

1937

38054

PART 2
C0533/478
KENYA

38054

INCOME TAX

LEGISLATION

Previous

291

18/10

Mr. Parkin

18/11

PART 1

303

21/10

299

22/10

299

26/10

Subsequent

309

18/10

1938

Mr. Parkin

29/11

Mr. Bourne

30

Mr. Parkin

2/11

R. 297

1/11/37

Mr. Dale

5

R. 309

1/11

Mr. Flood

5

Mr. Parkin

19

Mr. Dale

6.11

Mr. Flood

19

Mr. Flood

6.11

R. 297

9/9

Mr. Parkin

1/11/37

R. 309

14/9

R. 297

1/11/37

Mr. Parkin

-

R. 309

8/12

R. 299

21/9

Mr. Parkin

8/11

297

23/9

Mr. Flood

9

R. 303 (L. 65)

25/9

Mr. O.S. Williams

11.12

299

27/9

Sgt. B. Stanley

8/12

297

27/9

R. 297

✓

309

R. 299

1/11

Mr. 303

5/10

297

298

7/10

63. GOV'S DEPUTY, KENYA..... 282..... 20.5.37
(47 ansd.). Trs. copy of letter, dated 14th May, address
to the Chamber of Commerce.

If the C.A. Section of the London Chamber
of Commerce is dissatisfied with
Kenya's reply, they will write
again. I think the reply
is satisfactory in all respects.

Pat by
C.A. Frow with
18/6/37

18.6.37
19.6.37

99 Bann
19/6

64. Gold Coast 485..... 4.8.37
Finds further letter from European Civil
servants (Gold Coast) regarding Kenya
income tax legislation.

57/38
wait

This might be treated in the same
way as the earlier F.W. Coast
despatch - see Nos. 58, 59 & 60
part 2 of the file.

Drafts annexed.

C.A. Frow with
13/9/37

1. Zulu Coast. N: 876 -- 64 ansd. 21 SEP 1937

DESTROYED UNDER STATUTE

66. Extract from Gazette Supplement No. 32 of 1937

67. Extract from Gazette Supplement No. 33 of 1937

68. Kenya 815. ("C. 64 & 68") - Conn. A/1. 25.9.37.

16647
67. 68

Copies might go for ref: to the B^o of L.R. LR

? 66, 67 can be
beclap.

To: Bd. I. Rev. (w/c 66+67) $\frac{1}{10}$ - 7.10.37

Receipt received to (60) & (61)

? continue to wait

J.P. Bann
2.297

18.10.37

They have had 4 months now, so we had
letter

Remind

J.P. Bann
18/x
at once

70 To: Kenya. Com. A/2 - 22 OCT 1937

71 Chamber of Shipping of the United Kingdom - 2.10.37
(By 56) Enquire whether observations of Gov of Kenya have yet
been received.

72 To: Kenya - 622 - 18.10.37
(60 lines) States that, in circs. described, perhaps S. of S.
may desire to consult Board of Trade in the matter. Would be
glad to learn in due course the nature of any reply sent to the
Chamber of Shipping of the United Kingdom.

No 72 It is not possible to give an answer to
No 49 until the meaning of "British & Colonial
non-merchant seaport" is determined. So
send copy of No 72 to Bd of Trade, as suggested,
ref No 58, for their verdict.

No 71 para 1 will have to wait until that letter
saying the Kenya observations have been received but
that the question is not yet settled.

para 2 receive as soon as reports are available.

Chloky White

2/11/37

M: Bannan.

We shall check how to connect the
BIT again, send on interim reply
to No 71; but this is of reciprocal
exemption from Income Tax is essentially
a matter for S.D., I don't see
doubt will be connected.

J.P. Bann
29/x

We shall shortly be discussing
(if necessary) with OIR & B/T
the whole question of
reciprocal exemption of
Shipping profits. When we
have done this, we shall clearly
have to start from scratch
with Kenya & ask them to
revise their legislation so as
to give effect to our policy
(which at present is far from
clear).

Reply to 71 that the
whole question of reciprocal
exemption of shipping profits
from I.T. is at present
both on up and to Kenya &
other income tax matters
and that in the meantime
the ~~it is not possible~~
~~the Kenya Govt are not~~
prepared to give a ruling

Transferred
do 6102/37
end

A
as to the interpretation which
will be placed on the Kenya
provision in question

And transfer 49, 56,

Done (6102/37) 60, 71, 72 reply to 71 to
copy 7/12. General explanation in the
transmission of shipping series.

