

Assented to in Her Majesty's name this 28th day of January 1980.

Governor.



No. 1

1980

Colony of the Falkland Islands

IN THE TWENTY-EIGHTH YEAR OF THE REIGN OF
Her Majesty Queen Elizabeth II.
JAMES ROLAND WALTER PARKER, C.M.G., O.B.E.
Governor.

An Ordinance To amend the Income Tax Ordinance.

(1st January 1980)

Title.
Date of commencement.

ENACTED by the Legislature of the Colony of the Falkland Islands.

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1980 and shall apply to assessments for the year 1980 and to subsequent years of assessment. Short title and commencement.

2. Section 2 of the principal Ordinance is amended — Amendment of section 2.
(Cap. 32)

- (a) by inserting after the definition of "body of persons" the following new definition —
"housing loan" means any money advanced to a resident not exceeding £10,000, for the purpose of building, adding to or purchasing a dwelling house in the Colony;
- (b) by deleting the definitions of "The Commonwealth" and "Commonwealth income tax".

3. The principal Ordinance is amended by adding after section 8 the following new section — Addition of new section
8a.

8a. Where, having regard to the economic and other benefits likely to accrue to the Colony, the Governor in Council is of the opinion that it would be in the public interest to do so, he may by order declare

"Pioneer enterprise.

any person who proposes to undertake any trade or business —

- (a) which is not being carried on in the Colony on a scale adequate to the economic interests of the Colony; and
- (b) for which in the opinion of the Governor in Council there are favourable prospects for development,

to be a pioneer enterprise to which the tax concessions specified in the Fifth Schedule to this Ordinance shall apply:

Provided that a person engaging in a trade or business shall not be declared a pioneer enterprise unless the Governor in Council is satisfied that the capital to be effectively employed in the trade or business is adequate.”

Amendment of section 10.
4. Section 10 of the principal Ordinance is amended by inserting after paragraph (a) the following new paragraph —

“(aa) sums payable by such person by way of interest upon any housing loan (no reduction will be allowed under this paragraph when the dwelling house is unoccupied):

Provided that not more than one deduction, whether under this paragraph or paragraph (a) above, shall be allowed:”

Amendment of section 11.
5. Section 11 of the principal Ordinance is amended by inserting after “Sixth” the following —
“or Seventh”.

Repeal and replacement of section 14.
6. Section 14 of the principal Ordinance is repealed and replaced by the following new section —

“Deduction
in respect
of earned
income.

14. (1) Where a husband and wife are assessed jointly there shall be allowed for the purpose of ascertaining the chargeable income of the husband in respect of so much of the income as is earned by his wife her actual earnings, subject to a maximum of £1,040:

Provided that when a loss arises in the exercise of any trade, business, profession or vocation or a loss is brought forward from a previous year under section 13 of this Ordinance, no deduction shall be allowed except in respect of the amount, if any, by which the earned income exceeds such loss or the aggregate amount of such losses, as the case may be.

(2) For the purposes of this section and of section 20 of this Ordinance the expression “earned income” means any income arising in respect of any gains or profits immediately derived by the individual from any trade, business, profession, employment or vocation carried on or exercised by her either as an individual or in the case of a partnership as a partner personally acting therein, or in respect of any pension, superannuation, or other allowance given in respect of past services of the individual, whether the individual shall have contributed to such pension, superannuation or other allowance or not, after deducting the expenses referred to in sections 10 and 11 of this Ordinance.”

Amendment of section 15.
7. Section 15 of the principal Ordinance is amended —
(a) in subsection (1), by deleting “£350” and substituting the following —
“£600”;

- (b) in subsection (2), by deleting “£175” and substituting the following —
“£350”;
- (c) in subsection (3) (a) —
 - (i) by deleting “£500” and substituting the following —
“£600”;
 - (ii) by deleting “£300” and substituting the following —
“£350”;
- (d) in subsection (4), by deleting “£400” and substituting the following —
“£1,040”;
- (e) by deleting subsection (5).

Amendment of section 16.

