

**THE INCOME TAX (CONSOLIDATION) (AMENDMENT) ACT,
1972**

No. 3



of 1972

ARRANGEMENT OF SECTIONS

SECTION

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**AN ACT TO AMEND THE INCOME TAX
(CONSOLIDATION) PROCLAMATION, 1959**

Date of Assent: 29.3.1972

Date of Commencement: 30.3.1972

ENACTED by the Parliament of Botswana.

1. (1) This Act may be cited as the Income Tax (Consolidation) (Amendment) Act, 1972 and shall be read and construed as one with the Income Tax (Consolidation) Proclamation, 1959, hereinafter referred to as the principal law. Short title

Amendment
of section 2 of
Proclamation
No. 81 of
1959

(2) Save as is otherwise provided herein the provisions of this Act shall apply to the year of assessment ending on the 30th June, 1972, and to all subsequent years.

2. Section 2 of the principal law is amended as follows –

(i) by the deletion of the definition of “company” appearing therein and by the substitution therefor of a new definition as follows –

“company” includes –

- (a) any specified corporation;
- (b) any body corporate; and
- (c) any association or society whether incorporated or registered or not but excluding a partnership;”;

(ii) by the insertion immediately after the definition of “prescribed” appearing therein of two new definitions as follows –

““provident fund” means any fund (other than a pension fund or a benefit fund) which is approved by the Collector in respect of the year of assessment in question:

Provided that the Collector may approve a fund subject to such limitations or conditions as he may determine, and shall not approve a fund unless, in respect of the year of assessment in question, he is satisfied that

- (1) the fund is a permanent fund *bona fide* established solely for the purpose of providing benefits for employees on retirement from employment or solely for the purpose of providing benefits for widows, children, dependants or nominees of deceased employees or deceased former employees or solely for a combination of such purposes;
- (2) the rules of the fund contain provisions similar in all respects to those required to be contained in the rules of a pension fund in terms of paragraph (2) (a), (b), (c), (e) and (f) of the proviso to the definition of “pension fund” hereinbefore contained; and
- (3) the rules of the fund have been complied with;

“public servant” means an employee of Government or of any specified corporation;” and

- (iii) by the insertion immediately after the definition of “specified date” appearing therein of a new definition as follows –

“specified corporation” means the Botswana Development Corporation Limited, the Botswana Housing Corporation, the Botswana Power Corporation, the National Development Bank, the Water Utilities Corporation and any other corporation which the President may declare by notice in the Gazette to be a specified corporation for the purposes of this Proclamation;”.

3. Section 7 of the principal law is amended by the deletion of the proviso to paragraph (f) in the definition of “gross income” appearing therein and by the substitution therefor of two new provisos as follows –

Amendment
of section 7 of
Proclamation
No. 81 of
1959

“Provided that in calculating the gross income of any person there shall not be included –

- (i) the value of any free medical attention or cash allowance for medical expenses provided for or paid to any employee;
- (ii) the value of any free passage by rail, steamer or air provided for an employee or his dependants in pursuance of the terms of his employment; and
- (iii) the value of any quarters or residence provided for a public servant or for any other employee whose income from employment, excluding such value, does not exceed six thousand rands in the year of assessment or if the period of employment in that year is less than twelve months such amount as bears to six thousand rands the same ratio as the period of employment bears to twelve months:

Provided further that the annual value of any quarters or residence included in gross income shall be deemed to be an amount equal to the total of all expenditure of a recurrent nature incurred thereon by the employer during the year of assessment and, if the quarters or residence are owned by the employer, ten per centum of the capital cost to the employer thereof or where the value is provided for

less than twelve months in the year of assessment the proportionate part of such sum, less any amount payable by the employee during the year of assessment to the employer by way of rent for the quarters or residence;”.