Erasmus
3/10

(Mr. Bastien
is at once if you
agree in so far as this
(concerns Kenya).

& copy to Kenya Lt.

J. P. Bastien
2/x1

With regard to A of Mr. Bowyer's
minute, the ultimate interpretation of
Section 8(t) is, of course, for the courts.
But the letter at 49 asks what steps are
necessary to obtain the exemption, and surely
we must attempt to give some sort of answer.
It seems to me that if a foreign, for example
French, law exempts all non-resident British
shipowners (that is presumably owners of all
ships registered under Part I of the Merchant
Shipping Act) from French income tax, then
French shipowners are entitled to the exemption

under

under Section 8(t). I think, too, that something
less, namely a provision that the owners of
ships registered in the U.K. and in Kenya are
exempt from the French tax, would be sufficient
to satisfy Section 8(t). With this interpretation
Kenya evidently agrees. I think that this is
really the answer to the Chamber of Shipping, but
I can see it is an answer which, in the circumstances,
you do not wish to give. I would suggest that
before making any reply to the Chamber, the Board
of Trade should be consulted with a view to coming
to some definite conclusion on the matter.

(W.D.)

5.11.37.

Mr. Dale

Could we reply that the exact
interpretation must, obviously, be for the Courts
but that apparently if French law exempts
British & Kenya shipowners then French shipowners
would be exempt in Kenya.

J. P. Bastien
5/11

Yes I think we could.

(W.D.)

6.11

Then do so: and transfer the above registration as
proposed.

J. P. Bastien
6/11

in Flood

with ref^{ce} to your minute
of 6.11.57 with in 38054/1/3)

I am sorry that when

I sent on my minute of 30.10.57
on that file, it was not possible
to send on with it 6102/5/62?
which would have explained
the general position. Please

See now 26 on that file.
Para 3 of that letter indicates

that a problem precisely
similar to that in Kenya
has arisen in Aden vis à vis
the Japanese, and it is

possible that, as a result of
the general discussion that
that letter proposes, we may
have to ask Kenya, along with
Aden & other places, to amend
their law so as to remove
the present Migration (which
I personally don't dispute)
to give even phos to certain
foreign shipping. It would be
awkward if meanwhile we
told the French (through
the Chamber of Shipping)
that they were entitled to

enlargement (on the same conditions).

In the light of the above?
You may be prepared to
reconsider your opinion.

JTB
8/11/37

Mr. Boyer

The point at issue appears to be this

Kenya is ready to exempt French ships if France
exempts British and Colonial (i.e. probably ships owned
in any British Colony). But the B. of T. have the beefy-jacks
because (say) New Caledonia may try to tax British &
Colonial ships and, if so, would not be bound not to,
since the agreement only covers France. So the B. of T. want
to have it that England and all British Colonies must be
exempt in France & all French Colonies.

Since the B. of T. are so excited over the question (how many
French or Japanese or Portuguese or Spanish Colonies have any
Income Tax?) I agree that we cannot very well be
definite: but I think we might

write as in your minute of 30.10. adding that the
present position is as set out in my minute but may be
altered by the decision eventually taken.

J.S.W. Hood
9.11

Mr. Dale

I am prepared to agree - reluctantly
- to Mr. Hood's proposal. But you will
see that ^{the British} ~~the British~~ has been
dealt with on 6104/37 by
Mr. Duncan. I feel that he
ought to be brought into this too

JTB
9/11/37

Mr. Duncan
H. Boyer

Certainly. I think Mr. Duncan should see the

See
H.D.

Kenya papers. &

W.D.

12.11.

Mr. Calder

In view of our letter of 6/11/37 to Mr. Turner
(No. 26 on General 6102/37), I think that, in
the first instance, it might be advisable to
explain the position, as regards Kenya, to him
to let him know the lines on which we propose
to reply; and to ask if he has ^{any} observations to

Please let me see the draft in due course

17/11/37 Mr. Duncan

~~Mr. Burns~~

J. Halder

17.11.37

D/L

Mr. Burns

18/11/37

71A To Turner 24 Oct. 29.11.37
on 6102/37 Gene

I think that these Kenya
papers should have been
sent to me in the first
instance.

