

CHAPTER 55

RULES GOVERNING THE PAYMENT OF INCOME TAX

(Sections 38 and 94)

52 of 1970.
8 of 1975.
16 of 1979.
Ch. 46.

[1st January, 1971]

Short title.

1. These Rules may be cited as the

RULES GOVERNING THE PAYMENT OF INCOME TAX.

Commencement.

2. These Rules shall come into operation on the first day of January, 1971.

Definitions.

3. In these Rules –

CAP. 55.

- (a) “Act” means the Income and Business Tax Act;
- (b) “Commissioner” means the Commissioner of Income Tax;
- (c) “Emoluments” includes all salaries, fees, wages, perquisites, profits or gains whatsoever arising from an office or employment or the amount of any annuity, pension or charge; and references to “payments of emoluments” include payments on account of emoluments;
- (d) “employed” means performing the duties of an office or employment;
- (e) “employee” means any person in receipt of emoluments, and includes an officer;

- (f) “employer” means a person liable to pay emoluments whether on his own account or on behalf of another person, and in relation to an officer, means the person from whom the officer receives his emoluments;
- (g) “employment” means the performance of services under an express or implied contract of service or apprenticeship and includes the tenure of an office;
- (h) “office” means the position of an individual entitling him to a fixed or ascertainable stipend or remuneration and includes a judicial office, the office of a Minister of the Crown, the office of a Member of the House of Representatives or Senate of Belize and any other office the incumbent of which is elected by popular vote or is elected or appointed in a representative capacity, and also includes the position of a company director; and
- “officer” means an individual holding such an office;
- (i) “person” includes a body of persons; and
- (j) “personal allowances” and “personal reliefs” in these Rules mean the aggregate of the deductions allowed under Sections 16 and 17 of the Act.

Registration of employers.

4. (1) Every person who carries on or is about to carry on any trade, business, profession or vocation in respect of which he is or will be an employer shall on or before the 15th day of January, 1971 or within fifteen days of the commencement of such trade, business, profession or vocation register with the Commissioner by filing a return containing:

- (a) his name and address;
- (b) the names and addresses of partners, if any;
- (c) the trade or business name or style, if any, under which the trade, business, profession or vocation is carried on;
- (d) the place or places and address or addresses where he carries on or intends to carry on the trade, business, profession or vocation;
- (e) the nature of the trade, business, profession or vocation;
- (f) the number or estimated number of employees; and
- (g) the date on which he proposes to first hire employees in cases where he commences a trade, business, profession or vocation after the 1st January, 1971.

(2) In the case of a partnership or a body of persons, the precedent partner as defined in subsection (2) of section 35 of the Act or the manager or principal officer respectively shall file the return specified by paragraph (1) of this rule.

(3) Upon receipt of the return required by paragraph (1) of this rule the Commissioner shall assign an Employer Registration Number to the person filing the return and issue an Employer Registration Notice.

Withholding.

5. (1) Every person paying emoluments to an individual shall deduct or withhold therefrom such amount as prescribed and shall remit the amount so deducted or withheld to the Commissioner as hereinafter provided on account of the payee's tax.

(2) When an amount has been deducted or withheld under paragraph (1) of this rule and as hereafter prescribed the amount so deducted or withheld shall be deemed to have been paid to the employee entitled to the emoluments from which the same was deducted.

(3) Where-

- (a) the total income of an individual comprises emoluments only, and
- (b) amounts have been deducted or withheld under paragraph (1) of this rule from his emoluments such individual shall pay to the Commissioner any remainder of tax payable by him for the basis year on or before the last day of the third month after the end of the basis year in respect of which the tax is chargeable.

(4) Where-

- (a) the income of an individual includes emoluments as well as income from other sources, and
- (b) amounts have been deducted or withheld under paragraph (1) of this rule from his emoluments and in respect thereof such individual shall pay to the Commissioner any remainder of tax payable by him for the basis year on or before the last day of the third month after the end of the basis year in respect of which the tax is payable: Provided that the total emoluments from which tax was deducted during the basis year exceeds three quarters of the total income of the individual.

