrical power.

6. 60 per cent of the proceeds from the sale of firm electrical power **or continuous electrical power**⁽ⁱ⁾ generated from bagasse by a miller to the Central Electricity Board after deduction of the exemption under item 5.

(i) the words “or continuous electrical power” inserted by FA 1999. Effective as from 1.7.99.

9. Profits derived from the cultivation of sugar cane on new lands certified by the Sugar Insurance Fund Board to have been brought under cultivation during the calendar years 1996 and 1997 for a period of 6 consecutive years as from the year following the year in which the new lands were brought under cultivation.

For the purposes of this item -

"new land" -

- (a) means any land which at any time during the period 1 June 1991 to 31 May 1995 was not registered by a planter under the Sugar Insurance Fund Act as being sugar cane plantation; but
- (b) does not include -
- (i) sugar cane land between 2 sugar cane cycles; and
 - (ii) land authorised to be put under cane cultivation under section 5 of the Sugar Industry Efficiency Act 1988.
10. Income derived by a planter and by a person with whom the planter has entered into a management contract duly registered with the Mauritius Sugar Authority for the cultivation of sugar cane on lands owned by the planter.
11. Income derived by a holder of a gaming house licence under the Gaming Act from the operation of his gaming house.
12. Income derived by any person in the form of maintenance allowance or other benefit provided in respect of his attendance at a university, college, school or other educational institution in terms of a scholarship, bursary, exhibition or other education award.
13. Income which is expressly exempt from income tax by any other enactment to the extent of the exemption so provided.
- 14.⁽¹⁾ Value of equity shares in a start-up company received in consideration for legal, accounting, advertising and other professional services rendered in connection with the setting up of the company provided that the shares are held for a period of at least 3 years.
- 15.⁽²⁾ Income derived by a company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001.
- 16.⁽²⁾ Rents, royalties, compensations and other amounts paid by a company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001 to a non-resident.
- 17.⁽²⁾ Gains or profits derived from the sale of shares, debt obligations or other securities of a company holding a Category 2 Global Business Licence under the Financial Services Development Act 2001 by a non-resident.

⁽¹⁾ Item 14 added by FA 2000. Effective as from year of assessment 2001-02.

⁽²⁾ Items 15, 16 & 17 added by the Companies Act 2001. Effective as from 1.12.2001 - Proclamation No. 21 of 2001.

- 18.⁽¹⁾ Gains derived by a planter, miller or service provider from the sale of land provided that the proceeds are used exclusively for the implementation of the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act 2001 or used exclusively by a miller in compliance with the conditions imposed under section 24 of the Cane Planters and Millers Arbitration and Control Board Act, as the case may be.
- 19.⁽²⁾ Gains derived by any person from the sale of land previously acquired by him from a planter implementing the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act 2001.
- 20.⁽²⁾ Gains derived by the Trust established under the Sugar Industry Efficiency Act 2001 or a body controlled by the Trust from the sale of land acquired pursuant to sections 10 and 12 of that Act.
- 21.⁽³⁾ Gains derived from the sale of land converted pursuant to section 29(1)(c)(ii)(B), (e) or (f) of the Sugar Industry Efficiency Act 2001 provided that the proceeds are used exclusively for the implementation of the schemes specified in that section.
- 22.⁽⁴⁾ (a)⁽⁵⁾ That portion of the gross income of a company holding an investment certificate under the Investment Promotion (Regional Headquarters Scheme) Regulations 2001 that is derived from a related company incorporated outside Mauritius and not registered in Mauritius or holding a Category 1 Global Business Licence under the Financial Services Development Act 2001, provided that -
- (i) the company derives at least 80 per cent of its gross income from those related companies; and
 - (ii) the period of exemption in respect of its gross income from those related companies shall not exceed 10 consecutive income years as from the income year in which the company starts operations.