Amendment
of section 8 of
Proclamation
No. 81 of
1959

4. (1) Section 8 of the principal law is amended as follows –
- (i) by the addition immediately after subsection (1) (c) (iii) thereof of a new sub-paragraph as follows –
 - “(iv) contributions made by him during that year under the provisions of any written law establishing a national insurance fund in any country insofar as those contributions relate to future pension benefits;”;
 - (ii) by the deletion of subsection (1A) (a) and by the substitution therefor of a new paragraph as follows –
 - “(a) In the case of a taxpayer to whom income is, under section 10 (2), deemed to have accrued as being remuneration received by or credited to his wife the tax payable under section 6 shall be reduced by any excess of the tax payable on the wife’s remuneration over the tax which would have been payable on such remuneration had it accrued during the year of assessment to an unmarried person having no other income and entitled only to the deduction under subsection (1) (a) of this section.”.

(2) Subsection (1) (ii) shall come into force on the 1st July, 1972, and shall not apply to any year of assessment prior to the year of assessment ending on the 30th June, 1973.

Amendment
of section 11
of Pro-
clamation
No. 81 of
1959

5. (1) Section 11 (1) of the principal law is amended as follows –
- (i) by the insertion in paragraph (a) thereof immediately after the words “pension fund” appearing therein the sign and words “, provident fund”;
 - (ii) by the insertion immediately after paragraph (a) thereof of a new paragraph as follows –
 - “(aa) the receipts and accruals (including receipts and accruals from investments) of the Botswana Housing Corporation, the Botswana Power Corporation, the National Development Bank and the Water Utilities Corporation;”;

(iii) by the deletion of paragraph (b) thereof and by the substitution therefor of a new paragraph as follows -

“(b) the receipts and accruals (including receipts and accruals from investments) of any association of individuals formed for the purpose of promoting social or sporting amenities not involving the acquisition of gain, or the possibility of future gain, by its individual members;” and

(iv) by the deletion of the fullstop at the end of paragraph (q) thereof and by the substitution therefor of a semicolon and by the addition immediately thereafter of three new paragraphs as follows -

“(r) any amount accrued to a public servant in respect of his office as director of any company other than his principal employer where such amount is paid to his principal employer;

(s) any amount received by or credited to a public servant as housing allowance; and

(t) the official emoluments and allowances of the President.”.

(2) The provisions of section 11 (1) (t) as inserted by subsection (1) shall be deemed to have come into force on the 30th September, 1966.

6. Section 13 (1) of the principal law is amended as follows - Amendment of section 13 of Proclamation No. 81 of 1959

(i) in paragraph (f) thereof by the insertion immediately after the word “pension” appearing therein of the sign and word “, provident”; and

(ii) by the deletion of the fullstop at the end of paragraph (q) thereof and by the substitution therefor of a semicolon and the word “and” and by the addition immediately thereafter of a new paragraph as follows -

“(r) any interest payable during the year of assessment by any taxpayer other than a public servant on a loan made to him by a building society to defray money applied in purchasing his principal private residence.”.

7. Section 19 (2) of the principal law is amended by the deletion of paragraph (f) appearing therein and by the substitution therefor of a new paragraph as follows - Amendment of section 19 of Proclamation No. 81 of 1959

“(f) any specified corporation;”.

Amendment
of section 24
of Pro-
clamation
No. 81 of
1959

8. Section 24 of the principal law is amended by the deletion of subsection (1) thereof and by the substitution therefor of a new subsection as follows -

“24. (1) Where the Collector is satisfied that, in respect of any period for which the accounts of a private company incorporated or registered under any law in force in Botswana have been made up, the amounts distributed as dividends prior to the end of the twelve months after the date to which such accounts have been made up total less than the standard amount for that period, he may by notice in writing to the public officer of the company order that the undistributed portion of such standard amount for that period shall be deemed to have been distributed as dividends amongst the shareholders as at the end of the sixth month after the date to which such accounts have been made up and thereupon the proportionate share thereof of each shareholder shall be included in the total income of such shareholder for the purposes of this Proclamation:

Provided that -

- (a) where the Collector is satisfied that in consequence of drought, flood or other similar unforeseen circumstances abnormal book debts have been reasonably accumulated, he may extend the abovementioned period of six months for such period as he may consider necessary to enable the company to reduce its book debts to a normal figure having regard to the interest of the community and the nature of the business of the company;
- (b) where the company has agreed in writing with the Collector to the expenditure by a date fixed in the agreement of a sum to be invested in the development of industry, commerce and agriculture, and where such expenditure has been approved by the Minister for the time being responsible for industry, commerce or agriculture, as the case may be, the Collector may deem such expenditure to be a distribution of dividends for the purposes of this section and such sum shall not be included in the taxable income of the shareholder.

For the purposes of this subsection “the standard amount” means the excess of the total of any dividends received by or accrued to or in favour of the company and 50 per centum of any taxable income of the company over the total of any loss assessed on the company and 50 per centum of any income tax payable by the company on its taxable income.”.

9. Section 28 (4) of the principal law is amended by the insertion immediately after the words "constituting a company" appearing therein of the words "or other documents setting out the powers, aims and objects of and the rules or regulations governing the company."

Amendment of section 28 of Proclamation No. 81 of 1959

10. Section 31 (1) of the principal law is amended by the deletion of paragraphs (a) and (aa) thereof and by the substitution therefor of a new paragraph as follows -

Amendment of section 31 of Proclamation No. 81 of 1959

"(a) The Collector shall annually give public notice that all persons liable to taxation under the provisions of this Proclamation, whether personally or in any representative capacity, are, subject to the provisions of subsection (17), required to furnish within thirty days after the date of such notice, or within such further time as the Collector may for good cause allow, returns for the assessment of tax."

11. The principal law is amended by the insertion immediately after section 58A thereof of a new section as follows -

Insertion of section 58B in Proclamation No. 81 of 1959

"Payments of tax on contracts for certain services

58B. (1) On or after the 1st July, 1972, the Collector may by notice served upon any person direct that when such person makes any payment to which this section applies he shall deduct from it tax in accordance with the provisions of this section and any regulations made hereunder notwithstanding that when such payment is made no assessment has been made in respect thereof.

(2) This section applies to any payment made under a contract relating to construction operations or for professional services, other than a contract of employment, to any person not resident or ordinarily resident in Botswana.

(3) (a) On making a payment to which this section applies, under a contract relating to construction operations, the person making such payment shall, when directed by the Collector, deduct from it a sum equal to 20 per centum of so much of the payment as is not shown to represent the direct cost to any other person of materials used or to be used in carrying out the construction operations to which such contract relates.

(b) On making a payment to which this section applies under a contract for professional services, the person making such payment shall, when directed by the Collector, deduct from it a sum equal to 20 per centum of the payment.

(c) Each sum so deducted shall be paid to the Collector and shall be treated for the purposes of assessment of tax: –

- (i) as not diminishing the payment; and
- (ii) as being tax paid in respect of the taxable income of the person for whose work or services the payment under the contract was made.

(4) The President may make regulations with respect to the deduction, collection and recovery, whether by assessment or otherwise, of sums required under this section to be deducted from any payments.

(5) If any person fails to comply with the provisions of this section or the provisions of any regulations made hereunder, the Collector may impose a penalty on such person not exceeding eight hundred rands.

(6) Any sum payable to the Collector and any penalty imposed by the Collector under the provisions of this section shall be a debt due to Government and may be recovered by the Collector in the manner prescribed in section 60 for the recovery of tax.

(7) Nothing in this section contained shall relieve any person from making any payment which he is required to make by reason of the provisions of the Second Schedule.

(8) No deduction made under this section shall relieve any person in respect of whom such deduction is made from making any return as to income required by the provisions of this Proclamation.”.

