

**ACT No. 11 of 1962****THE EAST AFRICAN INCOME TAX (MANAGEMENT)  
(AMENDMENT) ACT, 1962**

Assented to on behalf of the East African Common Services Organization.

R. G. TURNBULL,

*Date: 9th October, 1962. Governor-General of Tanganyika.*

P. M. RENISON,

*Date: 9th October, 1962. Governor of Kenya.*

W. F. COUTTS,

*Date: 5th October, 1962. Governor of Uganda.*

**AN ACT TO AMEND THE EAST AFRICAN INCOME  
TAX (MANAGEMENT) ACT, 1958**

*Date of commencement: 9th October, 1962*

ENACTED by the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda on behalf of the East African Common Services Organization with the advice and consent of the East African Central Legislative Assembly.

1. (1) This Act may be cited as the East African Income Tax (Management) (Amendment) Act, 1962, and shall be read and construed as one with the East African Income Tax (Management) Act, 1958, hereinafter referred to as the principal Act.

Short title,  
construction and  
commencement.

(2) Subject to subsections (3) and (4), the provisions of this Act shall be deemed to have come into operation on 1st January, 1962, and shall have effect in relation to assessments for the year of income 1962 and for each subsequent year of income.

(3) The provisions of sections 6 and 8, and in so far as Item 51 as contained in subparagraph (iii) of paragraph (a) is concerned, section 17 shall be deemed to have come into operation on 1st January, 1958, and shall have effect in relation to assessments for the year of income 1958 and for each subsequent year of income.

(4) The provisions of section 2 (except for paragraph (c)), sections 4, 9, 10, 11, 12 and section 13 (except for paragraph (ii) of the proviso contained therein) shall be deemed to have come into operation on 1st January, 1961, and shall have effect in relation to assessments for the year of income 1961 and for each subsequent year of income.

Amendment of  
section 2 of  
principal Act.

2. Section 2 of the principal Act is hereby amended in subsection (1)—

(a) by the insertion in the definition of "body of persons" immediately after the figures "59" of the expression "*, 60A*";

(b) by the insertion immediately after the definition of "controlled company" of the following definitions—

"corporation tax" means the tax charged under section 60A of this Act"; and

"corporation tax rate" means the corporation tax rate specified in the appropriate Territorial Income Tax Ordinance";

(c) by the insertion immediately after the definition of "officer" of the following definition—

"permanent or semi-permanent crops" means cashew nuts, citrus, cloves, coconuts, coffee, essential oils, New Zealand flax, passion fruit, pawpaws, pineapples, pyrethrum, sisal, wattle, sugar cane, tea, rubber, vanilla, apples, pears, peaches, plums, apricots and such other crops as the Authority may by order specify";

(d) by the insertion in the definition of "person" immediately after the figures "59" of the expression "*, 60A*"; and

(e) by the insertion in the definition of "tax" of the expression "*, corporation tax*" immediately after the words "*income tax*".

Amendment of  
section 7 of  
principal Act.

3. Section 7 of the principal Act is hereby amended by the renumbering of the existing section as subsection (1) thereof and by the addition after subsection (1) as so renumbered of the following—

"(2) Notwithstanding the provisions of section 3 of this Act, a dividend paid to a non-resident person by a resident company shall, except in the case of an issue or an amount deemed to be a dividend by paragraph (c) or (d) of subsection (1) of this section or by subsection (2) of section 40 of this Act, be deemed not to be income of such person chargeable to tax."

4. Section 8 of the principal Act is hereby amended in subsection (3) by the insertion immediately after the words "deemed to be" of the words "an amount received in respect of".

Amendment of section 8 of principal Act.

5. Section 14 of the principal Act is hereby amended in the following respects—

Amendment of section 14 of principal Act.

(a) in subsection (2) by the deletion of paragraph (n) and the substitution therefor of the following new paragraphs—

"(n) in the case of expenditure incurred in mining a specified mineral, any expenditure, as defined in Part III of the Second Schedule, incurred during such year of income;

(o) any expenditure of a capital nature incurred in such year of income by the owner or tenant of any agricultural land, as defined in the Second Schedule, on clearing such land, or on clearing and planting thereon permanent or semi-permanent crops;

(p) any expenditure of a capital nature incurred by any person on scientific research for the purposes of a trade carried on by him.";

(b) by the addition of the following new subsection—

"(7) For the purposes of paragraph (p) of subsection (2) of this section—

(a) "scientific research" means any activities in the fields of natural or applied science for the extension of human knowledge;

(b) expenditure of a capital nature on scientific research does not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research but, subject thereto, does include all expenditure incurred for the prosecution of, or the provision of facilities for the prosecution of, scientific research;

(c) "scientific research for the purposes of a trade" includes—

- (i) any scientific research which may lead to, or facilitate, an extension of such trade or, as the case may be, of trades in that class;
- (ii) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that trade, or, as the case may be, trades of that class."

Amendment of section 18 of principal Act.

6. Section 18 of the principal Act is hereby amended, in subsection (1A), by the deletion of the words "the gains or profits from" and the substitution therefor of the words "the surplus from which shall be ascertained in the manner provided for in this section for ascertaining gains or profits and which shall be deemed to be gains or profits".

Amendment of section 23 of principal Act.

7. Section 23 of the principal Act is hereby amended by the insertion, at the commencement of subparagraph (i) of paragraph (b) of the proviso to subsection (1), of the expression "where the transaction was completed before 1st August, 1962,".

Amendment of section 34 of principal Act.

8. Section 34 of the principal Act is hereby amended, in paragraph (a) of subsection (3), by the insertion immediately after the word "residue" of the words "paid out of such aggregate income".

Amendment of section 38 of principal Act.

