THE INCOME TAX ACT 1995

(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 1989;
"child", in sections 41 and 42\(^{(1)}\), 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;

"Commissioner" means the Commissioner of Income Tax;

"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;\(^{(2)}\)

"CPS quarter"\(^{(3)}\)

"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;\(^{(4)}\)

"dependent spouse" means a person in respect of whom a deduction is allowable under section 39;\(^{(5)}\)

"disabled person" means a person suffering from permanent disablement;\(^{(6)}\)

\(^{(1)}\) The words "sections 41 and 42" replaced "sections 42 and 43" by FA 1997.

\(^{(2)}\) Inserted by FA 1997.

\(^{(3)}\) Deleted by FA 1997. Previously ITA 1995 - ["CPS quarter" means the quarter specified in section 106.]

\(^{(4)}\) The words "section 41" replaced "section 42" by FA 1997.

\(^{(5)}\) The words "section 39" replaced "section 40" by FA 1997.

“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” includes a distribution under section 45(3);

“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; and

(iv) an allowance payable to an apprentice;

“employee” means a person who receives or is entitled to receive emoluments;

“employees’ share participation scheme”[^2]


[“employees’ share participation scheme” means an employees’ share participation fund or scheme approved by the Minister.]

“employees’ share scheme” means a scheme or fund established for the benefit of the employees of an employer and approved by the Commissioner;[^3]

"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;

"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;\(^\text{11}\)

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

"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;

\(^{11}\) Paragraph (d) amended by FA 1997. Previously ITA 1995 -
"(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;"
"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;

"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;

"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


["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;]
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; [or]\(^{(1)}\)

(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;\(^{(2)}\)

"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;

\(^{(1)}\) The word [or] deleted by FA 1997.

\(^{(2)}\) Paragraph (c) added by FA 1997.
"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;

"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" 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;

(1) Amended by FA 1999. Effective as from income year 1999-2000. Previously ITA 1995 -

["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;]
"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 and 10 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;

"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" means a company which is under the control of the person;

"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 1988;

"sell" includes transfer;

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

"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 società 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;

"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 V 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" means the Tax Appeal Tribunal established under the Tax Appeal Tribunal Act 1984;

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

"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 the Unit Trust Act 1989;[1]

"unitholder" has the same meaning as in the Unit Trust Act 1989;[1]

"unit trust scheme" has the same meaning as in the Unit Trust Act 1989;[1]

"Unit Trust Fund" has the same meaning as in the Unit Trust Act 1989;[1]

"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.

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 official exchange rate between Mauritius currency and the other currency.

(3) For the purposes of subsection (2), the official exchange rate 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.

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.

(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;

\(^{(1)}\) The word “royalty” inserted by FA 1997
(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 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 20,000 rupees.
(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.\(^{(1)}\)

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).

\(^{(1)}\) Subsection (4) added by FA 1999. Effective as from income year 1999-2000
(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.

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) and (c), 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.
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; or
(e) the acquisition or improvement of any other item of a capital nature, 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) No annual allowance shall be allowed under this section unless the expenditure is incurred exclusively in the production of gross income.

(3) The total amount of allowance claimed under this section shall not exceed in the aggregate the amount of the capital expenditure incurred.

(4) Subject to subsection (5), 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 -

(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.
(5) 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, 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 or machinery at the date of sale or transfer.

(6) 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.⁽¹⁾

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,⁽²⁾
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).

⁽¹⁾ Subsection (6) added by FA 1998.
(5) No investment allowance shall be allowed under this section -

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

(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), 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) 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.

(8) 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 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;

(1) The words "Subject to subsection (7)," inserted by FA 1999.
(2) Subsection (7) added by FA 1999
(3) Previous subsection (7) renumbered (8) by FA 1999.
(4) Subsection (8) added by FA 1998.
(5) The words "Notwithstanding sections 18 and 19 but" inserted by FA 1999.
(b) any expenditure or loss to the extent to which it is incurred in the production of income which is exempt income;

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 gross income shall be allowed in such proportion and in such manner as may be prescribed.

(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.

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 100,000 rupees\(^{(2)}\), whichever is the lesser; and

(b) an amount equal to his pension or 65,000 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\(^{(1)}\) of his net income from agriculture or 100,000 rupees\(^{(6)}\), whichever is the lesser.

(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.

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

\(^{(2)}\) Amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 as amended by FA 1996 - Rs 39,000
- FA 1997 - income year 1997-98 - Rs 65,000

\(^{(3)}\) Amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 as amended by FA 1996 - Rs 32,500
- FA 1997 - income year 1997-98 - Rs 55,000

\(^{(4)}\) 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.

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.\(^{(1)}\)

(2) The deduction under subsection (1) shall, subject to subsection (3), not exceed -

(a) 100,000 rupees for each spouse, in the case of a couple where neither spouse is a dependent spouse;

(b) 200,000 rupees, 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\(^{(2)}\)

(c) 200,000 rupees, 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 1999-2000.

