

BECHUANALAND PROTECTORATE.

No. 16 of 1949.

(Promulgated 14th April, 1949.)

PROCLAMATION

By His Excellency The High Commissioner

Entitled the Bechuanaland Protectorate Native Graded
Taxation Proclamation, 1949.

Whereas it is expedient to make provision for the payment and collection of a tax in addition to the Native Tax imposed under Proclamation No. 1 of 1932 as amended:—

Now therefore under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

1. In this Proclamation unless the context ^{Definitions.} otherwise requires the following terms shall have the meanings therein respectively assigned to them that is to say—

“ Chief ” means the Chief or Regent over any tribal area who has been recognised in that capacity by the High Commissioner and confirmed therein by the Secretary of State;

“ District Officer ” means the District Officer in charge of the District and includes any Assistant District Officer posted to the District;

“ District ” means any Magisterial District established as such by the High Commissioner by notice in the *Gazette*;

“ Headman ” means any native recognised as such in accordance with section *seven* of the Bechuanaland Protectorate Native Administration Proclamation, 1943 (No. 32 of 1943);

“ Native ” means any aboriginal native belonging to any tribe of African, and includes persons of mixed race living as members of any native community, tribe, village, or location in the Territory;

“ Native Authority ” means a Native Authority appointed under the Native Administration Proclamation, 1943 (No. 32 of 1943), in respect of the specified area for which Native Authority is appointed, and includes a Subordinate Native Authority;

“ Sub-Chief ” means any native recognised as such in accordance with section eleven of the Bechuanaland Protectorate Native Administration Proclamation, 1943 (No. 32 of 1943).

“ Tax ” means the tax imposed by this Proclamation;

“ Territory ” means the territory of the Bechuanaland Protectorate;

“ Tribal Area ” means the area known as the Barolong Farms as described in Schedule B of Proclamation No. 1 of 1896, the Bamangwato, Batawana, Bakgatla, Bakwena and Bangwaketsi Native Reserves as defined in Proclamation No. 9 of 1899, No. 55 of 1908 and No. 31 of 1933, the Bamalete Native Reserve as defined in Proclamation No. 28 of 1909 and the Batlokwa Native Reserve as defined in Proclamation No. 44 of 1933 or any area which may hereafter be added thereto by law;

“ Tribal Police ” mean natives appointed to be tribal police by the Native Authority of the District;

“ Year ” means the period from the first day of April in any one year to the thirty-first day of ~~March~~ in the following year.

Repealed by
Proc. 82/53.

Obligation
to pay tax.

2. (1) Every native shall pay to the Native Authority or to the District Officer of the district in which such native resides or to any other duly authorised person, for the purposes of the Native Treasury established for that district under section one of the Bechuanaland Protectorate Native Treasuries Proclamation, 1938 (No. 35 of 1938), or for the purposes of the Bechuanaland Protectorate Government where no Native Treasury has been established, a tax at the rate and calculated in the manner specified in the Schedule to this Proclamation in respect of livestock holdings and wages earned by such native for the year ending on the thirty-first day of March, 1950 and for each succeeding year,

(2) The tax payable under this Proclamation for each year shall become due on the first day of ~~April~~ of that year but shall not be

Proc. 82/53
January

payable until one month after that date or in the case of a native first becoming liable to the tax after the first day of ~~January~~ within one month of his so becoming liable.

Proc. 22/53.

3. Except in so far as he may be exempted under section *eleven* any native who fails to make payment of the tax in accordance with the provisions of section *two* within three months of the date on which such tax becomes payable by him shall on conviction be liable to a penalty not exceeding five pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

Penalty for non-payment.

4. The imposition of any fine or order of imprisonment as mentioned in section *three* hereof shall not relieve any native from payment of the tax due and payable by him, but the tax for the non-payment of which any native has been convicted may be treated as a judgment debt and be recoverable as such under the provisions of section *six* hereof.

Obligation to pay tax not discharged by payment of fine or imprisonment.

5. Two or more contraventions of this Proclamation by the same native may be tried together or separately provided that no native shall be convicted more than once in respect of the tax due and payable for any one year, and provided that no native shall in any one year be sentenced to fines exceeding in all ten pounds or to imprisonment exceeding in all six months for a contravention of section *two*.

Joinder of counts.

6. (1) Upon the conviction of any native for a contravention of section *two* if it be shown to the satisfaction of the Court before which such native is convicted that he has sufficient property to pay the tax owing by him without being deprived of his means of subsistence, the Court may issue an order to attach sufficient movable property of the accused and to sell the same and to apply the proceeds to the payment of the tax owing by the accused. Any money realised by the sale over and above the amount in this section mentioned and the expenses of the sale shall be returned to the accused.