9. Section 38 of the principal Act is hereby amended—
- (a) in item (a) of subparagraph (i) of paragraph (A) of subsection (2), by the deletion of the figures "32½" and the substitution therefor of the figures "25";
  - (b) in item (b) of subparagraph (i) of paragraph (A) of subsection (2), by the deletion of the figures "27½" and the substitution therefor of the figures "20";
  - (c) in subparagraph (ii) of paragraph (A) of subsection (2), by the deletion of the words "having regard only to the final determination of such total income, after the end of such accounting period";
  - (d) in subsection (3), by the deletion of the figures "15" and the substitution therefor of the figures "10"; and
  - (e) in the proviso to paragraph (a) of the definition of "development expenditure" in subsection (5), by the deletion of the figures "47" and the substitution therefor of the figures "31".

10. Section 40 of the principal Act is hereby amended, in subsection (2), by the insertion immediately after the words "such winding-up commenced" of the words "or where the Commissioner determines it to be just and reasonable any preceding accounting period".

Amendment of section 40 of principal Act.

11. The principal Act is hereby amended by the insertion immediately after section 60 of the following new section—

Addition of new section 60A to principal Act.

"Corporation tax.

60A. (1) In addition to the tax charged at the rate specified in section 59 or section 62, as the case may be, there shall be charged for the year of income 1961 and for each subsequent year of income on the chargeable income of a person, other than an individual, a trustee or a controlled company, a tax to be known as corporation tax at the corporation tax rate for such year of income:

Provided that, except in the case of the investment income of an insurance company, where, in the year of income 1961 or any subsequent year, the income of a person other than an individual, a trustee or a controlled company includes a dividend from a company—

- (a) if the person has chargeable income in such year, then the dividend, or such part thereof as shall be necessary to reduce the chargeable income to nil, shall be deducted from the income which would otherwise be chargeable to corporation tax; and
- (b) if the person has no chargeable income in such year, or if the whole of the dividend has not been deducted from the chargeable income in accordance with paragraph (a) of this proviso, then the dividend or that part of the dividend which has not been so deducted, as the case may be, shall for the purposes of this proviso only, be deemed to be income of the next subsequent year in respect of a dividend from a company:

Provided further that—

(a) in the case of a resident person to which this section applies, where the whole or any portion of the income chargeable to corporation tax for any year of income accrued in or was derived from a Territory in which the corporation tax rate for such year of income is in excess of the corporation tax rate for such year of income specified in the appropriate Territorial Income Tax Ordinance, the corporation tax on the income chargeable to corporation tax in relation to such Territory shall be charged at the corporation tax rate for such year of income specified in the Territorial Income Tax Ordinance of such Territory;

(b) in the case of a non-resident person to which this section applies, where the income chargeable to corporation tax for any year of income accrued in or was derived from more than one Territory, then, in relation to each Territory, the corporation tax on the income chargeable to corporation tax in relation to such Territory shall be charged at the corporation tax rate for such year of income specified in the Territorial Income Tax Ordinance of such Territory;

and for the purposes of this proviso the income chargeable to corporation tax in relation to any Territory shall be calculated in the manner provided in section 63 for total income, as if the income chargeable to corporation tax were total income.

(2) In this section "chargeable income" does not include that part of the income of a person which is derived from the mining of a specified mineral."

**12.** Section 64 of the principal Act is hereby amended in the following respects—

(a) by the insertion in subsection (1) immediately after the word "shareholder" of the expression "out of income chargeable to tax,";

(b) by the deletion of paragraph (a) of the proviso to subsection (1) and the substitution therefor of the following—

“(a) where part only of a dividend is paid out of income chargeable to tax, the company shall be entitled to deduct tax only from such part; and”;

(c) by the insertion in subsection (2), after the word “certificate” where it first appears, of the expression “stating the extent to which the dividend is paid out of income which is chargeable to tax, and”.

13. Section 69 of the principal Act is hereby amended by the deletion of the full stop at the end thereof and the substitution therefor of a colon and the following proviso—

Amendment of section 69 of principal Act.

“Provided that—

(i) in this section the expression “tax” shall not include corporation tax; and

(ii) except in the case of an issue or an amount deemed to be a dividend by paragraph (c) or (d) of subsection (1) of section 7, or by subsection (2) of section 40, this section shall not apply to a dividend received by a non-resident person.”

14. Section 101 of the principal Act is hereby amended—

Amendment of section 101 of principal Act.

(a) by the insertion, immediately after the word “therein” in paragraph (b) of subsection (1), of the words “or claims any personal allowance to which he is not entitled”;

(b) by the insertion, immediately after the word “omission” in paragraph (b) of subsection (1), of the words “or claim”;

(c) by the insertion, after the word “default” in subsection (3), of the expression “, or claim”; and

(d) by the insertion, after the word “failure” wherever it appears in subsection (5), of the expression “claim.”.

15. Section 105 of the principal Act is hereby amended, in paragraph (c) of the proviso to subsection (1), by the deletion of subparagraphs (iii) and (v), the renumbering of subparagraph (iv) as subparagraph (iii), and the deletion in subparagraph (iii) as so renumbered of the figures “29” and the substitution therefor of the figures “24”.

Amendment of section 105 of principal Act.

Amendment of  
section 115 of  
principal Act.

16. Section 115 of the principal Act is hereby amended by the deletion, in paragraph (j) of subsection (1), of words, and figures "43 or 44" and the substitution therefor of the figures "34 (4)".

Amendment of  
First Schedule to  
principal Act.

17. The First Schedule to the principal Act is hereby amended—

(a) in *HEAD A* thereof—

(i) by the deletion of the words "Commissioner for Transport", in Item 1, and the substitution therefor of the words "General Manager of the East African Railways and Harbours Administration";

(ii) by the deletion of Item (b) of paragraph 44; and

(iii) by the addition of the following new items—

"51. The emoluments of any officer of the Desert Locust Survey who is not resident in the Territories.