\(^{(2)}\) Paragraph (b) amended by FA 1997. Effective as from income year 1996-97. Previously ITA 1995 as amended by FA 1996 - "(b) 200,000 rupees, in the case of a couple where one spouse is a dependent spouse; or"

Transitional

- Loans raised before 1.6.96 : secured and no limit on interest
- Loans raised from 1.6.96 to 30.6.99 : secured and limit on interest subject to subsections (2) and (3). [FA 1996 and FA 1999]
(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 200,000 rupees.

(4) 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.

(1) Subsection (5) renumbered (4) by FA 1999. the previous subsection (4) being deleted. Effective as from income year 1999-2000. Previously ITA 1995 as amended by FA 1996 -

"(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."
31. Relief for life insurance premium

(1) Subject to the other provisions of this section \[and to section 35\]\(^{(1)}\), 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\(^{(2)}\).

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**

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) an amount paid as subscription in the share capital of a company(2) which is -

(i) a tax incentive company; or

(ii) listed on the Stock Exchange;

(b) investments made in -

(i) units; or

(ii) newly issued securities of an investment trust company; or

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(1) Section 35 amended by FA 1999. Effective as from income year 1999-2000. Previously -

• ITA 1995 as amended by FA 1996 - 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) 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.
(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.

(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 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.\(^{(1)}\)

(3) 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 75,000 rupees, the excess shall, subject to subsection (4), be deductible in the 2 succeeding income years following that income year.\(^{(2)}\)

(4) The relief under this section shall not, in the aggregate, exceed 75,000 rupees in any one income year.\(^{(2)}\)

(5) 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.\(^{(2)}\)

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\(^{(1)}\) Subsection (2) amended by FA 1998. Effective as from income year 1998-99. Previously—

- ITA 1995 as amended by FA 1996—

  "(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."  


"(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 società.

(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."
(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.\(^{(1)}\)

36A. Relief for shares traded on the Official List of the Stock Exchange\(^{(2)}\)

(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.

(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.

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

\(^{(2)}\) Section 36A added by FA 1999. Effective as from 1.7.99.
(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.
37. Deduction for medical expenses

(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 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), the deduction allowable under 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 -

(a) 20,000 rupees, where the treatment is undergone in Mauritius; or

(b) 30,000 rupees, where the treatment is undergone outside Mauritius,

whichever is the lesser.

(3) Where in an income year, 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 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) The deduction under this section in any one income year shall not, in the aggregate, exceed the deduction allowable under subsection (2).

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(1) 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.

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

(3) Subsection (2) amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended by FA 1996 -

"(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."

(4) Subsections (3) and (4) added by FA 1998. Effective as from income year 1997-98.
37A. Donations to charitable institutions

(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 10,000 rupees.

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37B. Contributions to the National Solidarity Fund

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.

37C. Expenditure incurred on education and training

(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 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 25,000 rupees.

38. 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.

(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.

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

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) 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.

(3) For the purposes of subsection (2)(b), 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 deduction.

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.

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.

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(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

(b) where the spouse of the person has been allowed a deduction in that income year in respect of the same child.

42A. Deduction for other handicapped person

(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.

(1) The word "or" inserted by FA 1998. Effective as from income year 1998-99.

(2) Paragraph (c) relettered (b) by FA1998, the previous paragraph (b) being deleted. Effective as from income year 1998-99.

Previously ITA 1995 as amended by FA 1996:

"(b) where the amount of the net income and exempt income of the child in that income year exceeds 15,000 rupees; or"

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, Part III or Part IV of the First Schedule, as the case may be.

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 unitholders 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.

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 IV 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.\(^{(1)}\)

(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),\(^{(2)}\) 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.

\(^{(1)}\) Subsection (1) amended by FA 1997. Effective as from 1 July 1996. Previously ITA 1995 as amended by FA 1996 - "(1) Every trust shall be liable to income tax on its chargeable income at the rate specified in Part IV of the First Schedule."

\(^{(2)}\) The words "Subject to subsection (4)," inserted by FA 1999. Effective as from 1.7.99.
(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.\(^{(1)}\)

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 società 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 società,

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.

(5) Every associate of a società 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 in respect of his share of income in that società 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.

\(^{(1)}\) 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 1.7.99.
(6) Notwithstanding subsection (1), a société referred to in subsection (5) may, by notice in writing given simultaneously to the Commissioner and to the Mauritius Offshore Business Activities Authority, opt to be liable to income tax as a tax incentive company.

(7) A non-resident società 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 IV 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 -

"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) 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, Part III or Part IV of the First Schedule, as the case may be;[1] and

(b) its chargeable income shall be computed in such manner as may be prescribed.

[1] 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 1.7.99.
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.

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) (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.\(^{(1)}\)

(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.

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\(^{(1)}\) Subsection (4) added by FA 1999. Effective as from income year 1999-2000.

\(^{(2)}\) Previous subsection (4) renumbered (5) by FA 1999.
(6) 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.

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.

(1) Previous subsection (5) renumbered (6) by FA 1999.
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.
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 100,000 rupees.

67A. **Marketing and promotional expenses**

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.

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67B. Contributions to sport clubs and sport training centres

(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.

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

(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.

67C. Contributions to the National Solidarity Fund

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

67D. Contributions to employees' share scheme

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.