- 8. Section 16 of the principal Ordinance is amended —
 - (a) in subsection (1), by deleting “£300” and substituting the following —
“£350”;
 - (b) in paragraph (i) of the proviso to subsection (1), by deleting “£320” and substituting the following —
“£380”.

9. Section 16A of the principal Ordinance is amended by deleting “£1,050” wherever it occurs and substituting the following —
“£2,000”.

Amendment of section 16A.

10. Section 20 of the principal Ordinance is repealed and replaced by the following new section —

Repeal and replacement of section 20.

“Married women.

20. (1) The income of a married woman shall for the purposes of this Ordinance be deemed to be the income of her husband and shall be charged in the name of the husband and not in her name nor in that of her trustee:

Provided that that part of the total amount of tax charged upon the husband which bears the same proportion to that total amount as the amount of the income of the wife bore to the amount of the total income of husband and wife, may if necessary, be collected from the wife, notwithstanding that no assessment has been made upon her.

(2) A married woman separated from her husband under an order of a court of competent jurisdiction or a written agreement or in such circumstances that the Commissioner considers that the separation is likely to be permanent shall be treated as an unmarried person.

(3) A married woman in receipt of earned income and her husband may elect to be assessed separately. In the case of such election the following provisions shall apply —

- (a) both husband and wife shall be assessed for tax as single persons and shall be entitled to the personal relief for single persons;
- (b) the additional relief for a wife under section 15 (1) of this Ordinance shall not be granted;
- (c) the reliefs provided for under sections 15 (3), 16 and 17 shall be granted to the husband only;
- (d) the husband's income shall include all income of his wife other than her earnings;
- (e) the wife shall not be entitled to the earned income relief provided for under section 14 of this Ordinance;

(4) An election for separate assessment under this section shall be made jointly by the husband and wife in writing to the Commissioner not later than the 1st day of April in the year immediately following the year of income:

Provided that if no election having been made by the parties concerned the Commissioner may tax both parties individually or jointly whichever is to the advantage of the taxpayers subject to the agreement of both parties.

(5) When an election is made in respect of any year it shall be irrevocable in respect of that year and such election shall continue to apply in respect of subsequent years until the election is jointly revoked by the husband and wife.

(6) When an election is revoked after the 1st day of April in any year the revocation shall not have effect in respect of that year but shall affect subsequent years.

(7) Revocation of an election shall not be a bar to further election.”

Amendment of section 21.

11. Section 21 of the principal Ordinance is amended —

(a) in subsection (1), by deleting from “on every” to “50 per cent” and substituting the following —

“ On every pound of —	
the first £500 of chargeable income	20 per cent
the next £500 ” ”	25 per cent
” ” £4,500 ” ”	30 per cent
” ” £2,000 ” ”	40 per cent
the remainder of chargeable income	50 per cent.”

(b) by repealing subsection (2) and substituting the following subsections —

“(2) Subject to subsection (2A) or (2B) below the chargeable income of a company shall be charged at the standard rate of 52 per cent on every pound of the chargeable income thereof.

(2A) A company whose total chargeable income does not exceed £60,000 shall be charged at the rate of 42 per cent.

(2B) A company whose total chargeable income exceeds £60,000 but does not exceed £100,000 shall be entitled to marginal relief by subtracting from the full liability at 52 per cent three-twentieths of the difference between chargeable income and £100,000.”

Repeal and replacement of sections 22 and 23.

12. Sections 22 and 23 of the principal Ordinance are repealed and replaced by the following —

“Taxation of dividends.

22. (1) When a dividend is paid to a shareholder by a company registered in the Colony that shareholder shall be entitled to a tax credit at the rate of thirty-seventieths of the dividend paid to him.

(2) The amount of the dividend and the tax credit shall be added to the other income of the shareholder in arriving at his total income for tax purposes and he shall be assessed for tax on this amount less allowable deduction. There shall be deducted from the amount of tax so assessed the amount of the tax credit and, should the net amount of tax then payable be less than the amount of the tax credit, the difference shall be refunded to him.”

13. Section 32 of the principal Ordinance is repealed and replaced by the following—

Repeal and replacement of section 32.