52. The attendance allowances paid to the elected members and the Speaker of the Central Legislative Assembly and the allowances paid to the Ministerial members of the Central Legislative Assembly.

53. Any fixed allowance paid to the Speaker of the Central Legislative Assembly or to the Secretary-General of the Organization in respect of entertainment."

(b) in *HEAD C* thereof by the deletion of Items 2, 3 and 4 and the substitution therefor of the following—

"2. The income of envoys, representatives, consuls and officers, members of certain international Organizations, their staffs and families to the extent provided for by the Immunities and Privileges (Extension and Miscellaneous Provisions) Ordinance, 1961, of Tanganyika, and any directions given or orders made thereunder.

"3. The income of the organizations and persons referred to in the Schedules to the Bretton Woods Agreement Act, 1962, the International Development Association Act, 1962, and the International Finance Corporation Act, 1962, of the United Kingdom, in the cases and to the extent provided for by those Acts."



Repeal and  
replacement of  
Second Schedule

18. The Second Schedule to the principal Act is hereby repealed and replaced by the following new Schedule and in such new Schedule the repealed Schedule shall be referred to as "the repealed provisions";—

"SECOND SCHEDULE (ss. 4, 5 and 14)

PART I—DEDUCTIONS IN RESPECT OF CAPITAL EXPENDITURE  
ON CERTAIN BUILDINGS

Deduction.

1. (1) Subject to this Schedule, where during any year of income a person is entitled to the relevant interest in an industrial building on the construction of which capital expenditure was incurred, a deduction equal—

- (a) in any case where the amount of the deduction has not been increased under this Schedule and which is not a case referred to in item (c), to one-twenty-fifth; and
- (b) in any case where such amount has been so increased, to such fraction as so increased; and
- (c) in any case referred to in item (c) of subparagraph (1) of paragraph 5, to three-fiftieths.

of that expenditure shall be made in computing the gains or profits of such person for such year of income:

Provided that where such person was entitled to such relevant interest for part only of such year of income the deduction shall be proportionately reduced.

(2) Notwithstanding anything in this Part, in no case shall the amount of deduction for any year of income exceed that which, apart from the making of such deduction, would be the residue of expenditure at the end of such year of income.

2. Notwithstanding the provisions of subparagraph (1) of paragraph 1, where the Commissioner is satisfied that, having regard to the type of construction or to the use to which any industrial building is put, its life is likely to be substantially less than twenty-five years, he may, upon the application of the person entitled to the relevant interest therein, increase the amount of the deduction to such an amount as he may consider just and reasonable; and all the provisions of this Part shall apply accordingly.

Increase of  
deductions.

3. In this Part, the residue of expenditure at any time shall be—

- (a) in relation to a building which had not been used before the year of income 1962, the capital expenditure incurred on the construction of the building less any deductions made under this Part or any deductions which would have been made had the building been an industrial building when first used;
- (b) in relation to a building which at the end of the year of income 1961 was an industrial building for the purposes of the repealed provisions, the residue of expenditure as ascertained under paragraph 5 of those provisions less any deductions made under this Part;

Ascertainment  
of residue of  
expenditure.

- (c) in relation to a building which had been used before the end of the year of income 1961 but was not an industrial building for the purposes of the repealed provisions at the end of that year of income, the amount which would have been the residue of expenditure as ascertained under item (b) if it had always been an industrial building.

Sale of building  
prior to use.

4. (1) Where capital expenditure is incurred on the construction of a building, and before that building is used, the relevant interest therein is sold, then—

- (a) any such expenditure actually incurred on the construction thereof shall be left out of account for the purposes of this Schedule, but
- (b) the person who acquires that interest shall be deemed to have incurred capital expenditure on the construction thereof equal to the capital expenditure actually incurred on the construction of the building or to the amount paid by him for such interest, whichever is the less:

Provided that where the relevant interest in such building is sold more than once before such building is used, item (b) of this subparagraph shall have effect only in relation to the last of such sales.

(2) Where the capital expenditure incurred on the construction of a building was incurred by a person carrying on a trade which consists, as to the whole or any part thereof, in the construction of buildings with a view to their sale and before the building is used he sells the relevant interest therein in the course of that trade or, as the case may be, of that part of that trade, item (b) of subparagraph (1) shall have effect as if the reference to the capital expenditure actually incurred on the construction of the building were a reference to the price paid on such sale.

Definition of  
industrial  
building.

5. (1) Subject to this paragraph, in this Part "industrial building" means—

- (a) a building in use—
- (i) for the purposes of a trade carried on in a mill, factory or other similar premises; or
- (ii) for the purposes of a transport, dock, bridge, tunnel, inland navigation, water, electricity or hydraulic power undertaking; or
- (iii) for the purposes of a trade which consists in the manufacture of goods or materials or the subjection of goods or materials to any process; or

- (iv) for the purposes of a trade which consists in the storage of goods or materials—
- (A) which are to be used in the manufacture of other goods or materials; or
  - (B) which are to be subjected, in the course of a trade, to any process; or
  - (C) which, having been manufactured or produced or subjected, in the course of a trade, to any process, have not yet been delivered to any purchaser; or
  - (D) on their arrival by sea or air into any part of East Africa; or
- (v) for the purpose of a trade consisting in all or any of the following activities, that is to say ploughing or cultivating agricultural land as defined in paragraph 26 (other than land in the occupation of the person carrying on the trade) or doing any other operation on such land, or threshing the crops of another person; or
- (vi) for the purposes of such trade as may be prescribed by the Authority as being within the provisions of this paragraph either generally, or in relation to a particular class, or in a particular instance within such class;
- (b) a prescribed dwelling-house, that is to say a dwelling-house constructed for and occupied by employees of a trade carried on by the person entitled to the relevant interest in such dwelling-house, and which conforms with such conditions as may be prescribed;
- (c) a building which is in use as an hotel or part of an hotel and which the Minister responsible for the finances of the Territory in which the hotel is situated has certified to be an industrial building; and in any case where any capital expenditure was incurred prior to 1st January, 1958, on any such industrial building which was a new building the construction of which was commenced before but was completed after such date, then such capital expenditure shall be deemed to have been incurred on such date but, in any other case, such a building shall be deemed not to be an industrial building in respect of any capital expenditure incurred prior to such date;
- (d) a building in use for the welfare of workers employed in any trade or undertaking referred to in item (a) of this subparagraph.