⁽¹⁾ Item 18 amended by GN 124 of 2002 - 13.8.2002. Previously Sugar Industry Efficiency Act 2001 - 17.9.2001 (Proclamation No. 15 of 2001) -

18. Gains derived by a planter from the sale of land provided that the proceeds are used exclusively for the implementation of the Voluntary Retirement Scheme under the Sugar Industry Efficiency Act 2001.

⁽²⁾ Items 19 & 20 added by the Sugar Industry Efficiency Act 2001. Effective as from 17.9.2001 - Proclamation No. 15 of 2001.

⁽³⁾ Item 21 added by GN 124 of 2002 - 13.8.2002

⁽⁴⁾ Item 22 added by FA 2003. Effective as from year of assessment 2003/2004.

⁽⁵⁾ Paragraph (a) replaced by FA 2004. Effective as from Assessment year 2003/04.- Previously was:

(a) That portion of the gross income of a company holding an investment certificate under the Investment Promotion (Regional Headquarters Scheme) Regulations 2001 that is derived from outside Mauritius, provided that -

(i) the company derives at least 80 per cent of its gross income from outside Mauritius; and

(ii) the period of exemption in respect of its gross income from outside Mauritius shall not exceed 10 income years as from the income year in which the company starts operations.

- (b) Notwithstanding the other provisions of this Act, any loss incurred by a company under paragraph (a) during the period of exemption of its income shall be available for deduction and carry forward under section 59.
- 23.⁽¹⁾ (a) Subject to paragraph (b), value of shares to the extent of 200,000 rupees received by an employee from an employees' share scheme.
- (b) Where any of the shares referred to under paragraph (a) are disposed of, other than on death of the employee, within a period of 3 years of the date on which the shares are offered to the employee, the value of the shares so disposed of shall be deemed to be the gross income of the employee in the income year in which the disposal occurs.
- 24.⁽¹⁾ Value of units received by an employee under the National Savings Fund Act from, or any distributions made by, the Employees' Real Estate Investment Trust referred to in section 10A of the Employees' Welfare Fund Act.

⁽¹⁾ Items 23 and 24 added by FA 2004. Effective as from 17 August 2004.

- FA 2004 - **Income year 2004-05** Third Schedule deleted and replaced by the Fourth Schedule to this Act.

FOURTH SCHEDULE

(section 11(x))

THIRD SCHEDULE

(section 38, 39, 41, 42 and 42A)

		<i>Section</i>	<i>Amount (Rupees)</i>
1.	Basic personal deduction	38	85,000⁽¹⁾
2.	Deduction for dependent spouse	39	85,000⁽²⁾
3.	Basic deduction for dependent child	41	30,000
4.	Deduction for dependent handicapped child	42	70,000⁽³⁾
5.	Deduction for other handicapped person	42A	70,000⁽³⁾

For the purpose of items 1, 2 and 3 of this Schedule, where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall in addition to the deduction to which he is entitled under section 38, 39 or 41, be allowed a deduction of 50,000 rupees in respect of the handicapped person.

⁽¹⁾ The word "85,000" replaced the word "80,000" by FA 2005. Effective as from income year 2005-06.

⁽²⁾ The word "85,000" replaced the word "65,000" by FA 2005. Effective as from income year 2005-06.

⁽³⁾ The word "70,000" replaced the word "50,000" by FA 2005. Effective as from income year 2005-06.

- FA 2003 - **Income year 2003-2004**

THIRD SCHEDULE
(Sections 38, 39, 41, 42 and 42A)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	75,000
2.	Deduction for dependent spouse	39	60,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		25,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession or being unemployed;		25,000
	(c) child attending a course in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned or approved technical school;		30,000
	(d) (i) child receiving full-time instruction in the income year at a university in Mauritius;		50,000
	(ii) child attending a course at a polytechnic in Mauritius or at an educational institution providing tertiary education and approved as such by the Commissioner		50,000
	(iii) child receiving full-time post-secondary instruction of at least two years' duration at the Industrial Vocational Training Board or at a recognised training institution;		50,000
	(iv) child serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession		50,000
	(e) child receiving full-time instruction in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius.		100,000
4.	Deduction for dependent handicapped child	42	50,000
5.	Deduction for other handicapped person	42A	50,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 50,000 rupees in respect of the handicapped person.

