

1938

38054/5

38054/5

KENYA

C0533/490

Income Tax.

Enquiry by Commander R. G. Baylson R.N. (retd)

Previous

297

16/4

309

24/11

Mr Parkin

R298.

28/11

R297.

29/11

Subsequent

303 ~~309~~

30/11

299.

8/12

297

291

1/8

309

8/8

Mr Samiya

11/8

Mr Baylson
The American
Mr Baylson

12/8

16/11/38

15/8

Mr Goring etc.

-

297

24/10

309

24

297

25/10

309

31

Mr Baylson

4/11

C.D.

R298

9/11

R297.

11/11

Mr Baylson

8/12

67
Taxation
Nominal

1. Commander R. B. Baylson R.N. (ret'd) — 10/1/58
In view of impossibility of producing necessary documents enquire whether they may be produced to C.O. and that a certificate stating that particulars in rebate claim form are supported by documents may be taken as evidence to support claim.

On 38054/1/58 correspondence is proceeding in which the East African Power and Lighting Company is involved. The ~~main~~ question ~~now~~ dealt with is how arrangements can be made for avoiding the double taxation of the EAP & L Co's dividends, viz at 2/- in £ in Kenya and at a further 5/- in £ in the U.K.

In this letter the question of double taxation does not arise. It is merely a question of the procedure to be followed in claiming rebates on taxation levied in the Colony, the last two paragraphs of the letter not really affecting the request in the first three.

It seems reasonable that Trust Deeds and suchlike documents should not have to be sent out to Kenya or copied at great expense; but the suggestion that they should be produced here instead might involve the details being kept from Kenya which

relevant to the granting or otherwise
of the rebates claimed.

Send copy of (1) to Kenya
in short-dep asking if the
suggestion can be accepted, and if
so, the nature of the information
which should be sent out to Kenya
in evidence of the validity of the
claim relating to the trust in
question — a Cell Commander Baylan
that the matter has been
referred to Kenya for answer.

Clardy White
11/8

Mr. Bowen

Enclosed a package for you

will

thanks

12/17/38

The suggestion that the C.O.
should examine trust deeds (apparently
of a long complicated kind)
to certify that statements made
in a claim form are in
accordance with the trust deeds
is one which is, in my opinion,
unpracticable and will be
substantiated for a moment.

I wd refer to Kenya
for reasons but I wd point out
that we regard the proposal
that the C.O. should examine the
trust deeds as quite
unpracticable. We might

1 app. |
11.5.

Remove also that in cases such
as these the requirement that
claimants must produce
the trust deeds (in photostat
copies) does appear to
operate rather harshly.
Send Guttridge information
copy to 1.

1913 and
12/15/38

In line with the action proposed by Mr. Bowen.

16/8/38

M. Duncan.

As handed by Mr. Bowen

M.D.

12/17/38

11/8

DESTROYED UNDER STATUTE

To Comdr Baylan (and ~~others~~) — 25 AUG 1938

3 to Kenya 487. (1/6.1) - 6014-244. 11/38

D.H. No reply received to No. 3

J Jackson 297

24/10

B.H. no number.

Handwritten

26. X of me.

4. Governor 592 10/10/38
States that Commissioner of Income Tax informed
Commander Baylton that a certified extract
from deed would be accepted. Extract has
been furnished and claim was paid 2/4/38

This seems very reasonable.

? As in d. 1.

Drummond

3.11

AL. P. Jones

7. Above

5. To Commander Baylton 9.11.38

4. 6/11/38
with 5/11/38
5/38

6. Commander Baylton 10/10/38
Re: 5; complains of cumbersome procedure
in connection with recovery of double Income
Tax back dividend warrant counterfoils of
company operating in Australia.

Arrangements are nearing completion
on 30.5.4/38 whereby the difficulties
which have arisen over the double
Cancellation of the E.A. Power & Lighting
Co's dividends will be largely done
away.

? as in draft herewith (for
reference sake: the business on which

Commander Baylton wrote originally has
been settled).

Clotley White 31/11

7. To: Commander Baylton. (Lined) (Younger) 28 NOV 1938

4. 6/11/38
with 5/11/38

8. Mr Kenya 738. (76.6/1000) + 7. 9/1. 8. 12. 38.
(4. 10000.)

38054/5/38

7

C. O.

Mr. Cohen *Write* 24/11

Mr. Parkin 22/11

Mr.