(2) Item (a) of subparagraph (1) shall apply in relation to a part of a trade or undertaking as it applies in relation to a trade or undertaking:

Provided that, where part only of a trade or undertaking complies with the conditions set out in such item, a building shall not, by virtue of this subparagraph, be an industrial building unless it is in use for the purpose of such part of such trade or undertaking

(3) Notwithstanding subparagraphs (1) and (2) but subject to subparagraph (4), the expression "industrial building" does not include any building in use as, or as part of, a retail shop, showroom, office or dwelling-house, or for any purpose ancillary to the purposes of a retail shop, showroom or office:

Provided that this subparagraph shall not apply to a prescribed dwelling-house, or to, or to part of, a building which is a dwelling-house constructed for the occupation by persons employed in any trade or undertaking referred to in subparagraph (1), or to a building constructed for the welfare of such persons, if such building will cease to belong to the person carrying on such trade or undertaking on the coming to an end of a concession under which such trade or undertaking is carried on, or if the building would have little or no value to such person if he ceased to carry on such trade or undertaking on the termination of, or had little or no value to such person where such trade or undertaking ceased to be carried on during, the year of income in respect of which any claim for a deduction has been made under this Part.

(4) Where part of a building is, and part thereof is not, an industrial building and the capital expenditure which has been incurred on the construction of the second-mentioned part is not more than one-tenth of the total capital expenditure which has been incurred on the construction of the building, the whole building shall be treated as an industrial building.

(5) In this paragraph—

"bridge" means any bridge, the use of which is subject to a charge or toll; and "bridge undertaking" shall be construed accordingly;

"crops" includes any form of vegetable produce;

"dock" includes any harbour, wharf, pier or jetty or other works in or at which vessels can ship or unship merchandise or passengers, not being a pier or jetty primarily used for recreation; and "dock undertaking" shall be construed accordingly;

"electricity undertaking" means an undertaking for the generation, transformation, conversion, transmission or distribution of electrical energy;

"hydraulic power undertaking" means an undertaking for the supply of hydraulic power;

"retail shop" includes any premises of a similar character where retail trade or business (including repair work) is carried on;

"undertaking" does not include an undertaking not carried on by way of trade;

"water undertaking" means an undertaking for the supply of water for public consumption.

6. (1) Subject to this paragraph, "the relevant interest" means, in relation to any capital expenditure incurred on the construction of a building, the interest in that building to which the person who incurred such expenditure was entitled when he incurred it; and such person shall be deemed to have had at that time the same interest as he would have had if the construction thereof had been completed at that time.

(2) Where, when he incurs capital expenditure on the construction of a building, a person is entitled to two or more interests in the building 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 Part.

(3) An interest shall not cease to be the relevant interest for the purposes of this Part by reason of the creation of any lease or other interest to which that interest is subject, and, where the relevant interest is a leasehold interest and is extinguished by reason of the surrender thereof or on the person entitled thereto acquiring the interest which is reversionary thereon, the interest into which that leasehold interest merges shall thereupon become the relevant interest.

7. A building which was an industrial building at the end of the year of income 1961, or at any time thereafter, shall be deemed to continue to be an industrial building notwithstanding any change of use or period of disuse.

Change of use.

8. (1) Any reference in this Part to the incurring of capital expenditure on the construction of a building does not include capital expenditure on the provision of machinery or on any asset which has been treated for any year of income as machinery.

Interpretation.

(2) References in this Part to capital expenditure incurred on the construction of a building do not include any capital expenditure on the acquisition of, or of rights in or over, any land.

#### PART II—DEDUCTIONS IN RESPECT OF CAPITAL EXPENDITURE ON MACHINERY

9. (1) Subject to this Part, where, during any year of income, any machinery owned by a person is used by him for the purposes of his trade, there shall be made in computing his gains or profits for that year of income a deduction (in this Part referred to as a "wear and tear deduction").

Wear and tear deductions.

(2) The amount of the wear and tear deduction for any year of income shall be the appropriate percentage of the written down value at the end of such year, before making such deduction, of the machinery classified as follows—

- (i) tractors, combine harvesters, heavy earth-moving equipment and such other heavy self-propelling machines of a similar nature as in his discretion the Commissioner, having regard to the likely usage and depreciation in any particular case may agree, and any specific items, but not necessarily any like replacements therefor, for which a wear and tear deduction was granted under the repealed provisions calculated at the rate of 33½ per cent per annum of the written down value or at a higher rate;
- (ii) other self-propelling vehicles, including aircraft;
- (iii) all other machinery, including ships;

and the appropriate percentage shall be 37½ per cent for class (i), 25 per cent for class (ii) and 12½ per cent for class (iii).

Ascertainment  
of written down  
value.

10. (1) The written down value of each class of machinery referred to in paragraph 9 (2) shall be calculated separately as at any time and shall be the amount still unallowed of any capital expenditure on machinery of such class as construed in paragraph 18 of the repealed provisions with the addition of the cost of any capital expenditure on any machinery of that class purchased and the deduction of the amount realized on the sale of any machinery of that class sold in the year of income 1962, or any succeeding year of income, less any deductions made under this Part; and where the amount realized for machinery of any class sold in any year of income exceeds that which, but for the deduction of such amount, would be the written down value of machinery of that class at the end of such year of income, the excess shall not be deducted but shall be treated as a trading receipt.