- ITA 1995 as amended by FA 1996 - **Income year 1996-97**

THIRD SCHEDULE

(sections 38, 39, 41 and 42)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	45,000
2.	Deduction for dependent spouse	39	25,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		12,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction or serving under articles or indentures with a view to qualify in a trade or profession;		12,000
	(c) child receiving full-time instruction at any time in the income year at a university, or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		35,000
	(d) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student or at a State-owned technical school		20,000
4.	Deduction for dependent handicapped child	42	20,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c) or 3(d) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 20,000 rupees in respect of the handicapped person.

- FA 1997 - **Income year 1997-98**

THIRD SCHEDULE

(sections 38, 39, 41 and 42)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	48,000
2.	Deduction for dependent spouse	39	28,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		15,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession;		15,000
	(c) child receiving full-time instruction at any time in the income year at the University of Mauritius, or attending a course at a polytechnic in Mauritius, or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		40,000
	(d) child receiving full-time instruction at any time in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius;		50,000
	(e) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned, or approved, technical school		25,000
4.	Deduction for dependent handicapped child	42	40,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 40,000 rupees in respect of the handicapped person.

• FA 1998 - **Income years 1998-99 & 1999-00**
THIRD SCHEDULE

(sections 38, 39, 41, 42 and 42A)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	50,000
2.	Deduction for dependent spouse	39	40,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		17,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession or being unemployed ; ⁽¹⁾		17,000
	(c) child receiving full-time instruction at any time in the income year at the University of Mauritius, or attending a course at a polytechnic in Mauritius, or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		40,000
	(d) child receiving full-time instruction at any time in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius;		50,000
	(e) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned, or approved, technical school.		25,000
4.	Deduction for dependent handicapped child	42	42,000
5.	Deduction for other handicapped person	42A	42,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 42,000 rupees in respect of the handicapped person.

⁽¹⁾ The words "or being unemployed" inserted by FA 1999. Effective as from income year 1999-00.

- FA 2000 - **Income year 2000-01**

THIRD SCHEDULE

(sections 38, 39, 41, 42 and 42A)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	65,000
2.	Deduction for dependent spouse	39	50,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		20,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession or being unemployed;		20,000
	(c) child receiving full-time instruction at any time in the income year at the University of Mauritius, or attending a course at a polytechnic in Mauritius, or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		50,000
	(d) child receiving full-time instruction at any time in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius;		100,000
	(e) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned, or approved, technical school.		30,000
4.	Deduction for dependent handicapped child	42	50,000
5.	Deduction for other handicapped person	42A	50,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 50,000 rupees in respect of the handicapped person.

- FA 2001 - **Income year 2001-02**

THIRD SCHEDULE

(sections 38, 39, 41, 42 and 42A)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	70,000
2.	Deduction for dependent spouse	39	55,000
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		23,000
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession or being unemployed;		23,000
	(c) child receiving full-time instruction at any time in the income year at a university in Mauritius, or attending a course at a polytechnic in Mauritius or at an educational institution providing tertiary education and approved as such by the Commissioner⁽¹⁾ , or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		50,000
	(d) child receiving full-time instruction at any time in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius;		100,000
	(e) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned, or approved, technical school.		30,000
4.	Deduction for dependent handicapped child	42	50,000
5.	Deduction for other handicapped person	42A	50,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 50,000 rupees in respect of the handicapped person.

⁽¹⁾ The words "or at an educational institution providing tertiary education and approved as such by the Commissioner" inserted by FA 2001. Effective as from income year 2001-02.