Court may order attachment and sale of movable property or attachment of salary or wages for payment of tax.

(2) The Court may in such circumstances issue a warrant requiring the Tribal Police or the Messenger of the Court or any member of the Police Force to attach sufficient movable property to satisfy the exigencies of the said warrant.

(3) (a) In the case of the conviction of any native as aforesaid, if it is shown to the satisfaction of the Court that he has not sufficient property to pay the tax owing by him but is in receipt of salary or wages through employment the Court may order the attachment of any salary or wages actually due to such native by any person residing, carrying on business or employed within the district to the amount necessary to cover the tax due by such native and may order such other person to pay to the Tribal Police or the Messenger of the Court, as the case may be, so much of the salary or wages appearing at the time of making the order to be due and payable in respect of the tax due by the aforesaid native, and may enforce the order as if it were a judgment of that Court.

(b) No such order in respect of salary or wages shall be granted unless the Court is satisfied upon sworn information that sufficient means will, after satisfaction of the order, be left to the native in default to maintain himself and those dependent upon him.

(c) If after any such order in respect of salary or wages has been granted, it is shown to the satisfaction of the Court that sufficient means to maintain himself and those dependent upon him will not after satisfaction of such order be left to the said native, the Court shall vary or set aside such order in such manner that the order will only affect the balance if any of such salary or wages over and above such sufficient means.

Arrest
without
warrant.

7. Any native reasonably suspected of having contravened the provisions of section *two* may be arrested without warrant by a tribal policeman or police officer or by any person duly authorised so to do by a Native Authority or by a District Officer.

Accom-
plishes.

8. Any person who shall assist any native in contravening or in an attempt to contravene the provisions of section *two* shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five pounds or in default of payment to imprisonment with or without hard labour for any period not exceeding three months.

Production
of tax
receipt on
demand.

9. A receipt in such form as the Resident Commissioner may from time to time approve for the amount of tax paid by any native shall be given to such native in acknowleg-

ment of the payment made by him, and any receipt so given shall be kept by such native and produced for inspection on demand made by any person appointed to collect the said tax or by any police officer. *members of the Pechmanaland*
Proclamation Police in a. a. 1904 49/50
Police Station within seven days of such demand

10. (1) Any person forging or defacing any receipt as mentioned in the last preceding section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding twenty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months. Offences.

(2) Any person who with intent to deceive the District Officer, Chief, Headman or any other person charged with any other duty under this Proclamation makes a false statement calculated to cause an incorrect assessment of tax payable under the Schedule to this Proclamation shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(3) Any native in possession of such a receipt belonging to another native who represents it to be his own shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ten pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding three months.

(4) Any native who disposes in any way to another native of a receipt given to him in acknowledgment of the payment of his tax with intent that such other native may thereby evade payment of the tax due and payable by him shall be guilty of an offence and on conviction shall be liable to the penalties provided in sub-section (3) of this section.

(5) Any Chief, Headman or Collector of tax or other person who in the course of collecting or under colour of collecting the tax —

(a) without the permission of the Resident Commissioner demands from any person an amount in excess of the tax to which such person is liable under this Proclamation;

(b) withholds for his own use or otherwise any portion of the tax collected;

(c) renders false returns, whether verbal or in writing of the amounts collected or received by him;

(d) wilfully misrepresents the taxable capacity of any community or person from which or from whom he is authorised to collect taxes;

(e) embezzles or otherwise misappropriates any tax received by him;

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a period not exceeding three years, and any amount in respect of which any person has been convicted under paragraph (b) or (e) of this sub-section may be recovered by execution against such person's property.

Exemption.

(6) See Proc 49/50
11. (1) Any native who shall prove to the satisfaction of the Native Authority in a tribal area, or a District Officer in a non-tribal area in whose district he resides, that he is unable on account of poverty to pay the tax without being deprived of his means of subsistence, may be exempted in whole or in part by such Native Authority or District Officer as the case may be, from payment of the tax.

(2) Any native under the age of twenty-one years who produces to the Native Authority in a tribal area, or to a District Officer in a non-tribal area, a certificate from the principal of any recognized school certifying that he has regularly attended such school during any year for which the tax is payable shall be exempted by the Native Authority or District Officer as the case may be from payment of the tax.

(3) Where any person is exempted from payment of the tax under this section the Native Authority or the District Officer as the case may be shall deliver to him a certificate of such exemption. Every such certificate of exemption shall be valid only in respect of the tax for the year for which it is granted.