(2) Subject to this Part, where machinery is brought into use for the purposes of a trade without being purchased or ceases permanently to be so used without being sold, it shall be deemed to have been purchased or sold as the case may be and the cost or amount realized shall be deemed to be the price which it would have fetched if sold in the open market.

Application to  
lessors.

11. Where machinery is let upon such terms that the burden of the wear and tear thereof falls directly upon the lessor, this Part shall apply in relation to him as if the machinery were, during the period of the letting, in use for the purposes of a trade carried on by him.

Expenditure on  
buildings in  
connexion with  
the installation  
of machinery.

12. Where a person carrying on a trade incurs capital expenditure on alterations to an existing building incidental to the installation of machinery for the purposes of the trade, this Schedule shall have effect as if such expenditure were capital expenditure on the provision of such machinery and as if the works representing such expenditure formed part of that machinery.

Balancing  
deductions and  
balancing  
charges.

13. (1) Where wear and tear deductions have been made in computing the gains or profits of any person under paragraph 9 and that person ceases to carry on the trade for the purposes of which the machinery was used and the machinery ceases to be owned by him, there shall be made in computing his gains or profits for the year of income in which such cessation occurs, a deduction or charge (in this Part referred to as a "balancing deduction" or a "balancing charge"):

Provided that—

(a) for the purposes of this paragraph a partnership shall be deemed not to have ceased to carry on a trade unless all the partners who carried it on cease to carry it on; and

(b) where the machinery is sold by the liquidator of a company which is in the course of being wound up, the balancing deduction or balancing charge shall be made in computing the gains or profits of such company for the year of income in which the winding-up commenced; and

(c) where, in the case of a balancing deduction, the total income for such year of income before taking account of such deduction is less than the amount of such deduction, the excess may be carried back and allowed in calculating the total income of the next preceding year of income, and so on, for as long as is necessary for such deduction to be absorbed by the total income of preceding years, not exceeding in all six in number.

(2) Subject to this Part where on the cessation of a trade a balancing deduction or a balancing charge is to be made under this paragraph and—

(a) no sale moneys are received by the person owning such machinery, or the written down value at the time of such cessation exceeds those moneys, the balancing deduction shall be the written down value at the time of such cessation, or the excess thereof over such moneys, as the case may be ;

(b) the sale moneys exceed the written down value, if any, at the time of such cessation, the balancing charge shall be the amount of such excess or, where the written down value is nil, the amount of such moneys, as the case may be.

14. Where a person succeeds to any trade which until that time was carried on by another person, and machinery which, immediately before the succession was in use for the purposes of the trade without being sold is, immediately after such succession, in use for the purposes of the trade, such machinery shall, for the purposes of this Schedule, be treated as if it had been sold at the date of the succession to the person or persons carrying on the trade immediately thereafter and as if the net proceeds of the sale had been the written down value of the machinery.

Effect in certain successions, transfers, etc.

15. (1) This paragraph shall have effect in relation to sales of any machinery where either—

Special provisions as to certain sales.

(a) the buyer is a body of persons over whom the seller has control, or the seller is a body of persons over whom the buyer has control, or both the seller and the buyer are bodies of persons and some other person has control over both of them ; or

(b) it appears with respect to the sale or with respect to transactions of which the sale is one, that the sole or main benefit which, apart from this paragraph, might have been expected to accrue to the parties or any of them was the obtaining of a deduction under this Schedule.

(2) Where the machinery is sold at a price other than that which it would have fetched if sold in the open market, then, subject to this paragraph, the like consequences shall ensue for the purposes of this Schedule to all persons concerned as would have ensued if the machinery had been sold for the price which it would have fetched if sold in the open market.

(3) Subject to subparagraph (4), where the sale is one to which item (a) of subparagraph (1) applies and item (b) of such subparagraph does not apply, and is a sale which would give rise to a balancing charge, and the parties to the sale by notice in writing to the Commissioner so elect, then subparagraph (2) shall not have effect but the like consequences shall ensue to the buyer and seller as would have ensued if the price for which the machinery was sold had been the written down value.

(4) An election may not be made under subparagraph (3) if either the buyer or the seller is at the time of the sale a non-resident person.

Private use.

16. Where any machinery owned by a person is during any year of income used by him for the purposes of a trade carried on by him and also used by him for other purposes, then in determining the amount of any wear and tear deduction or any balancing deduction or balancing charge or any amount treated as a trading receipt or the written down value of such machinery for any year of income, regard shall be had to all the relevant circumstances of the case and in particular to the extent of the use for such other purposes and the Commissioner shall make such adjustments as he may determine to be just and reasonable.

Expenditure on private vehicles.

17. For the purposes of this Schedule where capital expenditure in excess of £1,500 was incurred on or after 1st January, 1961, in respect of a road vehicle other than a commercial vehicle or a vehicle whose purchaser is a person whose main business is the transport of goods or persons or the hire or sale of vehicles, such capital expenditure shall be deemed to be £1,500; and where any such road vehicle is sold the sale price shall be deemed to be such proportion of the proceeds of sale as the Commissioner may determine to be just and reasonable, having regard to the original purchase price and the proportion thereof deemed under this paragraph to be capital expenditure.

Application to businesses, etc.

18. This Part shall, with any necessary adaptations, apply in relation to any business, profession, employment or vocation as it applies in relation to a trade.

#### PART III—DEDUCTIONS IN RESPECT OF MINING OPERATIONS

Definitions for Part III.