- FA 2002 - **Income year 2002-03**

THIRD SCHEDULE

(sections 38, 39, 41, 42 and 42A)

		Section	Amount (Rupees)
1.	Basic personal deduction	38	75,000⁽¹⁾
2.	Deduction for dependent spouse	39	60,000⁽²⁾
3.	Deduction for dependent children -	41	
	(a) child under the age of 18 at any time in the income year;		25,000⁽³⁾
	(b) child over the age of 18 at any time in the income year and receiving full-time instruction at an educational institution or serving under articles or indentures with a view to qualifying in a trade or profession or being unemployed;		25,000⁽³⁾
	(c) child receiving full-time instruction at any time in the income year at a university in Mauritius, or attending a course at a polytechnic in Mauritius or at an educational institution providing tertiary education and approved as such by the Commissioner or serving under articles or indentures outside Mauritius with a view to qualifying in a trade or profession;		50,000
	(d) child receiving full-time instruction at any time in the income year at a university outside Mauritius or attending a course at a polytechnic outside Mauritius;		100,000
	(e) child attending a course at any time in the income year at the Industrial Vocational Training Board as a non-sponsored student, or at a State-owned, or approved, technical school.		30,000
4.	Deduction for dependent handicapped child	42	50,000
5.	Deduction for other handicapped person	42A	50,000

For the purposes of items 1, 2 and 3 of this Schedule -

- (1) Where a deduction has been allowed under item 3(a), 3(b), 3(c), 3(d) or 3(e) the taxpayer shall not, in respect of the same child, be allowed a deduction under any other item.
- (2) Where a taxpayer, his dependent spouse, or any of his dependent children in respect of whom a deduction has been allowed under item 3, is handicapped, the taxpayer shall, in addition to the deduction to which he is entitled under section 38, 39, or 41, be allowed a deduction of 50,000 rupees in respect of the handicapped person.

-
- (1) The figure "75,000" replaced "70,000" by FA 2002 – Effective as from income year 2002/2003.
 - (2) The figure "60,000" replaced "55,000" by FA 2002 – Effective as from income year 2002/2003.
 - (3) The figure "25,000" replaced "23,000" by FA 2002 – Effective as from income year 2002/2003.

FOURTH SCHEDULE
(section 2)

PART I - EMOLUMENTS

	Amount
1. In respect of an employee	8,000 rupees⁽¹⁾ per month
2. In respect of a field worker or a non-agricultural worker in the sugar industry	[6,000 rupees⁽²⁾ per month [during the inter-crop season, [and 9,500 rupees⁽³⁾ per month [during the crop season, and [end-of-year bonus and leave [pay prescribed in any [enactment in his favour [

PART II - TAX LIABILITY

Tax liability for a CPS period⁽⁴⁾ **500 rupees or less⁽⁵⁾**

⁽¹⁾ Amended by FA 1998. Effective as from income year 1998-99. Previously -

- ITA 1995 as amended - Rs 5,500
- FA 1997 - Income year 1997-98 - Rs 5,800
- FA 2003 - effective as from year of assessment 2003/2004 - Rs 7,000
- FA 2004 - effective as from year of assessment 2005/2006 - Rs. 8,000

⁽²⁾ Amended by FA 1998. Effective as from income year 1998-99. Previously -

- ITA 1995 as amended - Rs 4,500
- FA 1997 - Income year 1997-98 - Rs 4,800
- FA 2003 - effective as from year of assessment 2003/2004 - Rs 5,700
- FA 2004 - effective as from year of assessment 2005/2006 - Rs. 6,000

⁽³⁾ Amended by FA 1998. Effective as from income year 1998-99. Previously -

- ITA 1995 as amended - Rs 8,000
- FA 1997 - Income year 1997-98 - Rs 8,300
- FA 2003 - effective as from year of assessment 2003/2004 - Rs 9,100
- FA 2004 - effective as from year of assessment 2005/2006 - Rs. 9,500

⁽⁴⁾ The words "CPS period" replaced "CPS quarter" by FA 1997. Effective as from income year 1997-98.

⁽⁵⁾ Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended - Rs 200 or less

Amended by FA 2004. Fifth Schedule and replaced by the Fifth Schedule to this Act.