Mr. A. J. Dunn.

Sir H. Moore.

Sir G. Tomlinson.

Sir J. Shackburgh.

Parli. U.S. of S.

Parly. U.S. of S.

Secretary of State.

25/11

SB

28 NOV 1958

(6)

DRAFT.

Commander R.C. Bayldon,
R.N. (Retd)

and (6) is original

Copy to King

FURTHER ACTION.

Copy comes to
Kings. if.

I ~~am~~ ^{am} ~~to~~ ^{to} ask
the receipt of your letter
of the 12th of November and
to inform you that the
difficulties to which you
have drawn attention in
connection with the
taxation of dividends paid
received by the East
African ~~Company~~ and
Lighting Co. had already
been brought to his
notice. It is hoped
that arrangements will
shortly be completed
enabling a system
for the relief of double taxation
to be brought into
force in respect of Kenya
/ Sudan Co. that

which is in operation in
respect of Dominion Telephone
Trust, the parts of the Cupini

2. ~~Trust~~ etc. The
dividend warrant contained
enclosed in your letter is
returned herewith.

I am etc.

(Yours) J. B. Trust

12th, November.

GILLOTTS HOUSE

1938.

Ref- 38054/5/38.

REC

HENLEY-ON-THAMES

14 NOV 1938

Sir,

I beg to acknowledge the receipt of your letter of the 9th instant and to confirm that the matter in question is now settled as far as Kenya is concerned though I am still in negotiation with the Income Tax Authorities here, in an endeavour to recover the amount paid out there, which has, by the procedure adopted, been a double income tax taxation within the Empire, and I would desire to bring to your notice the inconvenience caused by the existing methods and the expense entailed to the individual who is forced, in my case, to incur unnecessary charges to Solicitors and so forth, in obtaining copies and certificates as to the contents of Deeds which really are of no interest to anyone in Kenya.

When one compares the cumbersome procedure adopted in Kenya with the simple ones in force in other and such larger parts of the Empire one can hardly wonder that investors cannot be bothered by having to do all the things required and so avoid such securities.

By way of illustration I enclose a dividend warrant counterfoil of a Company operating in Australia, from which it will be seen how, by, presumably, a little intelligent liaison between the Income

PC/ck

66
3e

5

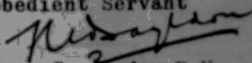
Applicable to Kenya

London 2
and 7/11/38
to Mr. [unclear]
(7)

Tax Authorities of the two countries, correct tax is deducted in the first instance and the investor has no trouble, whatsoever, in the matter and this procedure seems, with the exception of Kenya, to be universal within the Empire and I would submit that it is entirely inconsistent with the principles of taxation within the Empire, that double income tax should be charged, in the first instance, putting the obligation of recovery - which even now I do not know to be possible - upon the individual.

I remain, Sir,

Your obedient Servant



Commander R.N.

The Under Secretary
of State.
Colonial Office.
S.W.I.

38054/5/38.

7

C. D.
R 5 NOV
D 7 -

5

C. O.

Mr. ~~Ward~~ 3.4
Mr. ~~Parsons~~ 4/11 ps

Mr.
Mr. A. J. Damm.
Sir H. Moore.
Sir G. Tomlinson.
Sir J. Shackburgh.
Parma. U.S. of S.
Parly. U.S. of S.
Secretary of State.

Sir,
I am able to refer to the
(2) letter from your office of the
23rd of August regarding procedure
in claiming rebate of income tax
levied in Kenya to inform
you that it is understood
that satisfactory arrangements
you have now made satisfactory
arrangements as a result of
direct correspondence with
the Kenya Commission of Income

DRAFT.

Commander R. C. Daylton
R N (Retd).

Tax.

(Signed) J. J. PASKIN.

FURTHER ACTION.
Mr. Daylton to see.
1/11/40

KENYA
No. 592



48
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED

19 OCT 1938

19 OCTOBER, 1938.

Sir,

3 I have the honour to refer to Colonial Office despatch No. 487 of the 24th August transmitting a letter from Commander R.C. Bayldon regarding the procedure to be followed in claiming rebates of income tax levied in Kenya on dividends recoverable by him under the operation of certain trusts.