19. (1) In this Part, unless the context otherwise requires—

“expenditure” means capital expenditure incurred in East Africa by any person carrying on a trade of mining—

(a) in searching for or in discovering and testing deposits of minerals, or in winning access to those deposits, whether or not such search is, or such deposits are, in an area contiguous to any mine in relation to which such person carries on the trade of mining;

(b) in the acquisition of, or of rights in or over, such deposits, other than the acquisition from a person who has carried on a trade of mining in relation to such deposits;



- (c) in the provision of machinery which would have little or no value to such person if the mine ceased to be worked on the termination of the year of income in respect of which any claim for a deduction has been made under this Part, and any premium, or consideration in the nature of a premium, paid for the use of such machinery ;
- (d) on the construction of any building or works which would have little or no value if the mine ceased to be worked on the termination of the year of income in respect of which any claim for a deduction has been made under this Part ;
- (e) on development, general administration and management prior to the commencement of production or during any period of non-production :

Provided that the expression "expenditure" shall not include—

- (i) any expenditure on the acquisition of the site of such deposits, or of the site of any such buildings or works, or of rights in or over any such site ;
- (ii) any expenditure on works constructed wholly or mainly for subjecting the raw product of such deposits to any process except a process designed for preparing the raw product for use as such ;

"mineral" does not include any common clay, murram, sand, limestone, sandstone, brine, diatomite, gypsum, anhydrite, sulphur, dolomite, kaolin, bauxite, any sodium or potassium compounds, or any other commonly found mineral, unless it has been obtained by underground mining operations ;

"mining" includes every method or process by which any mineral is won.

(2) Any reference in this Part to assets representing any expenditure includes, in relation to expenditure on searching for, discovering and testing deposits, any results obtained from any search, exploration or inquiry upon which the expenditure was incurred.

20. (1) (a) Subject to this Schedule, where a person carrying on a trade of mining incurs expenditure in any year of income there shall be made, in computing his gains or profits for such year of income, a deduction equal to two-fifths of such expenditure and in each of the following six years of income a deduction equal to one-tenth of such expenditure.

Deductions.

(b) Subject to this Schedule, where an annual deduction was made by a person carrying on a trade of mining under paragraph 22 of the repealed provisions in respect of capital expenditure incurred before the end of the year of income 1961, there shall be made in computing his gains or profits for the year of income 1962, and thereafter, a deduction equal to the annual deduction which would have been made for such year of income in respect of such expenditure had the repealed provisions remained in force.

(2) Notwithstanding anything contained in subparagraph (1), where the Commissioner is satisfied that, having regard to the estimated ore reserves and to any other relevant information, the mine is likely to cease to be worked before the expiration of six years from the end of the year of income in which the expenditure was incurred, he may, upon the application of the person who incurred the expenditure, increase the amount of the deductions for any year to such amount as he may consider just and reasonable.

(3) Where the amount of a deduction under this Part has been in any manner varied for any year, then deductions for subsequent years of income shall be so adjusted that the sum of deductions for all years of income shall not exceed the expenditure.

Apportionment  
of deductions.

21. Where a person is entitled to a deduction under paragraph 20 in respect of any expenditure, and his interest in the asset represented by such expenditure, or in any part of such asset, is transferred whether by operation of law or otherwise to some other person, then—

(a) the amount of the deduction, if any, for the year of income in which the transfer takes place, shall be apportioned in such manner as the Commissioner may determine to be just and reasonable between the person from whom the interest is transferred and the person to whom the interest is transferred: and

(b) the person to whom the interest is transferred shall, to the exclusion of the person from whom the interest is transferred, be entitled where the interest transferred is in the whole of the asset, to the whole of the deduction for any subsequent year of income, and where the interest transferred is in part only of the asset, to so much of the deduction as the Commissioner may determine to be just and reasonable.

Operations on  
separate mines  
treated  
separately.

22. Where separate and distinct mining operations are carried on by the same person in mines that are not contiguous, the mines shall be treated for the purposes of this Part as if separate trades of mining were carried on in relation thereto.

Expenditure  
incurred by  
persons not  
engaged in  
trade of  
mining, etc.

23. (1) Any expenditure incurred for the purpose of a trade of mining by a person about to carry it on shall be treated for the purposes of this Part as if it had been incurred by that person on the first day on which he does carry it on.

(2) Where a person incurs expenditure to which this Part applies on searching for or on discovering and testing any deposits of minerals, or winning access to those deposits and, without having carried on any trade of mining, he sells any assets representing such expenditure in relation to those deposits, then, if the purchaser carries on a trade of mining, such purchaser shall, for the purposes of such trade, be deemed to have incurred expenditure to which this Part applies equal to the price paid by him for such assets.

24. Where, under subparagraph (2) of paragraph 23, the purchaser of any assets representing expenditure is deemed to have incurred expenditure to which this Part applies equal to the price paid by him for such assets, then the sum received by the vendor as the price for such assets, after deducting therefrom any expenditure incurred by him in selling such assets and any expenditure incurred by him in East Africa on searching for, discovering, testing and winning access to any mineral deposits, so far as such expenditure has not been otherwise deducted in ascertaining his total income for any year of income, shall be treated as a trading receipt for the year of income in which the sale took place:

Sum received  
by vendor  
treated as  
trading receipt.

Provided that if such vendor requests the Commissioner in writing to exercise his power under this proviso, the Commissioner may divide the amount of such sum into so many portions, not exceeding six, as he may think fit, and one such portion shall be taken into account in ascertaining the total income of such vendor for the year of income in which such sale took place and for each of the previous years of income corresponding to the number of such portions.

#### PART IV—DEDUCTIONS IN RESPECT OF CAPITAL EXPENDITURE ON AGRICULTURAL LAND

25. (1) Subject to this Schedule, where in any year of income the owner or tenant of any agricultural land incurs capital expenditure on the construction of farm works there shall be made, in computing his gains or profits for such year of income and the four following years of income, a deduction equal to one-fifth of such expenditure.