FIFTH SCHEDULE
(section 11(z))

FIFTH SCHEDULE
(section 93)

PART A - METHOD TO CALCULATE TAX TO BE WITHHELD FROM MONTHLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income		Tax	
Rs		Rs	
1	to 1,923	-	10 per cent of chargeable income
1,924	to 3,846	193 +	20 per cent of excess over Rs 1,923
3,847	to 38,461	577 +	25 per cent of excess over Rs 3,846
38,462	and over	9,230 +	30 per cent of excess over Rs 38,461

PART B - METHOD TO CALCULATE TAX TO BE WITHHELD FROM FORTNIGHTLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income		Tax	
Rs		Rs	
1	to 893	-	10 per cent of chargeable income
894	to 1,785	89 +	20 per cent of excess over Rs 893
1,786	to 17,857	267 +	25 per cent of excess over Rs 1,785
17,858	and over	4,285 +	30 per cent of excess over Rs 17,857

PART C - METHOD TO CALCULATE TAX TO BE WITHHELD FROM WEEKLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income		Tax	
Rs		Rs	
1	to 446	-	10 per cent of chargeable income
447	to 892	44 +	20 per cent of excess over Rs 446
893	to 8,928	133 +	25 per cent of excess over Rs 892
8,929	and over	2,142 +	30 per cent of excess over Rs 8,928

PART D - TAX WITHHOLDING AT FLAT RATE

Chargeable income	Rate of Tax on chargeable income
under section 96(2)(a)	20 per cent
under section 96(2)(b)	20 per cent
under section 96(2)(c)	10 per cent
under section 96(2)(d)	5 per cent

- FA 2000 - **Income year 2000-01**

FIFTH SCHEDULE⁽¹⁾
(section 93)

PART A - METHOD TO CALCULATE TAX TO BE WITHHELD FROM MONTHLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income Rs	Tax Rs
1 to 1,923	- 15 per cent of chargeable income
1,924 and over	288 + 25 per cent of excess over Rs 1,923

PART B - METHOD TO CALCULATE TAX TO BE WITHHELD FROM FORTNIGHTLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income Rs	Tax Rs
1 to 893	- 15 per cent of chargeable income
894 and over	134 + 25 per cent of excess over Rs 893

PART C - METHOD TO CALCULATE TAX TO BE WITHHELD FROM WEEKLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income Rs	Tax Rs
1 to 446	- 15 per cent of chargeable income
447 and over	67 + 25 per cent of excess over Rs 446

PART D - TAX WITHHOLDING AT FLAT RATE

Chargeable income	Rate of Tax on chargeable income
under section 96(2)(a)	20 per cent
under section 96(2)(b)	20 per cent
under section 96(2)(c)	10 per cent
under section 96(2)(d)	5 per cent

⁽¹⁾ Amended by FA 2000. Effective as from income year 2000-01. For other previous years, see pages 167 and 168.

- ITA 1995 as amended - **Income years 1996-97 to 1998-99**

FIFTH SCHEDULE
(section 93)

PART A - METHOD TO CALCULATE TAX TO BE WITHHELD FROM MONTHLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 1,153	- 5 per cent of chargeable income
1,154 to 2,692	58 + 15 per cent of excess over Rs 893
2,693 to 4,230	288 + 25 per cent of excess over Rs 2,692
4,231 and over	673 + 30 per cent of excess over Rs 4,230

PART B - METHOD TO CALCULATE TAX TO BE WITHHELD FROM FORTNIGHTLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 535	- 5 per cent of chargeable income
536 to 1,250	27 + 15 per cent of excess over Rs 535
1,251 to 1,964	134 + 25 per cent of excess over Rs 1,250
1,965 and over	313 + 30 per cent of excess over Rs 1,964

PART C - METHOD TO CALCULATE TAX TO BE WITHHELD FROM WEEKLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 267	- 5 per cent of chargeable income
268 to 625	13 + 15 per cent of excess over Rs 267
626 to 982	66 + 25 per cent of excess over Rs 625
983 and over	156 + 30 per cent of excess over Rs 982

PART D - TAX WITHHOLDING AT FLAT RATE

Chargeable income	Rate of Tax on chargeable income
under section 96(2)(a)	20 per cent
under section 96(2)(b)	20 per cent
under section 96(2)(c)	10 per cent
under section 96(2)(d)	5 per cent⁽¹⁾

⁽¹⁾ Item added by FA 1998. Effective as from income year 1998-99.