12. The principal law is amended by the insertion immediately after section 69 thereof of a new section as follows –

Development
incentives

69A. (1) The President may by order, to be known as a development approval order, prescribe enterprises which may be granted tax relief for development, the types and rates of such relief and the types of development in respect of which such relief may be granted. Where any such order has been made the provisions of the Third Schedule shall apply thereto.

(2) Orders may apply to the whole of Botswana or to such area or areas as may be specified therein and may prescribe different types and rates of relief and different types of development for which relief may be granted in different areas. Any order may apply to both an existing enterprise or a new enterprise.

(3) Any enterprise wishing to be issued with a development approval order shall submit its plans for development to the President.

(4) The President may, if he is of the opinion that the development proposed will be beneficial to the public in the area in which the development is to take place and if he approves of the plans submitted to him by the enterprise, issue to that enterprise a development approval order which may be made subject to such conditions as he shall deem fit. A development approval order may be for such period not exceeding five years as the President may decide but shall be renewable.

(5) An order made under this section shall not take effect until ratified by the National Assembly and upon such ratification shall be added to and become part of the Table of Development Approval Orders set out at the end of the Third Schedule.

(6) The President may at any time revoke a development approval order if he is satisfied that the enterprise has not carried out the development specified in the order or is in breach of any condition of the order.

Insertion of
section 69A in
Proclamation
No. 81 of
1959

(7) An enterprise aggrieved by the revocation of a development approval order may appeal to a subordinate court of the first class on the grounds that it has carried out the development specified in the order or that it is not in breach of any of the conditions of the order as the case may be.

(8) An enterprise which has been issued with a development approval order shall be entitled to tax relief of the types and at the rates specified in the Third Schedule and in the order in respect of the development which the Collector is satisfied has been carried out.”.

Amendment
of First
Schedule to
Proclamation
No. 81 of
1959

13. The First Schedule to the principal law is amended by the deletion of paragraph 13 thereof and by the substitution thereof of a new paragraph as follows –

“13. The standard value applicable to any class of livestock shall be –

- (a) for the year of assessment ending on the 30th June, 1972, or any earlier year of assessment, the standard value as set out in paragraph 13A; for the year of assessment ending on the 30th June, 1973, the year of assessment ending on the 30th June, 1974 or the year of assessment ending on the 30th June, 1975, and any subsequent year the relevant standard value for such year as set out in the Table to this Schedule; or
- (b) if for the year preceding the year of assessment the farmer adopted a higher standard value for that class of livestock than that provided under sub-paragraph (a) of this paragraph, such higher standard value; or
- (c) if for the year of assessment, the farmer adopts for a class of livestock not included in any previous return a standard value higher than that provided under sub-paragraph (a) of this paragraph, such higher standard value:

Provided that for any year of assessment the standard value applicable to any class of livestock held by a farmer at the beginning of the year shall be the standard value included in his return in respect of that class of livestock for the previous year.”

14. The First Schedule to the principal law is amended by the addition immediately after paragraph 18 thereof of the following Table -

Insertion of Table in First Schedule to Proclamation No. 81 of 1959

<i>Year of assessment</i>	STANDARD VALUE		
	1972/73 <i>R</i>	1973/74 <i>R</i>	1974/75 and subsequent years <i>R</i>
CLASS OF LIVESTOCK			
<i>CATTLE</i>			
Calves under one year	5	6	7
Tollies and Heifers over one and under two years	10	13	16
Tollies and Heifers over two and under three years	20	22	25
Cows over three years	27	31	35
Oxen over three and under four years	31	38	45
Oxen over four years	38	46	55
Bulls	43	46	50
<i>SHEEP</i>			
Wethers	5	5	5
Rams	5	5	5
Ewes	5	5	5
Lambs under one year	1	1	1
<i>GOATS</i>			
Full grown	3	3	3
Kids	1	1	1
<i>HORSES</i>			
Stallions over years	35	40	45
Mares over four years	28	31	35
Geldings over three years	31	33	35
Colts and Fillies:			
Three years	11	13	15
Two years	8	9	10
One year	6	7	8
Foals under one year	2	2	3
<i>DONKEYS</i>			
Jacks and Jennies over three years	4	4	4
Jacks and Jennies under three years	2	2	2
Foals under one year	-	-	-
<i>MULES</i>			
Over four years	30	30	30
Three years	20	20	20
Two years	14	14	14