Tax to be paid in money.

12. The tax shall be paid in money.

Assessment and collection of tax.

13. (1) Every Native Authority shall be responsible for the due and proper assessment and collection of the tax within the area for which it is appointed and to that end it shall appoint so many fit and proper persons as may be deemed necessary to be collectors of tax.

(2) In any area other than a tribal area the District Officer shall be responsible for the assessment and collection of tax.

(3) Assessments shall be made each year as the tax falls due.

14. In any district to which the Native Treasuries Proclamation, 1938, is not applied, a sum equal to ten per centum of the value of graded tax collected in respect of the current year and five per centum in respect of arrear tax paid to the District Officer on or before the thirty-first day of October, and thereafter, in respect of current and arrear tax, at such rate as the Resident Commissioner may decide may be paid to any collectors appointed by the District Officer in consideration of the services rendered in the collection of the tax. Provided further that the Resident Commissioner may from time to time, by notice in the *Gazette*, vary the rates of remuneration to be paid under this section.

Remuneration of tax collectors in non-tribal areas.

15. There shall be kept by each Native Authority or by some person deputed by him, and by each District Officer in respect of any district or part of a district to which the Bechuanaland Protectorate Native Treasuries Proclamation, 1938, is not applied, a register in such form as the Resident Commissioner may direct in which shall be entered the name of each payee of the tax and the years in respect of which he has paid and such register shall on its production in Court from the proper control be taken as *prima facie* evidence of the facts therein stated.

Tax register *prima facie* evidence of facts therein stated.

16. Any person who not being authorised under this Proclamation so to do, shall collect or attempt to collect any tax shall be guilty of an offence and on conviction shall be liable to a fine not exceeding fifty pounds and in default of payment to imprisonment with or without hard labour for a period not exceeding nine months, and any amount in respect of which any person has been convicted under this section may be recovered by execution against such person's property.

Unauthorised collection of tax.

17. The Bechuanaland Protectorate Native Tax Proclamation, 1932, is hereby repealed.

Repeal of Proclamation No. 1 of 1932.

Short title
and Com-
mencement.

18. This Proclamation may be cited as the Bechuanaland Protectorate Native Graded Tax Proclamation, 1949, and shall have force and effect from the first day of April, 1949.

GOD SAVE THE KING.

Given under my Hand and Seal at Cape Town this First day of April, One thousand Nine hundred and Forty-nine.

E. BARING, High Commissioner for Bechuanaland, Botswana and Swaziland.

By Command of His Excellency the High Commissioner.

W. A. W. CLARK, Chief Secretary.

SCHEDULE.

The rates and basis of assessment in respect of stock owners and wage earners shall be as follows:—

Category.	Stock Owners: No. of Stock Owned.	Wage Earners Annual Rate of Salary.	Tax.
A.....	0-9	up to £48	£ s. d. 0 5 0
B.....	10-20	£49 to £60	0 10 0
C.....	21-40	£61 to £96	1 0 0
D.....	41-60	£97 to £120	1 10 0
E.....	61-80	£121 to £150	2 0 0
F.....	81-100	£151 to £204	3 0 0
G.....	101-150	£205 to £250	4 0 0
H.....	151-200	£251 to £360	5 0 0
I.....	201-300	£361 to £500	7 10 0
J.....	Over 300	Over £500	10 0 0

NOTE.

1. The tax on stock owners will be based on the holding of stock at the time of assessment (provided that persons acquiring stock after the beginning of the financial year will be liable to pay as if they had held the stock at the beginning of the financial year).

2. The tax on wage earners will be based on annual rate of salary or wage compiled on the monthly or daily rate drawn at the time of assessment (provided that persons engaging in employment after the beginning of the financial year will be liable to pay as if they were in employment at the beginning of the financial year).

3. For purposes of assessment only weaned stock will be taxable.

4. Seven head of small stock will be regarded as the equivalent of one head of cattle.

5. Horses will not be taxable.

6. The user or controller of "mafla" cattle will be responsible for the payment of tax on cattle in his possession, adjustment being left as a matter between the owner and the user.

7. Women and minors owning ten head of stock or more will be assessed at the usual rates. Should they own less than ten head of stock no tax will be payable.

8. Mine labourers are to be assessed at a flat rate of ~~10%~~ whether they engage on a normal contract or an Assisted Voluntary System contract, and will be required to pay their tax at the time of entering their contract and before leaving the country.

see P. 85/86

9. A stock owner who is also a wage earner will not be taxed on both his stock and his wage, but he will pay in respect of either one or the other at the rate which is the higher.