68. Unauthorised deductions

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

Sub-Part D - Tax Credits


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

69. Investment tax credit

(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 a tax incentive company or a company which is listed on the Stock Exchange, 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) No deduction under subsection (1) shall in any one income year exceed 300,000 rupees.

(3) Where –

(a) the shares or any part of the shares are sold or transferred;

(b) the company ceases to be a tax incentive company; or
(c) the company, other than an authorised mutual fund, 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.

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 a modernisation and expansion enterprise certificate under the Industrial Expansion Act 1993 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.
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;

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

"(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;"
(c) a société —
   (i) means a société which has its seat or siège in Mauritius; and
   (ii) includes a società 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.

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;

(i) income derived directly or indirectly from any other source in Mauritius; and

(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 forebearance 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.
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 società 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 società,
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 dividend 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 dividend received by that person as a shareholder of the company.

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.

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, 37, 37A, 37B, 37C, 38, 39, 40, 41, 41A, 42 and 42A 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,] 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.

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 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.

(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.

(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) 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), 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.

(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.
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.
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.

(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.

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.  

(2) The Statement of Income under subsection (1) shall, [in respect of each quarter,] 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.

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

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

“(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 -

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<th>In respect of quarter</th>
<th>Due date for submission of Statement of Income and payment of tax</th>
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<td>1 July to 30 September</td>
<td>31 December</td>
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<tr>
<td>1 October to 31 December</td>
<td>31 March</td>
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<td>1 January to 31 March</td>
<td>30 June.</td>
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</table>

(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.

(4) Previous subsection (4) renumbered (3) by FA 1997.
107. Ascertainment of chargeable income

(1) 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, 37, 37A, 37B, 37C, 38, 39, 40, 41, 41A, 42 and 42A(i) 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

(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, 37, 37A, 37B, 37C, 38, 39, 40, 41, 41A, 42 and 42A(i) in respect of that income year.(ii)


(ii) Subsection (1) amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended by FA 1996 - "(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."
(2) The relief by way of deductions under sections [31,]{(1)} 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{(2)} 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.

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 -

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{(1)} The figure [31,] deleted by FA 1999. Effective as from income year 1999-2000.

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

Sub-Part C - Returns

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;

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

“(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.”

(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.

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

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),

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 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 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\(^{(1)}\) following the income year.

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

\(^{(1)}\) The words “31 January” replaced “31 December” by FA 1997. Effective as from year of assessment 1997-98.
(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.

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'
otice 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 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.

(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) 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

(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 per month or part of the month or such other amount as may be prescribed, until the time the return is submitted.

(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).

122. **Penalty for late payment of tax [specified in return]**

(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.

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(2) The words [specified in return] deleted by FA 1997.
(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\(^1\)

(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.

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), sections 39 and 51(2) of the Banking Act 1988 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 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 appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

(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.

(7) For the purposes of this section, "Commissioner" includes the Director-General(1) 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 on appeal, commit an offence and shall, on conviction by the Intermediate Court, be liable to a fine which shall not exceed one million rupees.

(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) 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.

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(1) 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"
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

(c) a statement of all assets and liabilities of the person, his spouse and minor children.

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 which the Commissioner considers necessary and which may be in the possession or custody or under the control of that person;

(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) at all reasonable times enter any business premises;

(b) inspect and retain any information, books, records, or other documents and take copies or extracts therefrom; and

(c) require any person on those premises 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.

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

(1) Subject to subsection (2), 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 considers that the information or the books and records referred to in subsection (1) 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.

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

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.

PART X - ASSESSMENTS AND APPEALS

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 or 116, 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 judgment, 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) -

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 that year of assessment.

(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) Subsection (3) deleted by FA 1997. Previously ITA 1995 - “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) Subsection (3) deleted by FA 1997. Previously ITA 1995 - “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.”
131A. Objection to assessments

(1) Subject to subsection (5), 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 specify fully in his letter of objection, in respect of each of the items in the notice of assessment, the grounds of the objection.

(3) 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.

(4) 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.

(5) 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 (3),

the objection shall be deemed to have lapsed and the Commissioner shall give notice thereof.

(6) (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.

(7) Where a notice under subsection (5) or (6)(b) is given, the tax specified in the notice of assessment shall be paid within 28 days of the date of the notice under subsection (5) or (6)(b), as the case may be.

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(1) Section 131A added by FA 1997.
(8) Any person who is aggrieved by a decision under subsection (5) or (6)(b) may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

131B. Determination of objections

(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 assessment shall be paid within 28 days of the date of the notice of determination.

(6) 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.

(7) Where the objection is not determined within the period specified in subsection (6), the objection shall be deemed to have been allowed by the Commissioner.

(8) Any person who is aggrieved by a determination under this section may appeal to the Tribunal in accordance with the Tax Appeal Tribunal Act 1984.

(1) Section 131B added by FA 1997.
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, 131, 131A, 131B or 149, 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, 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 under section 129, 131, 131A, 131B or 149.

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 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.

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(1) The words “section 129, 131, 131A, 131B or 149” replaced “section 129 or 131” by FA 1997.