Deductions in  
respect of  
capital  
expenditure on  
farm works  
and capital  
expenditure on  
planting  
permanent  
crops, etc.

(2) No capital expenditure shall be taken into account for the purposes of this paragraph unless it is incurred for the purposes of husbandry on the agricultural land in question.

(3) Where the capital expenditure—

(a) is on a farmhouse, one-third only of such expenditure shall be taken into account or, if the accommodation and amenities of the farmhouse are out of due relation to the nature and extent of the farm, such lesser proportion thereof as the Commissioner may determine to be just and reasonable;

(b) is incurred on any assets other than a farmhouse, being an asset which is to serve partly the purposes of husbandry and partly other purposes, then only such proportion thereof as the Commissioner may determine to be just and reasonable shall be taken into account for the purposes of this paragraph.

(4) Subject to this Schedule, where an annual deduction was made by the owner or tenant of any agricultural land under paragraph 30, or 32 (1) (b) of the repealed provisions in respect of capital expenditure incurred before the end of the year of income 1961, there shall be made, in computing his gains or profits for the year of income 1962 and thereafter, a deduction equal to the annual deduction which would have been made for such year of income in respect of such expenditure had the repealed provisions remained in force.

(5) Where a person would, if he continued to be the owner or tenant, as the case may be, of any agricultural land, be entitled to a deduction under this paragraph in respect of any capital expenditure and the whole of his interest in the land in question, or in any part of such land, is transferred, whether by operation of law or otherwise, to some other person, then—

(a) the amount of the deduction, if any, for the year of income in which the transfer takes place, shall be apportioned in such manner as the Commissioner may determine to be just and reasonable between the person from whom the interest is transferred and the person to whom the interest is transferred; and

(b) the person to whom the interest is transferred shall, to the exclusion of the person from whom the interest is transferred, be entitled, where the interest transferred is in the whole of the land, to the whole of the deduction for any subsequent year of income and where the interest transferred is in part only of the land, to so much of the deduction as the Commissioner may determine to be just and reasonable.

(6) For the purposes of subparagraph (5), where an interest in land is a leasehold interest and that leasehold interest comes to an end, then such interest shall be deemed to have been transferred—

(i) if an incoming tenant makes any payment to the outgoing tenant in respect of assets representing the expenditure in question, to the incoming tenant; and

(ii) in any other case, to the owner of the interest in immediate reversion on the leasehold interest.

(7) Where the amount of a deduction under this Part has been in any manner varied for any year, then deductions for subsequent years of income shall be so adjusted that the sum of deduction for all years of income shall not exceed the expenditure.

Definitions for  
Part IV.

26. In this Part—

“agricultural land” means land occupied wholly or mainly for the purposes of a trade of husbandry;

“farm works” means farmhouses, labour quarters, any other immovable buildings necessary for the proper operation of the farm, fences, daps, drains, water and electricity supply works other than machinery, windbreaks, and other works necessary for the proper operation of the farm.

## PART V—INVESTMENT DEDUCTIONS

27. (1) Subject to this Schedule, where—

(a) a resident person carrying on the business of a ship owner incurs capital expenditure in any year of income on the purchase, and subsequent refitting for the purposes of such business, of any power-driven ship of more than 495 tons gross where the expenditure on such refitting is incurred prior to the user of such ship by the purchaser and represents not less than 25 per cent of the total capital expenditure so incurred; or

(b) a person incurs capital expenditure to which this Schedule applies on the construction of an industrial building where such construction commenced after the 5th June, 1962, and which is to be used by him or by a lessee for the purposes of a trade which consists in the manufacture of goods or materials (but not for processing, refining, cooking or packing of any foodstuffs, agricultural or animal products or other raw materials or for otherwise making marketable or more readily marketable any such food stuffs, agricultural or animal products or other raw materials for sale as such) and on the purchase and installation of machinery in such building for the purposes of such trade,

there shall be deducted in computing his gains or profits for the year of income in which the ship or building is first so used a deduction (referred to as an "investment deduction") equal—

(i) in the case of capital expenditure upon such a ship, to 40 per cent of such expenditure;

(ii) in the case of capital expenditure on such a building and machinery, to 10 per cent of such expenditure.

28. (1) Where capital expenditure is incurred on the construction of an industrial building to which paragraph 27 applies and before that building is used the relevant interest (as defined in paragraph 6) therein is sold, then the provisions of paragraph 4 shall apply.

## PART VI—MISCELLANEOUS PROVISIONS

29. (1) (a) Any reference in this Schedule to the sale of any property includes a reference to the sale of that property together with any other property; and, where property is sold together with other property, so much of the net proceeds of the sale of the whole property as the Commissioner may determine to be just and reasonable as properly attributable to the first mentioned property shall, for the purposes of this Schedule, be deemed to be the net proceeds of the sale of the first mentioned property, and references to expenditure incurred on the provision or the purchase of property shall be construed accordingly.

(b) For the purposes of this paragraph all the property which is sold in pursuance of one bargain shall be deemed to be sold together, notwithstanding that separate prices are, or purport to be, agreed for separate items of that property or that there are, or purport to be, separate sales of separate items of that property.

Investment  
deductions.

Sale of  
buildings prior  
to use.

Apportionment  
of consideration  
for sale,  
exchanges, etc.,  
of any  
property or  
of leasehold  
interests.

(2) Subparagraph (1) shall, with the necessary adaptations, apply in relation to other sale moneys as they apply in relation to the net proceeds of sales.

(3) This Schedule shall have effect as if any reference therein to the sale of any property included a reference to the exchange of any property and, in the case of a leasehold interest, also included a reference to the surrender thereof for valuable consideration: and any provisions of this Schedule referring to sales shall have effect accordingly with the necessary adaptations and, in particular, with the adaptations that references to the net proceeds of sale and to the price shall be taken to include references to the consideration for the exchange or surrender and references to capital sums included in the price shall be taken to include references to so much of the consideration as would have been a capital sum if it had taken the form of a money payment.