Other individuals.

6. Every individual other than one to whom rule 5 applies, shall pay to the Commissioner:

- (a) on or before the last day in the months of March, June, September and December in each basis year, on account of tax for each such year, one-quarter of an amount obtained by calculating the tax for each year at the rates prescribed on the estimated chargeable income of each such individual for each basis year on his chargeable income for the preceding year, and
- (b) the remainder of tax payable by each such individual for each basis year on or before the last day of the third month after the end of each basis year respectively.

Companies and
bodies corporate.

7. Every company and body corporate shall pay to the Commissioner:

- (a) on or before the last day of the third, sixth, ninth and twelfth months of each basis year, on account of tax for each such year, one-quarter of an amount obtained by calculating the tax for each year at the rates prescribed on its estimated chargeable income for each basis year or on its chargeable income for the preceding year, and
- (b) the remainder of its tax for each basis year on or before the last day of the third month after the end of each basis year respectively.

Surcharge.

8. (1) If any tax or amount is not paid as prescribed by rule 5, 6 or 7, as the case may be, the surcharge under section 55 of the Act shall be levied.

(2) For the purposes of paragraph (1) of this rule, where a taxpayer is required to pay a part or instalment of tax for a basis year calculated on the chargeable income for a preceding year or on his estimated chargeable income for the year, he shall be deemed to have been liable to pay a part or instalment computed by reference to the chargeable income for

(a) the preceding year, or

(b) the basis year,

whichever is the lesser.

Employee to file
with employer.

9. (1) Every individual whose employer is required to deduct or withhold any amount from his emoluments under rule 5 shall on the day on which his employment commences, and within seven days of the day on which a change occurs in the personal allowances to which he is entitled, file with his employer a declaration in respect of his personal allowances on the form prescribed in the Schedule hereto and therein numbered TD1.

(2) Every person failing to file a declaration as required by paragraph (1) of this rule shall be liable to have the deduction or withholding from his emoluments made as though he was an unmarried person without dependants.

Amounts to be
withheld.

10. For the purposes of rule 5 the amount to be deducted shall be ascertained, having regard to the amount of emoluments paid to an employee, the length of the pay period and the employee's personal allowances as declared by him on his declaration filed under the provisions of rule 9, by reference to the Tables prescribed in the Schedule hereto and therein numbered TD 18.

Payments of
amounts withheld.

11. (1) Amounts deducted and withheld from emoluments under the provisions of rule 5 shall be paid to the Commissioner on or before the tenth day of the month next succeeding the month in which the emoluments were

paid, except where an employer has ceased to carry on business in which case any amount deducted or withheld by such employer that has not been paid to the Commissioner shall be paid within 7 days of the day when the employer ceased to carry on business.

(2) Payments made to the Commissioner under rule 5 shall be accompanied by a return in the form prescribed in the Schedule hereto and therein numbered TD 2.

Special Rules.

12. (1) No action lies against any person for deducting or withholding any sum of money in compliance or intended compliance with these Rules in the absence of proof of malice.

(2) Where these Rules require an amount to be deducted or withheld, an agreement by the person upon whom the obligation is imposed not to deduct or withhold that amount or any portion thereof shall be void.

(3) Where an amount has been deducted from the emoluments of an employee under these Rules but has not been remitted to the Commissioner, such amount shall be kept separate and apart from all other monies in his possession and shall be deemed to be held in trust for the Crown.

(4) In the event of the death, liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that by paragraph (3) is deemed to be held in trust for the Crown shall be deemed to be separate from and to form no part of the estate of the deceased employer or the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from other monies or assets of the estate.

(5) Every assignee, liquidator, administrator, executor or other like person, other than a trustee in bankruptcy, shall before distributing any property in his possession or under his control, obtain a certificate from the Commissioner certifying that all amounts payable under these Rules and that are chargeable against or payable out of the property in his possession or under his control

have been paid, and any such person who distributes any such property without having obtained a certificate as prescribed by this paragraph shall be personally liable for all unpaid amounts.