(2) The words “section 129, 131, 131A, 131B or 149” replaced “section 129 or 131” by FA 1997.

(3) The words “131A and 131B” replaced “129(3) and 131(3)” by FA 1997.

• 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" by FA 1999. Effective as from 1.7.99.
135. Conclusiveness of assessment

Except in proceedings on objection to assessments under section 131A or on appeal 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.

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, 129, 131, 131A, 131B, 133 or 149.

(1) The words “on objection to assessments under section 131A or” inserted by FA 1999.

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

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.

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 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 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.

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) 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.

(1) Section 148A added by FA 1998.
149. Compounding of offences

(1) The Commissioner may, with the concurrence of the Revenue Authority established under the Unified Revenue Act 1983,\(^{(1)}\) 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.

(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. Ascertaining 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).

\(^{(1)}\) The words "Revenue Authority established under the Unified Revenue Act 1983" replaced "Unified Revenue Board" by FA 1998.
(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 -

(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) Every person carrying on business or deriving income other than emoluments shall keep sufficient books and records in the English or French language to enable his gross income and allowable deductions 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) Except for the purpose of administering this Act or any other revenue law, or where he is authorised 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, 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 registered post to or left at the office of the Commissioner.

(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.

(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.
(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, 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;

\(^{(1)}\) The words "Revenue Authority established under the Unified Revenue Act 1983" replaced "Unified Revenue Board" by FA 1998
(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.

(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.

160. Jurisdiction of Magistrate

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 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.

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, PART III and PART IV 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.

162. Repeal and savings

(1) Subject to section 11 of the Finance Act 1995, 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 11 of the Finance Act 1995, 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.
**FIRST SCHEDULE**

*(section 4)*

**Rates of income tax**

**PART I - INDIVIDUALS**

<table>
<thead>
<tr>
<th>Chargeable income</th>
<th>Rate of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>On the first 15,000 rupees</td>
<td>5 per cent</td>
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<tr>
<td>On the next 25,000 rupees</td>
<td>15 per cent</td>
</tr>
<tr>
<td>On the next 25,000 rupees</td>
<td>25 per cent</td>
</tr>
<tr>
<td>On the remainder</td>
<td>28 per cent</td>
</tr>
</tbody>
</table>

**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.

**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.

**PART IV - OTHER COMPANIES**

The rate of tax on chargeable income shall be 35 per cent.

**PART V - LIST OF TAX INCENTIVE COMPANIES**

1. A company holding an export enterprise certificate under Industrial Expansion Act 1993

2. A company holding a strategic local enterprise certificate

3. A company holding a modernisation and

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<table>
<thead>
<tr>
<th>Chargeable income</th>
<th>Rate of tax</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
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<td>25 per cent</td>
</tr>
<tr>
<td>On the remainder</td>
<td>30 per cent</td>
</tr>
</tbody>
</table>


The rate of tax on chargeable income shall be 15 per cent."
4. A company holding an industrial building enterprise certificate under the Industrial Expansion Act 1993

5. A company holding a pioneer status certificate

6. 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. 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

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

12. A trustee of a unit trust scheme

13. A company holding a housing development certificate issued by the Minister


15. A manufacturing company

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\(^{(1)}\)

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"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"
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 a strategic local enterprise certificate under the Industrial Expansion Act 1993(1)

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

21. A company engaged in the agro-based industry approved by the Minister of Agriculture and Natural Resources

22. A company deriving at least 75 per cent of its gross income from agriculture, [other than sugar cane cultivation, but including] fishery and livestock(2)

23. A company whose main activity is to provide lease financing, as may be approved by the Minister

24. A company deriving at least 75 per cent of its gross income from the construction of buildings, roads and bridges

25. A company holding a pioneer financial services certificate issued by the Minister(3)

26. A company holding a fishing development certificate issued by the Minister to whom responsibility for the subject of fisheries is assigned(3)

27. A company holding a leisure development certificate issued by the Minister to whom responsibility for the subject of leisure is assigned(3)

28. A company holding a regional development certificate issued under the Development Incentives Act by the Minister to whom responsibility for the subject of regional development is assigned(4)

29. A company engaged in the hotel industry(5)

30. A company deriving at least 75 per cent of its gross income from software development(5)

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(2) The words [other than sugar cane cultivation, but including] deleted by FA 1999. Effective as from income year 1999-2000.


(4) Item 28 added by FA 1998

31. A company operating a duty free shop, other than a duty free shop at the port or airport, under the Customs Act 1988\(^{(1)}\)

32. 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 secondary or tertiary education, as the case may be\(^{(1)}\)

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.
15. The Sugar Employees 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.
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. A non-resident from the provision in Mauritius of consultancy services or training otherwise than under a contract of employment provided that the period of the services or training does not in the aggregate exceed 183 days in an income year.

27. An international organisation approved by the Minister.

28. [A company holding an export enterprise certificate under the Industrial Expansion Act 1993.]\(^{(1)}\)

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 one million rupees\(^{(1)}\) of any sum received by way of severance allowance determined in accordance with the Labour Act.