(Suppl)

71. ^B Extract from Kenya Gazette / 43 of 14.9.37

71c " " " " " " No. 50 " 26.10.37

72 ^B Ken. Gazette 665 6.11.37

(61+68 amend.) States that the views of the Com. of European Civil Servants of Gold Coast have been noted but does not think it desirable to attempt any revision of the legislation this year.

71b ? Ret by

72 This is the reply to be letters from the Civil Servants Association forwarded in ~~the~~ in Nos 50 and 64. It does not attempt to answer the detailed arguments brought against the Kenya Income Tax Ordinance.

? Dept to Govt least saying that the Ordinance may require amendment later but that the Govt of Kenya is advised, & SFS agree, that it is unwise to do so at once. Claridge. 8/12

The views expressed by the servants have been noted by the Govt of Kenya & will be considered in connection with any amendment of the Ordinance which may be undertaken, and that it is not proposed to attempt any revision of the legislation in the immediate future.

J.J. Brown
8/12

I fully agree with the Gov. The Govt. Servants' Assoc. is much too large for their boots.

I would not reply unless they ask, but would just ask next. I agree that no amendment need be considered for some time until experience has been gained.

I feel some sympathy with the E.C. Associates but those members who have already served in Kenya ought to have some appreciation of the difficulties in which this question is, I gather, involved.

We don't want to encourage the Associates to further representation, or to hope for a precedent to meet their views, so I agree that we can wait unless invited to do so. ? As proposed by J.P. Flood

O.G.R. Wilson

11.12.37

Yes. I kept this originally and the idea of submitting the point to Lord Jeffries, but as good opportunity arose, there is nothing further in it & we may ~~submit~~ simply ask: 6
Ullaga is the Flood proposal.
W.O.S. 8/12/38 am

73 No. Kenya 84 - 72 Amend - 15 FEB 1938

W.O.S.

C. O.

Mr. Costley-White

10/2/38

Mr. Dawe 10.2

SUPAM

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET.

15 February, 1938.

RECEIVED
D. 14

Sir,

DRAFT.

KENYA

NO. 84.

GOVERNOR

I have etc. to acknowledge the receipt of your despatch No. 665 of the 6th of November, 1937, on the subject of the representations concerning the Kenya Income Tax Ordinance of 1937, made by the Association of the European Civil Servants of the Gold Coast Colony.

2. I agree that amendment of the Ordinance is, at the moment, undesirable and ~~will not require~~ *need not be considered for some time* ~~consideration~~ until experience has *of it* been gained ~~on the~~ working of the ~~legislation now in force.~~

FURTHER ACTION.

I have, etc.

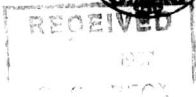
(Signed) W. ORMSBY GORE.

KENYA
No. 665



10 9
GOVERNMENT HOUSE
NAIROBI
KENYA

6 November, 1937.



Sir,

61
68
With reference to your despatches Nos. 466 and 815 of the 17th June and the 27th September, respectively, on the subject of the Kenya Income Tax Ordinance, No. 12 of 1937, I have the honour to inform you that the views of the Association of European Civil Servants, of the Gold Coast Colony, as represented to you in letters of the 7th April and the 19th July, have been noted.

Amended (73)
2. You are fully aware of the circumstances in which the Kenya income tax legislation was introduced and the reasons for the inclusion therein of certain variations from the Model legislation recommended by the Inter-Departmental Committee which considered the question of the application of income tax in the Colonies in 1922. I have no doubt that the Ordinance will require amendment in certain respects at a later date. In the meantime my advisers are of the opinion that it would not be desirable to attempt any revision of the legislation this year.

I have the honour to be,

Sir,

Your most obedient, humble servant,

A. Brooke-Pollock

AIR CHIEF MARSHAL

GOVERNOR.

THE RT. HON. W. CROMBIE GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

PROCLAMATION No. 73

COLONY AND PROTECTORATE OF KENYA



THE INCOME TAX ORDINANCE, 1937

PROCLAMATION

R. BROOKE-POPHAM

L. S.

BY His Excellency Sir Henry Robert Moore Brooke-Popham, Knight Grand Cross of the Royal Victorian Order, Knight Commander of the Most Honourable Order of the Bath, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, upon whom His Majesty has been pleased to confer the Air Force Cross, Air Chief Marshal in the Royal Air Force, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya.