- FA 1999 - **Income year 1999-00**

FIFTH SCHEDULE
(section 93)

PART A - METHOD TO CALCULATE TAX TO BE WITHHELD FROM MONTHLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 1,153	- 5 per cent of chargeable income
1,154 to 3,077	58 + 15 per cent of excess over Rs 1,153
3,078 to 5,000	346 + 25 per cent of excess over Rs 3,077
5,001 and over	827 + 28 per cent of excess over Rs 5,000

PART B - METHOD TO CALCULATE TAX TO BE WITHHELD FROM FORTNIGHTLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 535	- 5 per cent of chargeable income
536 to 1,428	27 + 15 per cent of excess over Rs 535
1,429 to 2,321	161 + 25 per cent of excess over Rs 1,428
2,322 and over	384 + 28 per cent of excess over Rs 2,321

PART C - METHOD TO CALCULATE TAX TO BE WITHHELD FROM WEEKLY PAY

(Applicable to an employee who has submitted an Employee Declaration Form to his employer)

Chargeable Income	Tax
Rs	Rs
1 to 267	- 5 per cent of chargeable income
268 to 714	13 + 15 per cent of excess over Rs 267
715 to 1,160	80 + 25 per cent of excess over Rs 714
1,161 and over	191 + 28 per cent of excess over Rs 1,160

PART D - TAX WITHHOLDING AT FLAT RATE

Chargeable income	Rate of Tax on chargeable income
under section 96(2)(a)	20 per cent
under section 96(2)(b)	20 per cent
under section 96(2)(c)	10 per cent
under section 96(2)(d)	5 per cent

**SIXTH SCHEDULE
(sections 2 and 105)**

**GROSS INCOME SPECIFIED IN SECTION 10(1)(b) AND
RENT SPECIFIED IN SECTION 10(1)(c)**

	CPS threshold
Turnover	500,000 rupees for the CPS period⁽¹⁾
Gross Income from profession, vocation or occupation	300,000 rupees for the CPS period⁽²⁾
Rent	6,000 rupees per month

⁽¹⁾ The words "500,000 rupees for the CPS period" replaced "250,000 rupees per quarter" by FA 1997. Effective as from income year 1997-98.

⁽²⁾ The words "300,000 rupees for the CPS period" replaced "150,000 rupees per quarter" by FA 1997. Effective as from income year 1997-98.

FA 2004. Seventh Schedule and replaced by the Sixth Schedule to this Act.

SIXTH SCHEDULE

(section 11(aa))

SEVENTH SCHEDULE

(section 108)

**METHOD TO CALCULATE TAX UNDER THE CURRENT PAYMENT SYSTEM
(CPS)**

Chargeable Income Rs	Tax Rs
1 to 12,500	- 10 per cent of chargeable income
12,501 to 25,000	1,250 + 20 per cent of excess over Rs 12,500
25,001 to 250,000	3,750 + 25 per cent of excess over Rs 25,000
250,001 and over	60,000 + 30 per cent of excess over Rs 250,000

SEVENTH SCHEDULE⁽¹⁾⁽²⁾
(section 108)

**METHOD TO CALCULATE TAX UNDER THE CURRENT PAYMENT SYSTEM
(CPS)**

Chargeable Income		Tax	
Rs		Rs	
1	to 12,500	-	15 per cent of chargeable income
12,501	and over	1,875 +	25 per cent of excess over Rs 12,500