5. The first one million rupees 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.

\(^{(1)}\) Amended by FA 1997. Effective as from income year 1996-97. Previously ITA 1995 - Rs 300,000.

\(^{(2)}\) 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 - "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 5,250 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.

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, 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.\(^{(2)}\)

14. (a)\(^{(3)}\) That portion of the emoluments of an expatriate employee, or of a specified Mauritian employee\(^{(4)}\) of a company operating in the freeport zone, of a company holding a pioneer financial services certificate,\(^{(5)}\) or of such other kind of corporation as may be approved by the Minister, 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.\(^{(6)}\)

(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.\(^{(7)}\)

---

\(^{(1)}\) The words "or of a specified Mauritian employee" inserted by FA 1999. Effective as from income year 1999-2000.

\(^{(2)}\) 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 1999-2000.

\(^{(3)}\) Previous provisions lettered as paragraph (a) by FA 1999. Effective as from income year 1999-2000.

\(^{(4)}\) The words "or of a specified Mauritian employee" inserted by FA 1999. Effective as from income year 1999-2000.

\(^{(5)}\) The words "of a company holding a pioneer financial services certificate" inserted by FA 1997. Effective as from income year 1996-97.

\(^{(6)}\) 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 1999-2000.

\(^{(7)}\) Paragraph (b) added by FA 1999. Effective as from income year 1999-2000.
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.

**PART III - DIVIDENDS, INTEREST AND ROYALTY**

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;\(^{(1)}\)

(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;\(^{(2)}\)

(j) receivable from outside Mauritius by a company holding a regional development certificate.\(^{(3)}\)

2. (a) The first 75,000 rupees\(^{(4)}\) 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 150,000 rupees\(^{(5)}\).

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 by a non-resident at any bank in Mauritius;

\(^{(1)}\) Sub-item (h) added by FA 1996. Effective as from year of assessment 1996-97.

\(^{(2)}\) Sub-item (i) added by FA 1996. Effective as from year of assessment 1997-98.

\(^{(3)}\) Sub-item (j) added by FA 1998.


\(^{(5)}\) Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 as amended by FA 1996 - Rs 100,000.
(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; \(^{(1)}\)

(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; \([\text{as may be approved by the Minister}]\) \(^{(2)}\)

(g) such bonds, bearing interest at progressive or variable rate and issued by the Bank of Mauritius, as may be approved by the Minister;

(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) 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; \(^{(3)}\)

(j) bank deposits held as guarantee by a company engaged in aircraft leasing and approved by the Minister. \(^{(3)}\)

4. Any interest and bonus derived from the Housing Savings Scheme of the Mauritius Housing Corporation Ltd.

5. Interest paid to a non-resident by a corporation of a kind approved by the Minister.

---

\(^{(1)}\) Item 3(d) amended by GN 184 of 1998 - 11.12.98. Previously ITA 1995 - "(d) a deposit made and maintained for a continuous period of not less than 3 years in a domestic bank by an individual;"

\(^{(2)}\) The words [as may be approved by the Minister] deleted by FA 1997. Effective as from income year 1997-98.

\(^{(3)}\) Sub-items (i) and (j) added by FA 1997. Effective as from income year 1997-98.
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.\(^{(1)}\)

**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.

2. Gains or profits derived from the sale of securities by a venture capital fund.

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.\(^{(2)}\)

4. Payments to a planter in respect of bagasse for uses other than the manufacture of sugar.

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\(^{(3)}\) generated from bagasse by a miller to the Central Electricity Board after deduction of the exemption under item 5.

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.

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\(^{(2)}\) Item 3 amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 - "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."

\(^{(3)}\) 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.
## THIRD SCHEDULE (1)

(sections 38, 39, 41, 42 and 42A)

<table>
<thead>
<tr>
<th>Section</th>
<th>Amount (Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>50,000</td>
</tr>
<tr>
<td>2.</td>
<td>40,000</td>
</tr>
<tr>
<td>3.</td>
<td>17,000</td>
</tr>
<tr>
<td>4.</td>
<td>17,000</td>
</tr>
<tr>
<td>5.</td>
<td>42,000</td>
</tr>
</tbody>
</table>

### Section 38
- Basic personal deduction

### Section 39
- Deduction for dependent spouse

### Section 41
- Deduction for dependent children -
  - (a) child under the age of 18 at any time in the income year;
  - (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;
  - (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;
  - (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;
  - (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.

### Section 42
- Deduction for dependent handicapped child

### Section 42A
- Deduction for other handicapped person

---

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.

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1. See pages 98A and 98B
2. The words "or being unemployed" inserted by FA 1999. Effective as from income year 1999-2000.
THIRD SCHEDULE

(sections 38, 39, 41 and 42)

<table>
<thead>
<tr>
<th>Section</th>
<th>Amount (Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>45,000</td>
</tr>
<tr>
<td>39</td>
<td>25,000</td>
</tr>
<tr>
<td>41</td>
<td>12,000</td>
</tr>
<tr>
<td></td>
<td>12,000</td>
</tr>
<tr>
<td></td>
<td>12,000</td>
</tr>
<tr>
<td></td>
<td>35,000</td>
</tr>
<tr>
<td>42</td>
<td>20,000</td>
</tr>
</tbody>
</table>

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.