IN EXERCISE of the powers conferred upon me by section 9 of the Income Tax Ordinance, 1937, I do hereby proclaim and declare that all interest payable on moneys borrowed under the authority of the Specific Loan Ordinance (number one) (Chapter 47 of the Revised Edition), the Specific Loan Ordinance, 1927, the Specific Loan Ordinance, 1930, the Specific Loan Ordinance, 1933, and the Specific Loan Ordinance, 1936, shall, with effect from the first day of January, 1937, be exempt from income tax payable under the Income Tax Ordinance, 1937, in respect of interest payable to persons not resident in the Colony.

Given under my hand and the Public Seal of the Colony at Nairobi this 15th day of October, 1937.

GOD SAVE THE KING

GOVERNMENT NOTICE No. 803

THE KENYA DEFENCE FORCE ORDINANCE, 1937

ORDER

IN EXERCISE of the powers conferred upon him by section 12 (2) of the Kenya Defence Force Ordinance, 1937, His Excellency the Governor in Council has been pleased to exempt the persons specified in the Schedule hereto from all obligations imposed by the aforesaid Ordinance or by any regulations made thereunder except enrolment, and training and service of a non-combatant nature:

By Command of His Excellency the Governor in Council.

Nairobi,

This 15th day of October, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

SCHEDULE

Mr. A. J. Neville.
Mr. M. S. Davidson.
Mr. R. N. Cuthbert.
Mr. M. W. Cuthbert.

GOVERNMENT NOTICE No. 803

THE KENYA DEFENCE FORCE ORDINANCE, 1937

ORDER

IN EXERCISE of the powers conferred upon him by section 12 (2) of the Kenya Defence Force Ordinance, 1937, His Excellency the Governor in Council has been pleased to exempt the class of persons specified in the Schedule hereto from all obligations imposed by the aforesaid Ordinance or by any regulations made under such Ordinance.

By Command of His Excellency the Governor in Council.

Nairobi,

This 15th day of October, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

SCHEDULE

Air Ministry Works Staff posted to the Colony in connexion with the preparation and maintenance of aerodromes.

GOVERNMENT NOTICE No. 706

THE INCOME TAX ORDINANCE, 1937

RULES

IN EXERCISE of the powers conferred upon him by section 89 of the Income Tax Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Rules.

1. These Rules may be cited as the Income Tax Forms (No. 2) Rules, 1937, and shall be limited in their application to tax due and payable in respect of the year of assessment 1937 only.

2. In these Rules, unless the context otherwise requires, "the Ordinance" means the Income Tax Ordinance, 1937.

3. The notice to be served personally on, or sent by registered post to, a person under sub-section (1) of section 66 of the Ordinance shall—

(a) in the case of an individual on his own behalf (other than an individual referred to in paragraph (c) of this Rule) or by a trustee, agent, guardian, curator, committee, attorney, factor, receiver, or manager, on behalf of any incapacitated person or non-resident person, be in the Form I.T.20 set out in the Schedule hereto;

(b) in the case of a company, or a body of persons, be in the Form I.T.21 set out in the Schedule hereto; and

(c) in the case of an individual, to whom Rule 5 of the Income Tax Rules, 1937, applies, be in the Form I.T.22 set out in the Schedule hereto.

4. The notice to be sent to any individual of tax payable under an amended assessment agreed upon under the provisions of sub-section (4) of section 66 of the Ordinance, shall be in the Form I.T. 24 set out in the Schedule hereto.

5. Where any individual has appealed to a local committee, any notice of amended assessment in accordance with the decisions of such local committee, served personally on, or sent by registered post to, such individual, shall be in the Form I.T.25 set out in the Schedule hereto.

6. Any claim for repayment of tax under the provisions of section 80 of the Ordinance shall be either in the Form I.T. 81 or in the Form I.T.82 set out in the Schedule hereto, as the case may require.

By Command of His Excellency the Governor in Council.