- ⁽¹⁾ Amended by FA 2000. Effective as from income year 2000-2001. Previously - ITA 1995 as amended - **Income year 1996-97**

SEVENTH SCHEDULE
(section 108)

METHOD TO CALCULATE TAX UNDER THE CURRENT PAYMENT SYSTEM (CPS)

Chargeable Income		Tax	
Rs		Rs	
1	to 3,750	-	5 per cent of chargeable income
3,751	to 8,750	188 +	15 per cent of excess over Rs 3,750
8,751	to 13,750	938 +	25 per cent of excess over Rs 8,750
13,751	and over	2,188 +	30 per cent of excess over Rs 13,750

- FA 1997 - Income years 1997-98 & 1998-99

Chargeable Income		Tax	
Rs		Rs	
1	to 7,500	-	5 per cent of chargeable income
7,500	to 17,500	375 +	15 per cent of excess over Rs 7,500
17,501	to 27,500	1,875 +	25 per cent of excess over Rs 17,500
27,501	and over	4,375 +	30 per cent of excess over Rs 27,500

- FA 1999 - Income year 1999-00

Chargeable Income		Tax	
Rs		Rs	
1	to 7,500	-	5 per cent of chargeable income
7,500	to 20,000	375 +	15 per cent of excess over Rs 7,500
20,001	to 32,500	2,250 +	25 per cent of excess over Rs 20,000
32,501	and over	5,375 +	28 per cent of excess over Rs 32,500

- ⁽²⁾ Amended by FA 2004 - Seventh Schedule deleted and replaced by the Sixth Schedule to this Act. Effective as from income year 2004/05.

EIGHTH SCHEDULE
(sections 139 and 141)

PART I

Office of the
Commissioner of Income Tax
Port Louis
Date

Income Tax Account No.
Financial Year
Year of Assessment
Account Reference

DISTRESS WARRANT

Under section 139 of the Income Tax Act 1995.

To Usher of the Supreme Court.....

Whereas..... is indebted to the Commissioner of Income Tax in the sum of being income tax due and payable by the aforesaid particulars of which are set out in the Annex.

And whereas default has been made in the payment of the aforesaid amount to the Commissioner of Income Tax and the aforesaid amount is still due.

These are therefore to authorise and order you forthwith to make distress of the goods, chattels and effects of the said person, and if within the period of 3 clear days next after the making of such distress the amount of the tax due and payable including the charge of taking and keeping the distress is not paid, you shall sell the goods, chattels and effects of the said person up to the amount mentioned in the distress including the costs and that you certify to me on or before the day of 19.. what you shall have done by virtue of this warrant.

Given under my hand at Port Louis, this day of 19..

.....
Commissioner of Income Tax

RETURN OF THE ABOVE WARRANT

In execution of the above warrant, I certify that I have this day seized the goods, chattels and effects of the hereinnamed and have made and signed an inventory of the same hereunto annexed, and have appointed as guardian of the same.

Date 19..

.....
Usher of the Supreme Court

PART II

FORM OF MEMORANDUM OF INSCRIPTION

Privilege inscribed under section 141 of the
Income Tax Act 1995
by the
Commissioner of Income Tax
electing his legal domicile in his Office in Port Louis
against

..... (names in full)

of (address in full)

.....
(occupation)

and

Mrs.....

(christian and maiden names in full)

of (address in full)

his wife, hereinafter called the debtor/s

for the sum of rupees (in words)

upon all immovable property belonging to the debtor/s including

.....
.....
.....

Drawn up in Port Louis on the of 19..

I certify that this memorandum is an exact copy of the other original with which it has been duly collated.

.....
Commissioner of Income Tax

PART III

The Conservator of Mortgages is hereby requested to erase in his registers the privilege inscribed by the Commissioner of Income Tax on the of 19.. in Vol. No. against:

.....
.....
.....

upon all immovable property which belonged to the latter, including
.....

Dated, signed and sealed in Port Louis on the of 19..

.....
Commissioner of Income Tax