One year	6	6	6
Under one year	-	-	-
<i>PIGS</i>			
Over one year	6	6	6
Under one year	3	3	3

Addition of
Third
Schedule to
Proclamation
No. 81 of
1959

15. The principal law is amended by the addition immediately after the Second Schedule thereto of a new Schedule as follows –

“THIRD SCHEDULE
(section 69A)

ARRANGEMENT OF PARAGRAPHS

1. Interpretation
2. Determination of taxable income
3. Owner and meaning of relevant interest
4. Sale of buildings
5. Controlled purchases
6. Investment allowances
7. Initial allowances
8. Annual allowances
9. Asset to be in use at specified date
10. Recovery charges
11. Balancing allowances and charges
12. Residue
13. Disposal of an asset
14. Value of an asset
15. Apportionment
16. Part of an asset
17. Asset used or expenditure incurred partly for the purposes of the development
18. Partnerships
Table of Development Approval Orders

Inter-
pretation

1. In this Schedule, unless the context otherwise requires: –
 - “the development” means the trade, specified in the development approval order issued to the enterprise, carried on by the enterprise;
 - “the enterprise” means the person to whom the development approval order was issued under section 69A in respect of the development;
 - “qualifying expenditure” means, subject to the express provisions of this Schedule, expenditure incurred in a year of assessment which is: –

- (a) capital expenditure (hereinafter called “qualifying building expenditure”) incurred on the construction of buildings, structures or works of a permanent nature; or
- (b) capital expenditure (hereinafter called “qualifying plant expenditure”) incurred on plant, machinery, implements articles or utensils.

2. For the purposes of ascertaining the taxable income of the enterprise, insofar as it is derived from the development, there shall be deducted from income the allowances prescribed in this Schedule and there shall be included in income the charges prescribed in this Schedule and the provisions of section 13 (1) (c) (d) (da) (db) (hh) (i) and (k) and section 13 (3) shall not apply in relation to qualifying expenditure or such allowances and charges but otherwise the taxable income of the enterprise shall be determined in accordance with the provisions of the Act.

Deter-
mination of
taxable
income

3. (1) For the purpose of this Schedule, where an asset consists of a building, structure or works, the owner thereof shall be taken to be the owner of the relevant interest in such building, structure or works.

Owner and
meaning of
relevant
interest

(2) Subject to the provisions of this paragraph, the expression “the relevant interest” in this Schedule means, in relation to any expenditure incurred on the construction of a building, structure or works, the interest in such building, structure or works to which the person who incurred such expenditure was entitled when he incurred it.

(3) Where, when he incurs qualifying building expenditure on the construction of a building, structure or works, a person is entitled to two or more interests therein and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Schedule.

4. Where capital expenditure has been incurred on the construction of a building, structure or works and thereafter the relevant interest therein is sold to the enterprise, the enterprise shall be deemed to have incurred, on the date when the purchase price became payable, capital expenditure on the construction thereof equal to the price paid by him for such relevant interest.

Sale of
buildings

5. Where capital expenditure is incurred on the purchase of an asset and the enterprise is a person over whom the seller has control or the seller is a person over whom the enterprise has control or some other person has control over both the seller and the enterprise, the amounts of allowances to be made to the enterprise in respect of

Controlled
purchases

such expenditure shall be such amounts as the Collector considers to be just and reasonable having regard to all the circumstances relating to such asset and control:

Provided that such amounts shall not exceed the amounts of allowances which would have been made apart from the provisions of this paragraph.