“INTEREST WITHHOLDING TAX AND TAXATION OF ROYALTIES AND MANAGEMENT FEES

Interest withholding tax.

32. (1) Notwithstanding anything to the contrary in the other provisions of this Ordinance, there shall be paid a tax, to be known as interest withholding tax, in respect of the payments specified in subsection (2) of this section at the rate of ten per cent of the gross amount payable.

(2) Such tax shall be payable in respect of—

- (a) any payment of interest made to a person not resident in the Colony;
- (b) any loan, advance or other like payment made to a person not resident in the Colony unless such loan, advance or other like payment is made at an interest rate in excess of such per cent per annum as may from time to time be prescribed by the Governor in Council and that interest is liable to tax in the Colony:

Provided that when any such loan, advance or other like payment is subsequently repaid the Commissioner shall refund any tax found to have been paid in excess of the amount properly payable.

(3) For the purpose of this section the term “interest” means income from debt claims of every kind, whether or not carrying a right to participate in the debtor’s profits, and in particular income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures.

(4) The tax shall be payable by and recoverable from—

- (a) the person making the payment of interest to which subsection (2) (a) of this section applies; or
- (b) in the case of any loan, advance or like payment covered by subsection (2) (b) of this section the person granting the loan or making the advance or like payment, and shall be paid to the Commissioner within thirty days of the date of payment of interest or of the granting of a loan or making an advance or like payment. Failure to make payment by due date shall be an offence.

32A. (1) Notwithstanding anything to the contrary in the other provisions of this Ordinance, royalties arising in the Colony and paid to a person not resident in the Colony shall bear tax at the rate of ten per cent of the gross amount of the royalties.

(2) For the purpose of this section the term “royalties” means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or

Royalties.

scientific experience, and rights to variable or fixed payments as consideration for the working of or the right to work mineral or mineral oil deposits sources and other natural resources.

(3) The tax shall be payable by and recoverable from the person paying the royalty and shall be paid to the Commissioner within thirty days of the date of payment of the royalty. Failure to make payment by due date shall be an offence.

Management
Fees.

32B. (1) Notwithstanding anything to the contrary in the other provisions of this Ordinance, management fees and any such sums paid or credited for the management of or supervision in connection with the carrying on of a trade or business to the extent that such fees, payments or credits do not constitute reimbursement of expenditure that is—

(a) of a kind that is tax deductible under this Ordinance; and

(b) incurred in relation to the fees, payments or credits by the person receiving them,

shall bear tax at the rate of fifteen per cent.

(2) For the purpose of this section the term “management fees” means payments of any kind to any person, other than to an employee of the person making the payments, for or in respect of, the provision of industrial, scientific or commercial advice, or management or technical services, or similar services or facilities.

(3) The tax shall be payable by and recoverable from the person paying the fees or making the payments or credits and shall be paid to the Commissioner within thirty days of the date of payment of the fees or of making the payments or credits. Failure to make payment by due date shall be an offence.”.

Repeal of sections 46, 47
and 48.

repealed.

Amendment of section 49.

14. Sections 46, 47 and 48 of the principal Ordinance are

15. Section 49 of the principal Ordinance is amended—

(a) by deleting subsections (2) and (3); and

(b) by renumbering subsection (1) as section 49.

Addition of new section
50A.

16. The principal Ordinance is amended by adding after section 50 the following new section—

“Unilateral
tax credit.

50A. (1) Where any person resident in the Colony proves that he had paid, by deduction or otherwise, overseas tax on any part of his income which arises from a source outside the Colony and which is also chargeable to Colony tax, he shall be entitled to a credit against such Colony tax equal to the overseas tax or the Colony tax on that part of his income whichever is the less.

(2) For the purpose of this section “overseas tax” means an income tax or tax of a similar character imposed by the laws of any territory outside the Colony other than a territory with the Government of which arrangements have been made which have effect under section 49.

(3) For the purpose of calculating the amount of any credit under this section the provisions of subsections (2) to (10) of section 50 shall apply as if references therein to arrangements having effect under section 49 were references to this section and as if reference to foreign tax were references to overseas tax.”

