

1921

KENYA

C.O.  
59364

3 72

FROM  
CROWN AGENTS

DATE  
22ND NOVEMBER 1921

FOR CIRCULATION  
Mr. Gerald  
Mr. Herbert  
Mr. Wood  
Mr. Churchill

SUBJECT  
LOAN

LOAN ISSUE TAX

calls attention to clause 17 of the 1919 Act  
prospectus and recommends a review of  
principle generally. It is suggested that the Regulator  
Kenya not legally entitled to make decisions  
and proceedings could be taken against them if  
they did. Suggests course of action.

Previous Paper

MINUTES

MU

*Handwritten signature*

Mr. Pugh

Mr. Bottomley

*To You tel com. 21 Nov 21*  
*Answer copy above in 22 Nov 21 copy*

... we have discussed the ex-  
haustive with Mr. Keeble, and now submit  
it. telegraphic form of the form of which I  
hope that we can all concur.

... one of the Union...  
provision was inserted in their recent...  
provision, and the fact that the Union...  
loan and permit... London, the property...  
provision... Union, in fact...  
will not... taxes, articles...  
levied in the... and...  
...  
this is... the...  
No. 41 of 1917, Sect... and...  
the former section...  
item in the schedule to Act No. 35 of 1919.

Subsequent Paper

*592014*

I understand that a similar procedure is fol-  
lowed in the case of other Dominion loans. -  
*has attached which has been from at*

In H. Read

H. E. Read would I  
think prefer a stronger  
allegory. It is emphatic

in its language

and is well adapted to

the purpose of the

document.

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It is well adapted to

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and a large amount

of work

and I am afraid that the

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1865

24/1/1865

New S. Wales - Proprietor issue Nov. 1920 words as  
in the case of U.S. Office proprietors.

Similarly for Australia Commonwealth + W. Australia  
vest issues.

New Zealand - The Land & Income Tax Act of 1916 Sec 24(8)

With regard to the following issues there be exempt from  
Income Tax - Income derived by a person who is not  
(within the meaning of this part of the Act) resident in  
N. Zealand for Stock or debentures which has been issued  
by the Govt of N. Zealand or by any local or public authority  
the interest on which is payable out of N. Zealand

in at least 2 proprietors of N. Zealand Union Bank of New Zealand  
Act 1910 - Jan 21 no mention of liability of holder to tax.  
One is 2<sup>nd</sup> <sup>20th-10</sup> <sup>being</sup> <sup>of</sup> local Electric Power Board - N. Zealand  
the principal interest of which are unconditionally guaranteed  
by the N. Zealand Govt. It is stated that the laws are  
"for the purpose of N. Zealand taxes present & future unless held  
by persons domiciled in the Dominion of N. Zealand"

Canada - Issues by Bank of Montreal - No mention  
as to liability to tax or - Semi-annually that the laws  
probably due to its being so well known that holders are not

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4, MILLBANK,  
WESTMINSTER,  
LONDON, S.W.

23rd November, 1921.

Dear Bottomley,

Referring to our discussion yesterday.

You have no doubt seen that in the South African Union  
Loan prospectus, which is out this morning, it is stated that

"Union of South Africa debentures are stock issued  
and payable in London, and the interest thereon,  
the property of persons not domiciled in the  
Union of South Africa are not and will not be sub-  
ject to any taxes, duties, or levies in the Union  
of South Africa".

I would strongly advise that this should be regarded  
as the principle to be followed generally in Colonial which  
issue loans in this country and levy local income tax. Any  
other course would leave the investor in Colonial stocks  
uncertain of his present and future liabilities to the local  
Government, and as would affect the possibility of new issues  
and the prices at which new issues could be made.

As regards the present Kenya Loan, the position is that  
we are under contractual obligations to both of the Kenya  
Governments to pay interest to the bondholders on the sum

W.C. Bottomley Esq., C.M.G.

COLONIAL OFFICE.

dates, and that, as nothing was said in the prospectus about deductions for local income tax, we are not legally entitled to make such deductions, and proceedings could be taken against us if we did make them.

I understand that Government loan issues in London were not specially considered when the Kenya Income Tax Ordinance was passed, and therefore it seems very unlikely that it will occur to the Colonial Government to send us instructions to deduct tax. If by any chance they should send us such instructions, we should be obliged, as already explained, to carry them out. The best plan may be to let the proceeds do as they like, and do nothing, unless and until the matter is raised locally. If on the other hand you consider it desirable to regularise the position of the Colonial Government in the matter, I suggest that the local ordinance would be amended on the lines of the South African precedent.

Yours sincerely,

*W. G. G. G.*

Sent 4.50 PM  
25/11/21  
Acct B

Priority A July

25 November

CD

And 59204  
2 qu 2/4  
JC

Question has been raised whether

interest on Kenya stock held by persons not resident in Kenya shall be subject to Kenya tax. advised that under definition of income in section 3

DRAFT. TEL.

NAIROBI

MINUTE.

- Mr. Batterbee 24. 11. 21
- Mr. Baker 24/11
- Mr. Bottomley 24/11/21
- Mr. Grindle.
- Sir H. Lambert.
- Sir H. Read 25
- Sir G. Fiddes.
- Mr. Wood.
- Mr. Churchill.

off duty  
copy of the 50th...

of Income Tax Ordinance 1920, interest on loan is exempt, but no mention of such liability in prospectus and general practice in case of dominion loans is to exempt from dominion income tax dividends on stock held by non-residents in dominion concerns. To make Kenya stock held by non-residents liable for Kenya tax would undoubtedly detract from popularity of Kenya stock as compared with other dominion and colonial loans and difficulties might be found in floating future loans. If tax were deducted it could presumably only be on basis of loan interest being regarded as total Kenya income of individual

for minutes

individual concerned for purpose of  
 assessing rate of tax, and in these cir-  
 cumstances it would seem likely that  
 large number of holders would be exempt  
 Subject to any observations that you  
 may have, am of opinion that tax should not  
 be levied. Telegraph your views fully.

How C.A. approached  
 in the event of decision  
 they will be taken  
 to legal action

Roughies