(1) Amended by FA 1998. Effective as from income year 1998-99. Previously -
• ITA 1995 as amended by FA 1996 - income year 1996-97
THIRD SCHEDULE

(sections 38, 39, 41 and 42)

<table>
<thead>
<tr>
<th>Section</th>
<th>Amount (Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Basic personal deduction</td>
<td>38 48,000</td>
</tr>
<tr>
<td>2. Deduction for dependent spouse</td>
<td>39 28,000</td>
</tr>
<tr>
<td>3. Deduction for dependent children -</td>
<td>41</td>
</tr>
<tr>
<td>(a) child under the age of 18 at any time in the income year;</td>
<td>15,000</td>
</tr>
<tr>
<td>(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;</td>
<td>15,000</td>
</tr>
<tr>
<td>(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;</td>
<td>40,000</td>
</tr>
<tr>
<td>(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;</td>
<td>50,000</td>
</tr>
<tr>
<td>(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</td>
<td>25,000</td>
</tr>
<tr>
<td>4. Deduction for dependent handicapped child</td>
<td>42 40,000</td>
</tr>
</tbody>
</table>

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.
## FOURTH SCHEDULE  
### (section 2)  
### PART I - EMOLUMENTS

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. In respect of an employee</td>
</tr>
<tr>
<td>2. In respect of a field worker or a non-agricultural worker in the sugar industry</td>
</tr>
</tbody>
</table>

### PART II - TAX LIABILITY

<table>
<thead>
<tr>
<th>Tax liability for a CPS period&lt;sup&gt;(4)&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 rupees or less&lt;sup&gt;(5)&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

<sup>(1)</sup> Amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 - Rs 5,500
- FA 1997 - income year 1997-98 - Rs 5,800

<sup>(2)</sup> Amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 - Rs 4,500
- FA 1997 - income year 1997-98 - Rs 4,800

<sup>(3)</sup> Amended by FA 1998. Effective as from income year 1998-99. Previously -
- ITA 1995 - Rs 8,000
- FA 1997 - income year 1997-98 - Rs 8,300

<sup>(4)</sup> The words “CPS period” replaced “CPS quarter” by FA 1997. Effective as from income year 1997-98.

<sup>(5)</sup> Amended by FA 1997. Effective as from income year 1997-98. Previously ITA 1995 - Rs 200 or less
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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td></td>
</tr>
<tr>
<td>1 to 1153</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>1154 to 3077</td>
<td>58 + 15 per cent of excess over Rs 1153</td>
</tr>
<tr>
<td>3078 to 5000</td>
<td>346 + 25 per cent of excess over Rs 3077</td>
</tr>
<tr>
<td>5001 and over</td>
<td>827 + 28 per cent of excess over Rs 5000</td>
</tr>
</tbody>
</table>

**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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td></td>
</tr>
<tr>
<td>1 to 535</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>536 to 1428</td>
<td>27 + 15 per cent of excess over Rs 535</td>
</tr>
<tr>
<td>1429 to 2321</td>
<td>161 + 25 per cent of excess over Rs 1428</td>
</tr>
<tr>
<td>2322 and over</td>
<td>384 + 28 per cent of excess over Rs 2321</td>
</tr>
</tbody>
</table>

**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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td></td>
</tr>
<tr>
<td>1 to 267</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>268 to 714</td>
<td>13 + 15 per cent of excess over Rs 267</td>
</tr>
<tr>
<td>715 to 1160</td>
<td>80 + 25 per cent of excess over Rs 714</td>
</tr>
<tr>
<td>1161 and over</td>
<td>191 + 28 per cent of excess over Rs 1160</td>
</tr>
</tbody>
</table>

\(^{(1)}\) See page 101A
## PART D - TAX WITHHOLDING AT FLAT RATE

<table>
<thead>
<tr>
<th>Chargeable income</th>
<th>Rate of Tax on chargeable income</th>
</tr>
</thead>
<tbody>
<tr>
<td>under section 96(2)(a)</td>
<td>20 per cent</td>
</tr>
<tr>
<td>under section 96(2)(b)</td>
<td>20 per cent</td>
</tr>
<tr>
<td>under section 96(2)(c)</td>
<td>10 per cent</td>
</tr>
<tr>
<td>under section 96(2)(d)</td>
<td>5 per cent&lt;sup&gt;[11]&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

FIFTH SCHEDULE

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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs 1 to 1153</td>
<td>-</td>
</tr>
<tr>
<td>1154 to 2692</td>
<td>58 +</td>
</tr>
<tr>
<td>2693 to 4230</td>
<td>288 +</td>
</tr>
<tr>
<td>4231 and over</td>
<td>673 +</td>
</tr>
</tbody>
</table>

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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs 1 to 535</td>
<td>-</td>
</tr>
<tr>
<td>536 to 1250</td>
<td>27 +</td>
</tr>
<tr>
<td>1251 to 1964</td>
<td>134 +</td>
</tr>
<tr>
<td>1965 and over</td>
<td>313 +</td>
</tr>
</tbody>
</table>