17. The Fifth Schedule to the principal Ordinance is repealed and replaced by the following new Schedule —

Repeal and replacement of
Fifth Schedule.

“ FIFTH SCHEDULE Section 8A.

Tax-free
concessions.

1. Any person who has been declared a pioneer enterprise in accordance with the provisions of section 8A of this Ordinance shall be exempt from tax in respect of the profits derived from specified trade or business for a period of five years from the date when his trade or business commences or the first day of production, whichever date is the earlier:

Provided that the declaration of a pioneer enterprise may be extended by the Governor in Council for a further period not exceeding three years in which case the extent of the exemption from tax shall be such as the Governor in Council determines:

Provided also that no tax concession shall be granted for any year unless the Commissioner is satisfied that —

- (a) in the case of a person the same person to whom the concession was granted continues the trade or business; or
- (b) in the case of a partnership at least thirty per cent of the partners are the same as on the date when the concession was granted and in the case of a company at least thirty per cent or more of the voting power or the right to receive dividends is held by the same person or persons as on the date when the concession was granted:

Provided further that the Governor in Council shall have power to waive the requirements of the preceding proviso if he deems fit.

Depreciation.

2. There shall, during the period of the concession, be deducted from or charged to the income, as the case may be, of a pioneer enterprise the maximum amounts authorized in respect of depreciation under section 11 of this Ordinance:

Provided that there shall be no obligation to claim initial allowances but an election not to do so shall continue for the whole of the period of the concession.

End of tax
concession
period.

3. If the end of the tax concession period does not coincide with the end of the accounting period of the pioneer enterprise, the profits or gains for the accounting period in which the last day of the tax concession falls will be apportioned between the parts of the accounting periods which precede and follow the end of such tax concession period on a time basis.

Calculation
of income.

4. The income of any trade or business declared by the Governor in Council to be a pioneer enterprise shall be calculated separately from the income of any other trade or business carried on by the person, partnership or company by whom the pioneer enterprise is owned.

Application for
declaration of
a pioneer
enterprise.

5. (1) Application for a declaration under Section 8A of this Ordinance shall be made to the Governor in Council through the Financial Secretary by the person who carries on or intends to carry on the trade or business.

(2) Every such application shall provide full information about the enterprise, including —

- (a) the nature of the trade or business;
- (b) a description of the benefits to the Colony to be expected;
- (c) the estimated amount of the capital to be employed;
- (d) the conditions under which workers will be employed, an estimate of their number and provision for their housing; and
- (e) such other particulars as the Financial Secretary may require.

Approval.

6. The Governor in Council may make a declaration of a pioneer enterprise subject to such conditions he thinks fit.

Accounts.

7. The annual accounts of an approved pioneer enterprise shall be audited by an auditor approved by the Financial Secretary and such accounts and any other information requested shall be delivered to the Commissioner within six months of the end of each accounting period.

Offences

8. Any person failing to furnish accounts by the due date or to provide information requested by the Commissioner shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding £1,000.

Revocation.

9. (1) The Governor in Council may revoke a declaration made under section 8A of this Ordinance if —

- (a) he is satisfied that the person concerned has furnished incorrect or misleading information or has in any way misrepresented the facts or has failed to submit audited accounts or other information requested; or
- (b) he is satisfied that the person concerned has failed to comply with any conditions laid down under paragraph 6 of this Schedule or with any other provisions of this Schedule.

(2) Such revocation may be from any date and may apply from the date of commencement of the tax concession if the Governor in Council considers this to be appropriate.

Dividends.

10. Upon the agreement of the Commissioner of the amount of the profits of a pioneer enterprise to be exempt from tax under this section or upon final determination of that amount on appeal, the amount thereof in the case of a company may be credited by the company to a special account and the amount of any dividend paid out of that account to the company's shareholders shall be exempt from tax in the hands of such shareholders:

Provided that no such exemption shall apply to a dividend declared more than two years after the end of the tax concession period specified in paragraph 1 of this Schedule, including any extension of the tax concession period approved by the Governor in Council under the proviso to paragraph 1 of this Schedule.”.