2. The Commissioner of Income Tax received, in August, a letter from Commander Bayldon in similar terms to the letter enclosed with your despatch under reference and he wrote immediately to Commander Bayldon informing him that in the circumstances an extract from the deed certified by trustees would be accepted in lieu of the production of the original document. This extract has now been furnished, and the claim was paid on the 22nd September, 1938.

3. In cases of this nature, the Commissioner of Income Tax will not as a general rule insist on the production of the original documents when a suitably certified copy or extract can be supplied. It is however considered essential that the Commissioner should be empowered to call for original documents should he consider it necessary.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Alfred B. Popham

AIR CHIEF MARSHAL,

GOVERNOR.

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W. 1

C. O.

Mr. Costley-White.

17/8.38.

38054/5/38.

Mr. Sunge

Mr.

Sir H. Moore.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

D.
17 AUG
1938

Ans'd: H.

Downing Street.

21 August, 1938.

Sir,

I have etc. to transmit a

DRAFT.

copy of a letter dated 10th August from

Commander R. C. Bayldon ^{regarding} on the subject

of the procedure which ~~is~~ ^{is} required

to follow in claiming rebates of income

tax levied in Kenya on dividends

receivable by him under ^{the operation of} certain trusts.

2. In cases of this sort the

requirement that claimants for rebates

of taxation must produce the Trust

deeds in question, or photostat copies

thereof, would appear prima facie to

operate somewhat harshly. ^(It would, however, be quite unreasonable to) Commander

Bayldon's suggestion that the Trust deeds,

in this case of a lengthy and complicated

nature

KENYA.

NO. 487.

GOVERNOR.

Fr. Commander Bayldon.
(1)

2 drafts.

FURTHER ACTION.

nature, should be examined in ~~the~~ ^{a claim}

Office, and a certificate given to the effect that their contents can be

taken as evidence of the validity of

the claim ~~in question, is,~~

~~however, considered to be entirely~~

impracticable.

3. ~~I regret that I have to~~
~~I would be glad to be~~

furnished with you ~~in~~ ⁱⁿ ~~an~~ ^{an} ~~arrangement~~
to the reply ~~which~~ ^{which} ~~should~~ ^{should} ~~to~~
be returned to ~~Cassamara~~
Bayliss (Ch)

(Signed) MALCOLM MACDONALD

Kenya
30

August the 10th, 1938.

GILLOTTS HOUSE
HENLEY-ON-THAMES

RECEIVED

Reisch

Sir,

Owing to the operation of certain Trusts, I am, both on account of myself personally and because of income received from the same by my wife, accountable for Income Tax upon sums received from trustees by way of dividends from the East African ^{Power} ~~Lighting~~ and Lighting Co Ltd, registered in Kenya Colony.

Certain rebates are allowable and claimable in Kenya on account of the fact that Income tax of that Colony is deducted, at a higher rate than is due, at source and on making such claim to the Income Tax Authority at Nairobi I am asked to produce the Trust Deeds (or a photostat copy of same) in support of the claim.

which I cannot control
It is obviously impossible for the Trustees to allow the Deeds in question to be sent abroad for such purpose and as many documents of a lengthy nature are involved, to have photostat copies made would entail an outlay of probably much more than the amount of rebate claimed.

one to be kept

I am therefore writing to ask whether it might be arranged for such documents to be produced to the Colonial Office in London and a certificate obtained to the effect that any statements made in the claim form, relating to such Trusts, were supported

by documentary evidence so produced might be taken as evidence in support of such claim, in lieu of the production of the documents themselves in Kenya.

In the ordinary way, Colonial Income tax is taken into account and a deduction made, when British income tax is assessed but for some reason - I gather because it is anticipated by the Income tax Authority here that alteration of the Kenya Income Tax Law is expected in this year's local Budget - they will not so deal with it.

The present state of things makes it practically impossible to claim the reliefs allowed by law in cases where Trustees are involved and thus enforced double income tax within the Empire, a thing contrary to Public Policy and established practice, and I submit that it would seem necessary for some procedure to be initiated in order to bring Kenya Income Tax practice into the same lines as the rest of the Empire.

I have the honour to be, Sir

Your Obedient Servant

R. C. Baylton
Commander R.N (retd)

The Under Secretary
of State for the Colonies.

Whitehall.
S.W.I.