Interpretation  
of certain  
references to  
expenditure, etc.

30. (1) Unless the context otherwise requires, references in this Schedule to capital expenditure and capital sums in relation to the person incurring such expenditure, or paying such sums, do not include any expenditure or sum which is deductible otherwise than under this Schedule for the purpose of ascertaining his total income.

(2) Any reference in this Schedule to the date on which expenditure is incurred shall be construed as a reference to the date when the sum in question becomes payable.

Subsidies.

31. (1) Expenditure shall not be regarded for any of the purposes of this Schedule as having been incurred by any person in so far as it has been, or is to be, met directly or indirectly by any government or local authority, or by any person, whether in the Territories or elsewhere, other than the first-mentioned person:

Provided that in considering whether any, and if so what, balancing charge is to be made on a person under Part II in respect of any machinery provided before 1st January, 1951, this paragraph shall not apply.

(2) In considering whether, for the purposes of this Schedule, any expenditure has been met or is to be met directly or indirectly by any government or local authority, or by any person other than the person incurring the expenditure, there shall be left out of account—

(a) any insurances moneys or other compensation moneys payable in respect of any asset which has been demolished, destroyed or put out of use; and

(b) any expenditure met, or to be met, by any person, other than a government or local authority, being expenditure in respect of which, apart from this item, no deduction could be made under subparagraph (3).

(3) Where a person, for the purposes of a trade carried on or to be carried on by him or by a tenant of land in which he has an interest, contributes a capital sum to expenditure on the provision of an asset being expenditure which, apart from subparagraph (1), would have been regarded as wholly incurred by another person and in respect of which, apart from such subparagraph, a deduction would have been made under this Schedule, then, subject to this paragraph, such deductions, if any, shall be made to the contributor as would have been made to him if his contribution had been expenditure on the provision, for the purposes of that trade, of a similar asset.

(4) Subject to this Schedule, the amount of the deductions and the manner in which they are to be made shall be determined on the following basis:—

- (a) the asset shall be deemed to continue at all material times to be in use for the purposes of the trade;
- (b) where the asset is machinery and, when the contribution was made, the trade was carried on or was to be carried on by a tenant of land in which the contributor has an interest, the contributor shall be deemed to have let the machinery to such tenant on such terms that the burden of the wear and tear thereof falls directly on the contributor.

(5) Where, when the contribution was made, the trade for the purposes of which it was made was carried on or was to be carried on by the contributor, then, on any transfer of the trade or any part of the trade—

- (a) where the transfer is of the whole trade, the deductions thereafter shall be made to the transferee;
- (b) where the transfer is of part only of the trade, item (a) shall have effect with respect to so much of the deduction as the Commissioner may determine is properly referable to the part of the trade transferred.

(6) Where, when the contribution was made, the trade was carried on or was to be carried on by a tenant of land in which the contributor had an interest, the deduction for any year of income shall be made to the person who is entitled to the contributor's interest in the land, and references in this Schedule, for the purposes of Part I, to the relevant interest shall, with the necessary modifications, apply in relation to a contribution made for the purposes of a trade carried on or to be carried on by a tenant of land as they apply in relation to expenditure incurred on the construction of a building.

32. If a deduction is made under any Part in respect of any property, or in respect of capital expenditure on any property, in computing the gains or profits of any person for any year of income then, to the extent to which such a deduction has been made, no further deduction shall be made under that Part or any other Part or under any other provision of this Act in respect of, or in respect of capital expenditure on, that property in ascertaining the total income of that person for the same or any previous or subsequent year of income:

Prevention of  
double  
allowances.

Provided that this paragraph shall have no application to an investment deduction.

Increase of deductions.

33. The amount of any deduction made under this Schedule may be increased to such an amount as may be prescribed by the Authority either generally or in relation to any particular class of business or in a particular instance.

Other provisions as to interpretation.

34. (1) In this Schedule, except where the context otherwise requires—

“control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with the wishes of that person and, in relation to a partnership, means the right to a share of more than one-half of the assets or of more than one-half of the income of the partnership;

“concession” means a right or privilege granted by the Government, or any local or other authority, in any of the territories of East Africa;

“income” includes any amount on which a charge to tax is authorized to be made under this Act;

“lease” includes an agreement for a lease where the term to be covered by the lease has begun and any tenancy but does not include a mortgage; and “lessee”, “lessor” and “leasehold interest” shall be construed accordingly;

“machinery” includes ships and plant used in carrying on any trade;

“sale moneys” means, in relation to

- (a) a sale of any property, the net proceeds of the sale;
- (b) the coming to an end of an interest in property, any compensation payable in respect of that property;
- (c) the demolition or destruction of any property, the net amount received for the remains of the property, together with any insurance or salvage moneys received in respect of the demolition or destruction and any other compensation of any description received in respect thereof, in so far as that compensation consists of capital sums.

(2) Any reference in this Schedule to any building, machinery, works, asset or farmhouse shall, except where the reference is to the whole of a building, be construed as including a reference to a part of any such building, machinery, works, asset or farmhouse.



(3) Any reference in this Schedule to the time of any sale shall be construed as a reference to the time of completion or the time when possession is given, whichever is the earlier.

(4) In this Schedule the price which any property would have fetched if sold in the open market shall be determined by the Commissioner.

(5) Where any income of an accounting period ending on some day other than the last day of any year of income is taken into account for the purpose of ascertaining total income for any year of income, then any reference in this Schedule to year of income shall be construed as a reference to such accounting period:

Provided that where any deduction under this Schedule is related to a year of income and any income of an accounting period is so taken into account then, if such accounting period is more or less than 12 months, the amount of such deduction shall be proportionately increased or decreased, as the case may be."