

JAMAICA

No. 33-2002

I assent,

[L.S.]

H. F. COOKE,
Governor-General.

9th September, 2002.

AN ACT to Make new provisions for the taxation of assets of companies and other specified institutions, and for connected matters.

[The date notified by the Minister
bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Assets Tax (Specified Bodies) Act, 2002 and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title
and com-
mencement

Interpreta-
tion.

2. In this Act, unless the context otherwise requires—

“Commissioner” means the Commissioner of Inland Revenue;

“specified body” means—

- (a) a company within the meaning of the Companies Act other than a company in respect of which a licence has been granted pursuant to section 20 of that Act by the Minister responsible for the administration of companies;
- (b) a society registered under the Industrial and Provident Societies Act;
- (c) such other body as may be prescribed by order subject to negative resolution.

Annual
declaration
of assets.

3.—(1) Subject to the provisions of this section and sections 4 and 5, every specified body shall make and submit to the Commissioner an annual declaration of the value of its assets and shall in relation thereto pay the tax prescribed in the First Schedule.

First
Schedule.

- (2) The declaration required by subsection (1) shall—
 - (a) subject to subsection (3), be submitted on or before the 1st day of September in each year (hereinafter referred to as the relevant date);
 - (b) be in such form and accompanied by such documents as the Commissioner may prescribe by notice published in the *Gazette*;
 - (c) subject to subsection (3), be based upon the value of assets of the specified body as indicated by the balance sheet and profit and loss account as relates to the assessment of income tax for the year of assessment immediately prior to the relevant date or the date authorized pursuant to subsection (3).

(3) The Commissioner may, on the application of any specified body, allow the body to submit its declaration for any year specified in the application, on or before such date as the Commissioner may authorize in writing.

(4) The Commissioner may act in accordance with subsection (5) if he is satisfied that—

- (a) any specified body is not carrying on any business which would necessitate the preparation of a balance sheet or profit and loss account; or
- (b) having regard to the date on which a specified body started operations, a balance sheet and profit and loss account referred to in subsection (2)(c) are not available.

(5) Subject to subsection (6), the Commissioner may in writing authorize the body—

- (a) to base its declaration for the purposes of this section on an estimate of the value of its assets at the end of the year preceding that in respect of which the declaration is required and pay the prescribed tax; or
- (b) to submit a declaration that, by reason of the absence of assets at the end of the preceding year, a valuation cannot be made as required by this section.

(6) An authorization referred to in subsection (5) may be subject to a requirement that the estimate or declaration, as the case may be, shall be verified at such later time as the Commissioner may specify in such manner and by reference to such documents as may be so specified.

(7) Where any specified body fails to furnish to the Commissioner any declaration or the prescribed tax in accordance with this section, he may issue the prescribed

notice to the specified body requiring that body to submit the declaration and pay the tax within the period specified in the notice.

(8) Where it appears to the Commissioner of Taxpayer Audit and Assessment that the value of assets of any specified body shown in any declaration is incorrect, he may, at any time not later than the end of five years next after the end of the year in which the tax is due and payable, serve on that specified body a notice stating that for the purposes of this section, the value of assets of that body and the tax payable thereon shall, subject to sections 4 and 5, be assessed at the amounts respectively specified in the notice; and, subject as aforesaid, the tax shall be paid in accordance with that assessment.

(9) In this section and section 4 “the value of assets” of any specified body means, subject to subsection (10), the aggregate of—

- (a) the amount which the Commissioner is satisfied, on the certificate of an auditor of the specified body, is the value (as shown in the books of account) of that body’s assets as follows—
 - (i) any estate or interest in land;
 - (ii) equipment, furniture, machinery, plant and other movable property;
 - (iii) any other interest, right or benefit;
- (b) the amount of—
 - (i) outstanding balances on loans and advances made by the specified body;
 - (ii) the specified body’s cash in hand and in bank deposit;
 - (iii) outstanding balances due to the specified body by sundry debtors other than those specified in sub-paragraph (i).

(10) If the Commissioner of Taxpayer Audit and Assessment is of the opinion that the value of any asset of a specified body shown in the books of account is not correct, he may substitute therefor such amount as he estimates to be the correct value, not exceeding the amount which he is satisfied is the amount expended by the specified body in acquiring the asset.

4.—(1) Where a specified body disputes the amount of the assessed value of assets or the tax payable thereon specified in any notice served pursuant to section 3(8), that body may apply to the Commissioner of Taxpayer Audit and Assessment, by notice of objection in writing, to review and revise that amount.

Objections
to assess-
ments.

(2) An application pursuant to subsection (1) shall state precisely the grounds of objection and shall be made within thirty days from the date of the service of the notice, so, however, that, the Commissioner, upon being satisfied that owing to some reasonable cause the specified body was prevented from making the application within that period, shall extend the period as may be reasonable in the circumstances.

(3) On receipt of any objection referred to in subsection (1), the Commissioner may—

- (a) by notice in writing, require the specified body concerned to furnish such particulars as he may deem necessary with respect to the value of the assets of the body and to produce all books and documents relating thereto; and
- (b) summon any person to attend before him and give evidence relating to the assets of the specified body and may examine such person on oath or otherwise.

(4) Any person who—

(a) without lawful excuse refuses or neglects—

(i) to produce any books or documents which he is required to produce under subsection (3);

(ii) to attend in accordance with any summons issued under that subsection or to give evidence pursuant to any such summons; or

(iii) to answer any lawful question touching the matters under consideration; or

(b) knowingly or wilfully gives any false evidence before the Commissioner,

shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one hundred thousand dollars.