18. The principal Ordinance is amended by adding after the Sixth Schedule the following new Schedule —

Addition of Seventh Schedule.

“SEVENTH SCHEDULE Section 11.

DEPRECIATION

Interpretation.

1. In this Schedule —
“expenditure”, in relation to the cost of a capital asset, means the amount spent upon the provision of that asset by the person claiming the depreciation deduction, reduced by the amount of any grant, subsidy or contribution towards that cost made by any other person or authority;
“written-down value”, in relation to a capital asset, means the amount of the expenditure upon that asset less the sum of any wear and tear and depreciation deductions made in respect of that asset for all earlier years or which could have been made if the asset had been employed continuously since the expenditure was incurred in the production of income.

Deduction.

2. Where a person referred to in section 11 employs during the year immediately preceding the year of assessment in the course of his trade, business, profession or vocation any of the capital assets specified in paragraph 3 of this Schedule, there shall be allowed, upon his making a claim thereto, a deduction on account of the depreciation of such assets (in this Schedule referred to as a “depreciation deduction”).

Depreciation allowances.

3. The following depreciation allowances shall be given for capital expenditure incurred on projects commenced after the 1st January 1979 —

- (a) on machinery and plant (other than ships, motor vehicles and aircraft) and agricultural tractors an initial allowance in the year in which the expenditure is incurred of up to 100%; where the full 100% is not claimed, in subsequent years a writing down allowance of 25% per annum of the written-down value of the asset shall be given;
- (b) on ships - an initial allowance of up to 50% and thereafter a writing down allowance of 10% per annum of the written-down value of the asset shall be given;
- (c) on aircraft - a writing down allowance of 15% per annum of the written-down value of the asset shall be given;
- (d) on motor vehicles (other than agricultural tractors) a writing down allowance of 25% per annum of the written-down value of the asset shall be given;
- (e) on industrial buildings used for the purpose of productive manufacturing or processing, mining or fishing - an initial allowance of up to 30% and thereafter a writing down allowance of 10% per annum of the written-down value of the asset shall be given;
- (f) on hotel buildings - an initial allowance of up to 20% and thereafter a writing down allowance of 10% per annum of the written-down value of the asset shall be given;

(g) on agricultural buildings - an initial allowance of up to 30% and thereafter a writing down allowance of 10% per annum of the written-down value of the asset shall be given;

(h) on other buildings including housing - a writing down allowance of 10% per annum of the written-down value of the asset shall be given.

Balancing deduction.

4. Where during the year immediately preceding the year of assessment a capital asset in respect of which a wear and tear or a depreciation deduction has been made is sold, scrapped or destroyed and the amount of the sale proceeds or insurance recoveries is less than the written-down value, there shall be made a deduction equal to the amount of the deficiency.

Balancing charge.

5. Where during the year immediately preceding the year of assessment a capital asset in respect of which a wear and tear or a depreciation deduction has been made is sold, scrapped or destroyed and the amount of the sale proceeds or insurance recoveries is more than the written-down value, the amount of the excess (or the total amount of all wear and tear and depreciation deductions made, if less) shall be additional income chargeable to tax for that year of assessment.

Buildings.

6. Where a building is bought or sold together with land the Commissioner shall make such apportionment of the total sum as is just for the purpose of arriving at the separate value of the building.

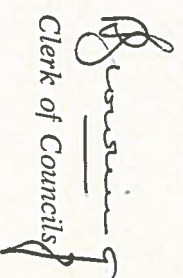
Agricultural buildings.

7. For the purposes of this Schedule agricultural buildings do not include offices, shops on farm settlements, storehouses (except where they are used solely to store agricultural produce). The cost of a building shall not include the cost or value of the land on which it is built.

New ventures.

8. Where a company undertakes a new industrial, commercial or other venture, it shall, before qualifying for the allowance referred to in paragraph 3 of this Schedule, be required to form a separate company which shall be taxed separately from any existing company.”.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.


Clerk of Councils

Ref. INC/10/5/II.