Investment allowances

6. Where as the owner of any asset the enterprise has incurred in respect thereof qualifying expenditure wholly, necessarily and exclusively for the purposes of the development, there shall be made to the enterprise for the year of assessment in which the asset is first used for such purposes an investment allowance at the prescribed rate per centum of such qualifying expenditure set forth in the appropriate development approval order.

Initial allowances

7. Where as the owner of any asset the enterprise has incurred in respect thereof qualifying expenditure wholly, necessarily and exclusively for the purposes of the development, there shall be made to the enterprise for the year of assessment in which the asset is first used for such purposes an initial allowance at the prescribed rate per centum of such qualifying expenditure set forth in the appropriate development approval order.

Annual allowances

8. Where as the owner of any asset the enterprise has incurred in respect thereof qualifying expenditure wholly, necessarily and exclusively for the purposes of the development, there shall be made to the enterprise for each year of assessment in which the asset is used for such purposes an annual allowance at the prescribed rate per centum of the residue of such qualifying expenditure at the specified date for that year of assessment set forth in the appropriate development approval order.

Provided that where the period of assessment is a period of less than twelve months any such allowance for that period of assessment shall be proportionately reduced:

Provided further that the total of such annual allowance and any initial allowance made for a year of assessment in respect of such qualifying expenditure shall not exceed one hundred per centum of such qualifying expenditure.

Asset to be in use at specified date

9. An investment, initial or annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be made to the enterprise for a year of assessment if at the specified date for that year he was the owner of the asset and it was in use for the purposes of the development.

10. Where the enterprise has incurred –

Recovery
charges

- (a) qualifying building expenditure on any asset and an investment allowance has been made to the enterprise in respect of such expenditure and that asset is disposed of by the enterprise within five years of the year of assessment for which such investment allowance was made; or
- (b) qualifying plant expenditure on any plant or machinery and an investment allowance has been made to the enterprise in respect of such expenditure and that plant or machinery is disposed of by the enterprise within three years of the year of assessment for which such investment allowance was made,

then a recovery charge equal to the amount of such investment allowance shall be made on the enterprise for the year of assessment in which such asset or plant or machinery, as the case may be, is disposed of.

11. (1) Where as the owner of any asset the enterprise has incurred in respect thereof qualifying expenditure wholly, necessarily and exclusively for the purposes of the development and the enterprise disposes of that asset then as the case may be and as hereinafter provided, there shall be made a balancing allowance to the enterprise or there shall be made a balancing charge on the enterprise.

Balancing
allowances
and charges

(2) Where the residue of qualifying expenditure at the date the asset is disposed of exceeds the value of that asset at that date, a balancing allowance equal to the excess shall be made to the enterprise for the year of assessment in which that asset is disposed of:

Provided that a balancing allowance shall only be made in respect of such asset if immediately prior to its disposal it was in use for the purposes of the development.

(3) Where the value of the asset at the date of its disposal exceeds the residue of qualifying expenditure at that date, a balancing charge equal to the excess shall be made on the enterprise for the year of assessment in which that asset is disposed of:

Provided that the balancing charge in respect of such asset shall not exceed the total of initial and annual allowances made under the provisions of this Schedule in respect of such asset.

12. (1) The residue of qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner thereof at

Residue

that date, in respect of that asset, less the total of initial and annual allowances made to such owner, in respect of that asset, before that date.

(2) For the purposes of this paragraph, an initial allowance or an annual allowance shall be deemed to be made on the specified date for the year of assessment for which such allowance is made.

Disposal of
an asset

13. For the purposes of this Schedule: –

(a) a building, structure or works of a permanent nature is disposed of if any of the following events occur –

(i) the relevant interest therein is sold;

(ii) that interest, being an interest depending on the duration of a concession, comes to an end on the termination of that concession;

(iii) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon;

or

(iv) the building, structure or works of a permanent nature are demolished or destroyed or cease to be used for the purposes of the development; and

(b) plant, machinery, implements, articles or utensils are disposed of if they are sold, scrapped or cease to be used for the purposes of the development.