(5) In the event of any specified body which has objected to any amount specified in a notice of assessment subsequently agreeing with the Commissioner of Taxpayer Audit and Assessment as to the amount of the value of assets or the tax payable thereon, the notice of assessment shall be amended accordingly.

(6) Where no such agreement is reached, the Commissioner shall give notice in writing to the specified body of his decision in respect of the objection and if the valuation is altered or the tax payable varied, due adjustment shall be made and amounts paid in excess shall be refunded and amounts payable shall be recoverable as arrears.

Appeals.

5.—(1) Any person aggrieved by any decision of the Commissioner under section 4 may appeal to the Commissioner of Taxpayer Appeals within thirty days of receiving the Commissioner's decision.

- (2) The Commissioner of Taxpayer Appeals shall—
- (a) consider every appeal made under subsection (1) at such time and in such manner, either in the presence or absence of the appellant as he may think fit; and
 - (b) make such decision in relation thereto, as he may think fit.

(3) An appellant who is dissatisfied with the decision the Commissioner under subsection (2) may appeal to the Revenue Court within thirty days of the date of receiving that decision.

6.—(1) Where any tax being due and payable, remains unpaid after the relevant date or the date authorized under section 3(3), interest shall be charged thereon from the day next after the relevant date or that other date, as the case may be, until the date of payment, at the rate of 15 *per centum* per annum.

Enforcing
payment of
tax.

- (2) Interest payable under subsection (1) may—
- (a) be added to the tax payable and may be collected and recovered as if it were such; and
 - (b) be remitted in whole or in part by the Commissioner for reasons which appear to him to be sufficient.

(3) The Minister may, by order subject to negative resolution of the House of Representatives, vary the rate of interest specified in subsection (1).

(4) Any tax, and any interest payable thereon pursuant to subsection (1), may be sued for and recovered in a Resident Magistrate's Court as a debt due to the Government.

7. The provisions of the Tax Collection Act concerning payment, collection and recovery of tax and the enforce-

Application
of Tax
Collection
Act.

ment of payment thereof shall apply to tax imposed under this Act.

Duty to regard declarations, documents, etc., as secret and to make declaration.

8.—(1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all declarations, documents, information, assessments and copies thereof relating to the assets of any specified body, as secret and confidential, and shall make and subscribe a declaration to that effect.

(2) Every person referred to in subsection (1) having possession of or control over any declarations, documents or assessments who at any time communicates or attempts to communicate anything contained therein to any person—

(a) other than a person to whom he is authorized under this Act or any other enactment to communicate it; or

(b) otherwise than for the purposes of this Act or any other enactment,

commits an offence and is liable on summary conviction thereof in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Amendment of other Acts and enactments. Second Schedule.

9. The enactments specified in the first column of the Second Schedule are amended in the manner specified in the second column of that Schedule.

Transitional.

10. Notwithstanding the repeal of provisions of enactments pursuant to section 9, any proceedings which had been instituted pursuant to those provisions may be continued as if this Act had not come into operation.

FIRST SCHEDULE (Section 3)

Rate of Tax in relation to Declaration of Assets

PART I. Companies

Description of Company	Tax
—	
Where the aggregate value of the assets does not exceed \$5,000	\$ 100.00
Where the aggregate value of the assets exceeds \$5,000 but does not exceed \$15,000	\$ 200.00
Where the aggregate value of the assets exceeds \$15,000 but does not exceed \$50,000	\$ 300.00
Where the aggregate value of the assets exceeds \$50,000 but does not exceed \$100,000	\$ 500.00
Where the aggregate value of the assets exceeds \$100,000 but does not exceed \$500,000	\$ 1,000.00
Where the aggregate value of the assets exceeds \$500,000 but does not exceed \$1,000,000	\$ 1,400.00
Where the aggregate value of the assets exceeds \$1,000,000 but does not exceed \$5,000,000	\$ 5,000.00
Where the aggregate value of the assets exceeds \$5,000,000 but does not exceed \$10,000,000	\$ 7,000.00
Where the aggregate value of the assets exceeds \$10,000,000	\$10,000.00

PART II. Registered Societies

Description of Registered Society	Tax
—	
Where the aggregate value of the assets does not exceed \$5,000	\$ 100.00
Where the aggregate value of the assets exceeds \$5,000 but does not exceed \$15,000	\$ 200.00
Where the aggregate value of the assets exceeds \$15,000 but does not exceed \$50,000	\$ 300.00
Where the aggregate value of the assets exceeds \$50,000 but does not exceed \$100,000	\$ 500.00
Where the aggregate value of the assets exceeds \$100,000 but does not exceed \$500,000	\$ 1,000.00

<u>Description of Registered Society, contd.</u>	<u>Tax</u>
Where the aggregate value of the assets exceeds \$500,000 but does not exceed \$1,000,000 ...	\$ 1,400.00
Where the aggregate value of the assets exceeds \$1,000,000 but does not exceed \$5,000,000 ...	\$ 5,000.00
Where the aggregate value of the assets exceeds \$5,000,000 but does not exceed \$10,000,000 ...	\$ 7,000.00
Where the aggregate value of the assets exceeds \$10,000,000	\$10,000.00

SECOND SCHEDULE (Section 9)

<u>Enactments</u>	<u>Amendments</u>
Companies Act	Delete sections 124A, 124B, 124C, 124D, 124E and Part III of the Ninth Schedule.
Industrial and Provident Societies Act	Delete sections 13A, 13B, 13C, 13D and 13E.

...the Minister by notice published in the *Gazette*.