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)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax (Rs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs 1 to 267</td>
<td>-</td>
</tr>
<tr>
<td>268 to 625</td>
<td>13 +</td>
</tr>
<tr>
<td>626 to 982</td>
<td>66 +</td>
</tr>
<tr>
<td>983 and over</td>
<td>156 +</td>
</tr>
</tbody>
</table>

PART D - TAX WITHHOLDING AT FLAT RATE

<table>
<thead>
<tr>
<th>Chargeable income</th>
<th>Rate of Tax on chargeable income</th>
</tr>
</thead>
<tbody>
<tr>
<td>under section 96(2)(a)</td>
<td>20 per cent</td>
</tr>
<tr>
<td>under section 96(2)(b)</td>
<td>20 per cent</td>
</tr>
<tr>
<td>under section 96(2)(c)</td>
<td>10 per cent</td>
</tr>
<tr>
<td>under section 96(2)(d)</td>
<td>5 per cent (1)</td>
</tr>
</tbody>
</table>

SIXTH SCHEDULE
(sections 2 and 105)
GROSS INCOME SPECIFIED IN SECTION 10(1)(b) AND RENT SPECIFIED IN SECTION 10(1)(c)

CPS threshold

<table>
<thead>
<tr>
<th>Turnover</th>
<th>Gross Income from profession, vocation or occupation</th>
<th>Rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>500,000 rupees for the CPS period(^{(1)})</td>
<td>300,000 rupees for the CPS period(^{(2)})</td>
<td>6,000 rupees per month</td>
</tr>
</tbody>
</table>

SEVENTH SCHEDULE\(^{(3)}\)
(section 108)

METHOD TO CALCULATE TAX UNDER THE CURRENT PAYMENT SYSTEM (CPS)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td>Rs</td>
</tr>
<tr>
<td>1 to 7,500</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>7,501 to 20,000</td>
<td>375 + 15 per cent of excess over Rs 7,500</td>
</tr>
<tr>
<td>20,001 to 32,500</td>
<td>2,250 + 25 per cent of excess over Rs 20,000</td>
</tr>
<tr>
<td>32,501 and over</td>
<td>5,375 + 28 per cent of excess over Rs 32,500</td>
</tr>
</tbody>
</table>

\(^{(1)}\) 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.

\(^{(3)}\) Amended by FA 1999. Effective as from income year 1999-2000. Previously -


SEVENTH SCHEDULE
(section 108)

METHOD TO CALCULATE TAX UNDER THE CURRENT PAYMENT SYSTEM (CPS)

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td>Rs</td>
</tr>
<tr>
<td>1 to 7,500</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>3751 to 8750</td>
<td>188 + 15 per cent of excess over Rs 3,750</td>
</tr>
<tr>
<td>8751 to 13750</td>
<td>938 + 25 per cent of excess over Rs 8,750</td>
</tr>
<tr>
<td>13751 and over</td>
<td>2188 + 30 per cent of excess over Rs 13,750</td>
</tr>
</tbody>
</table>

- FA 1997 - income year 1997-98

<table>
<thead>
<tr>
<th>Chargeable Income</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs</td>
<td>Rs</td>
</tr>
<tr>
<td>1 to 7,500</td>
<td>5 per cent of chargeable income</td>
</tr>
<tr>
<td>7,501 to 17,500</td>
<td>375 + 15 per cent of excess over Rs 7,500</td>
</tr>
<tr>
<td>17,501 to 27,500</td>
<td>1,875 + 25 per cent of excess over Rs 17,500</td>
</tr>
<tr>
<td>27,501 and over</td>
<td>4,375 + 30 per cent of excess over Rs 27,500</td>
</tr>
</tbody>
</table>
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  


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
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
THE INCOME TAX ACT 1995
Regulations made by the Minister under section 77 and 161 of the

Regulation
1. Short title
2. Interpretation
3. Credit for foreign tax
4. Creditable foreign tax
5. Computation of income subject to foreign tax
6. Limit on foreign tax credit
7. Underlying foreign tax credit
8. Proof of charge to foreign tax
9. Tax sparing credit

1. Short title

These regulations may be cited as the Income Tax (Foreign Tax Credit) Regulations 1996.

2. Interpretation

In these regulations -

“arrangement” means an arrangement entered into with the government of a foreign country under section 76 of the Act;
“foreign source income” means income which is not derived from Mauritius;
“Mauritius tax” means income tax imposed under the Income Tax Act 1995;
“offshore company” and “offshore trust” -
(a) have the same meaning as in the Mauritius Offshore Business Activities Act 1992;
and
(b) include 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;
“offshore société” means a société 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;
“underlying tax” has the meaning assigned to it in regulation 7(1).

3. Credit for foreign tax
(1) Subject to section 77 of the Act and to these regulations, credit shall be allowed for foreign tax on the foreign source income of a resident of Mauritius against Mauritius tax computed by reference to the same income.

(2) Where credit is allowed against Mauritius tax chargeable in respect of any income, the amount of Mauritius tax so chargeable shall be reduced by the amount of the credit.