(6) Where a person on whose behalf amounts have been deducted or withheld under the provisions of rule 5 was not liable to pay any tax or where the aggregate of the amounts so deducted or withheld is in excess of the tax that he was liable to pay for the basis year, the Commissioner shall pay to him the amounts so deducted or withheld or such part thereof as he was not liable to pay provided that:

- (a) he has filed a return of income for the basis year under the provisions of section 30 (2) of the Act, and
- (b) he has made application for refund of the overpayment within six years of the end of the basis year, and
- (c) he is not otherwise liable or about to become liable to make a payment under the provisions of the Act or these Rules, in which case the Commissioner may apply the amount otherwise payable under this paragraph to that payment and notify him thereof.

Books and Records.

13. (1) Every person paying emoluments shall keep records and books of account at his place of business or residence in Belize or at such place as may be designated by the Commissioner, in such form and containing such information as will enable any deduction or withholding required under these Rules to be determined, and where any such person has failed to keep adequate records and books of account, the Commissioner may require him to keep such records and books of account as he may specify, and the person shall hereafter keep records and books of account as so required.

(2) Every person required by this rule to keep records and books of account shall retain every such record or book of account or voucher necessary to verify the information contained therein for a period of six years unless written approval has been granted by the Commissioner for a shorter period.

(3) The Commissioner may require any person paying emoluments to give to each payee, at the time the payment is made a statement of the emoluments paid for the pay period and of the tax withheld therefrom.

Audit.

14. (1) Any person thereunto authorized in writing by the Commissioner for any purpose relating to the administration or enforcement of these Rules may, at any reasonable time, enter any premises or place where any records or books of account are kept or should be kept and

- (a) audit or examine any books, records, writings or other documents which relate or may relate to the information that is or should be contained in such records or books of account or to the amount of any deduction or withholding required under these Rules;
- (b) require the owner, occupier or person in charge of the premises or place to give him all reasonable assistance in connection with his audit or examination and to answer all proper questions relating to the audit or examination; and for that purpose require the owner, occupier or person in charge of the premises or place to attend at such premises or place with him.

(2) The Commissioner may, for any purpose relating to the

administration or enforcement of these Rules, by registered letter or by demand served personally, require from any person:

- (a) any information or additional information, including any information return or supplementary return, or
- (b) the production of any book, record, writing or other document, within such reasonable time as is stipulated in such letter or demand.

Information
Returns.

15. (1) Every person who has paid emoluments during a year shall make a return in respect of the payments so made on the forms prescribed in the Schedules hereto and therein numbered TD 4, and entitled Summary and Supplementaries.

(2) All returns required under paragraph (1) of this rule shall be filed with the Commissioner without notice or demand on or before the last day of February in each year and shall be in respect of the preceding calendar year, except as otherwise specifically provided in paragraph (3) of this rule.

(3) Where a person, who is required to make a return under paragraph (1) of this rule discontinues his trade, business, profession or vocation, the return shall be filed within 30 days of the day of the discontinuance of the trade, business, profession or vocation and shall be in respect of any calendar year or a portion thereof prior to the discontinuance of the trade, business, profession or vocation for which a return has not previously been filed.

(4) Every person required by paragraph (1) of this rule to file a return shall forward to each individual in respect of whose income the return relates, two copies of the portion of the return relating to such individual. The copies referred to shall be sent to the individual at his last known address, or delivered to him in person, on or before the date the return is required to be filed with the Commissioner.

(5) Any return which is not furnished within the time specified in paragraph (2) shall be deemed to be in default.

(6) Any person who fails or neglects or defaults in any way in complying with the provisions of this rule shall be liable on summary conviction to a fine not exceeding one hundred dollars and in default of payment to imprisonment for a term not exceeding one month. Such person shall in addition be liable to a penalty of twenty dollars a month for each month or part thereof during which the return was in default; provided that such penalty shall not exceed two hundred dollars.

SCHEDULE

The relevant forms were not printed with this Statutory Instrument.