Value of an
asset

14. (1) The value of an asset at the date of its disposal shall be the net proceeds of the sale thereof or of the relevant interest therein or, if it is disposed of without being sold on the open market, the amount which in the opinion of the Collector such asset or relevant interest therein, as the case may be, would have fetched if sold on the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold at that date.

(2) For the purposes of this Schedule, an asset or the relevant interest therein, as the case may be, shall be treated as having been sold if the asset is disposed of in such circumstances that insurance or compensation moneys are received by the owner thereof and as though the net proceeds of the insurance or compensation moneys were the net proceeds of the sale thereof.

Apportion-
ment

15. (1) Any reference in this Schedule to the disposal, sale or purchase of any asset includes a reference to the disposal, sale or purchase of that asset together with any other asset, whether or not

qualifying expenditure has been incurred on such last mentioned asset, and where an asset is disposed of, sold or purchased together with another asset so much of the value of the assets as, in the opinion of the Collector, is properly attributable to the first mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of or the price paid for that asset, as the case may be. For the purposes of this sub-paragraph, all assets which are purchased or disposed of under one bargain shall be deemed to be purchased or disposed of together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.

(2) The provisions of sub-paragraph (1) shall apply, with any necessary modifications, to the sale or purchase of the relevant interest in any other asset.

16. Any reference in this Schedule to an asset shall be construed when necessary as including a reference to a part of any asset (including an undivided part of that asset in the case of joint interests therein) and when so construed any necessary apportionment shall be made as may, in the opinion of the Collector, be just and reasonable.

Part of an asset

17. (1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset: -

Asset used or expenditure incurred partly for the purposes of the development

- (a) the owner of the asset has incurred in respect thereof qualifying expenditure partly for the purposes of the development and partly for other purposes;
- (b) the asset in respect of which qualifying expenditure has been incurred by the owner thereof is used partly for the purposes of the development and partly for other purposes.

(2) Any allowances and charges which would be made if such expenditure were incurred wholly, necessarily and exclusively for the purposes of the development and such asset were used wholly, necessarily and exclusively for the purposes of the development shall be computed in accordance with the provisions of this Schedule.

(3) So much of the allowances and charges computed in accordance with sub-paragraph (2) shall be made as, in the opinion of the Collector, is just and reasonable having regard to all the circumstances and to the provisions of this Schedule.

18. (1) The provisions of this paragraph shall apply where the enterprise is a partnership of persons.

Partnerships

(2) The development carried on by a partnership of persons shall be deemed to be conducted by one individual (hereinafter called "the deemed individual") and any allowances or charges which would then fall to be made to or on the deemed individual under the provisions of this Schedule, if the deemed individual were an individual, shall be computed as though the deemed individual had done all things which were done for the purposes of the development by the partnership of persons.

(3) The amount of any such computed allowance or charge shall be allocated amongst the persons in partnership in the same manner as any capital loss, in the case of an allowance, or any capital gain, in the case of a charge, would be allocated, to those persons where such loss or gain arose in carrying on the partnership development and as a result of an event occurring –

- (a) in the case of any investment, initial or annual allowance, on the specified date for the year of assessment for which such allowance has been computed; and
- (b) in the case of any balancing allowance, balancing charge or recovery charge, on the specified date for the year of assessment in which the relevant asset is disposed of.

(4) Any amount so allocated to any person in respect of any such computed allowance or charge shall be treated as an allowance to or charge on that person for the purposes of the provisions of this Schedule relating to the determination of taxable income.

(5) In the application of this paragraph with any of the provisions of other paragraphs in this Schedule, those provisions shall be applied with any modifications which the Collector may consider necessary in order to give effect to the principles and provisions of this paragraph."

Table of Development Approval Orders.

Passed by the National Assembly this day, the 28th March, 1972.

G. T. MATENGE,
Clerk of the National Assembly.