(3) Where Mauritius tax is charged on the amount of income received in Mauritius, credit for foreign tax shall only be allowed for so much of the foreign tax as is imposed on the amount of the income actually received in Mauritius.

4. Creditable foreign tax

(1) No credit shall be allowed under section 77 of the Act unless the foreign tax is a tax on income and is of a similar character to Mauritius tax.

(2) For the avoidance of doubt, any foreign tax which is charged by reference to a presumed amount of profit or income shall be regarded as of a similar character to Mauritius tax.

5. Computation of income subject to foreign tax

In the computation of the amount of any income in respect of which a credit for foreign tax is allowed -

(a) no deduction shall be made for the foreign tax charged on that income; and

(b) in the case of a dividend, any underlying tax in respect of which credit is allowed shall be added to the amount of that income.

6. Limit on foreign tax credit

(1) The amount of credit for foreign tax which may be allowed against Mauritius tax computed by reference to an amount of foreign source income shall be -

(a) the amount of foreign tax proved or presumed in accordance with these regulations to have been charged on that income;

(b) the amount of foreign tax which may be charged in the other country in accordance with any arrangement in force between Mauritius and the government of that country; or

(c) the amount of Mauritius tax computed in accordance with the following provisions of this regulation by reference to that income, whichever is the least.

(2) Where it is necessary for the purposes of paragraph (1)(c) to compute an amount of Mauritius tax -
(a) the amount of foreign source income shall be computed in accordance with regulation 5; and

(b) where the taxpayer is entitled to make any deductions in computing his chargeable income for the purposes of the Act, he may allocate those deductions to such foreign source income or income derived from Mauritius, as he wishes.

(3) In determining the amount of credit for foreign tax which may be allowed in accordance with this regulation; the taxpayer may:

(a) compute the amount by reference to all foreign source income derived by him and which is chargeable to Mauritius tax in that year of assessment; or

(b) compute the amount by reference to each item of foreign source income separately.

7. **Underlying foreign tax credit**

(1) Where a dividend is paid by a company which is not resident in Mauritius to a person who is resident in Mauritius and who owns directly or indirectly not less than 5 per cent of the share capital of the company paying the dividend, the credit allowed shall, in addition to any foreign tax charged on the dividend, whether directly or by deduction, include foreign tax charged on the income out of which the dividend was paid, referred to in this regulation as underlying tax.

(2) Where a company not resident in Mauritius which pays a dividend has itself received a dividend, referred to in this regulation as the secondary dividend, from another company not resident in Mauritius of which it owns directly or indirectly not less than 5 per cent of the share capital, the underlying tax shall, in addition to any foreign tax charged on the secondary dividend, whether directly or by deduction, include the foreign tax charged on the income out of which that secondary dividend was paid.

(3) Paragraph (2) shall also apply where the company paying the secondary dividend has itself received a dividend from a company not resident in Mauritius of which it owns directly or indirectly not less than 5 per cent of the share capital, and so on for any number of companies which have so received dividends.

(4) In computing the amount of underlying tax, any foreign tax charged on the profits out of which a dividend has been paid shall be regarded as having been charged rateably on all the profits of the company paying the dividend.

8. **Proof of charge to foreign tax**

(1) Subject to the provisions of this regulation and regulation 9, no credit shall be allowed in respect of foreign tax unless written evidence is presented to the Commissioner showing the amount of foreign tax which has been charged.
(2) For the purposes of this regulation, “written evidence” includes a receipt of the relevant authorities of the foreign country for the foreign tax or any other evidence that the foreign tax has been deducted or paid to the relevant authorities of that country.

(3) Where in the case of an offshore company, offshore trust or offshore société, written evidence is not presented to the Commissioner showing the amount of foreign tax charged, the amount of foreign tax shall nevertheless be conclusively presumed to be equal to 80 per cent of the Mauritius tax chargeable with respect to that income and computed in accordance with regulations 5 and 6.

9. Tax sparing credit

(1) Where the Commissioner is satisfied that provisions have been introduced in the law of a foreign country with a view to promoting industrial, commercial, scientific, educational or other development in that country and that under those provisions -

   (a) a lower rate of tax has been imposed in that country than would otherwise have been the case; or

   (b) income has been exempted from tax which would otherwise have been chargeable to foreign tax;

he shall allow a credit for the amount of foreign tax which would have been chargeable had those provisions not been enacted.

(2) For the purposes of regulations, the amount of foreign tax for which credit is to be allowed under this regulation shall be presumed to have been charged.

Made by the Minister on 20 July 1996
Regulations made by the Minister under sections 77 and 161 of the Income Tax Act 1995

1. These regulations may be cited as the Income Tax (Foreign Tax Credit) (Amendment) Regulations 1997.

2. In these regulations:

   “principal regulations” means the Income Tax (Foreign Tax Credit) Regulations 1996.

3. Regulation 8 of the principal regulations is amended in paragraph (3) by deleting the words “Where in the case of an offshore company” and “80 per cent” and replacing them by the words “Notwithstanding regulation 6, where in the case of an offshore company” and “90 per cent” respectively.

Made by the Minister on 18 July 1997.