Nairobi,

This 3rd day of September, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

Please quote
File No. _____
Assr. No. _____

COLONY AND PROTECTORATE OF KENYA
INCOME TAX YEAR, 1937

NOTICE OF ASSESSMENT
(Section 66 (1) of the Income Tax Ordinance, 1937)

To _____

Take notice you have been assessed* in respect of _____ as follows:—

A. Agriculture	£
B. Employment	£
C. Trading, profession, etc.	£
D. Rent, etc.	£
E. Net annual value	£
F. Dividends and Interest	£
G. Other income in Kenya	£
H. Income from abroad	£

Less Interest paid _____
Losses _____

Non-Resident	Do.	Life Ass.
Wife	Child	etc.
Parent		
Grandchild		
Grandparent		
Total		

CHARGEABLE INCOME £ _____

*Where necessary.

If you dispute this Assessment you must give an notice of objection in writing, stating precisely the grounds of your objection within 30 days of the date upon which the assessment is made.

If you desire a reference of objection, it must also be made within 30 days, and must be supported by evidence, statements or other reasonable grounds.

Dated this _____ day of _____ 1937.

J. C. MUNDTY,
Commissioner of Income Tax
LAW COURTS BUILDINGS,
BOX 450, NAIROBI.

FORM I.T. 20

COLONY AND PROTECTORATE OF KENYA
INCOME TAX

This slip must be detached and forwarded with your remittances or produced at the time of payment.

File No. _____ Assr. No. _____

Name _____
Address _____
Tax payable Sh. _____
Due date _____ 1937

If Poll Tax receipt is surrendered, please state Receipt No. _____

Payment should be made either personally or by remittance to—
THE COMMISSIONER OF INCOME TAX,
Law Courts Buildings,
Box 520, Nairobi.

Chances, Money Orders or Postal Orders should be made payable to the Hon. Treasurer and crossed "INCOME TAX A/C."

TAX PAYABLE _____ Sh.

There is a provision for collection has been made for the above amount payable by you on or before _____ 1937, unless you return to me when you may return this Notice for refundment.

If not paid on the due date a penalty of 20 per cent of the Tax will be added.

A declaration of the Native Hut and Poll Tax Ordinance, 1934, Northern Frontier Poll Tax Ordinance, 1934, for the year of assessment 1937, will be allowed if the receipt for such Poll Tax is surrendered at the time of payment.

FOR OFFICE USE

Date _____ Amount _____
Receipt No. _____ Poll Tax _____
Cash, Cheque, M.O., P.O. _____ Penalty _____

INCOME TAX

This slip must be detached and forwarded with your remittance or produced at the time of payment.

File No. _____
 Name _____
 Address _____
 Tax payable Sh. _____
 Due date _____ 193

Payment should be made either personally or by remittance to —
 THE COMMISSIONER OF INCOME TAX,
 Law Courts Buildings,
 Box 520, Nairobi.

Cheques, Money Orders or Postal Orders should be payable to the Hon. Treasurer and crossed "INCOME TAX A/C."

FOR OFFICE USE
 Date _____
 Receipt No. _____ Amount _____
 Cash, Cheque, M.O., P.O. _____ Penalty _____

COLONY AND PROTECTORATE OF KENYA

INCOME TAX YEAR 1937

NOTICE OF ASSESSMENT

(Section 66 (1) of the Income Tax Ordinance, 1937)

To _____ of _____

Take notice you have been assessed in respect of _____ as follows:—

Income From
 A. Agriculture £ _____
 B. Employment £ _____
 C. Trade, etc. £ _____
 D. Rents, etc. £ _____
 E. Dividends and Interest £ _____
 F. Income from abroad £ _____
 Less Interest paid £ _____
 Losses £ _____
CHARGEABLE INCOME £ _____

Except where notice of objection has been given the above amount is payable by you on or before _____ 1937.
 If not paid on that date a penalty of 20 per cent of the Tax will be added.

If you dispute this Assessment you must give me notice of objection in writing, stating precisely the grounds of your objection, within 30 days of the date hereof. PLEASE READ NOTES ON THE BACK OF THIS FORM.

A notice of objection, if made after 30 days, cannot be accepted unless absent from the Colony, sickness, or other reasonable cause prevented the notice being given.

Dated this _____ day of _____ 1937

J. C. MUNDI,
 Commissioner of Income Tax

COLONY AND PROTECTORATE OF KENYA FORM I.T. 22

INCOME TAX YEAR, 1937

NOTICE OF ASSESSMENT

(Section 66 (1) of the Income Tax Ordinance, 1937)

To _____ of _____

Take notice you have been assessed as follows:—

Income From
 A. Agriculture £ _____
 B. Employment £ _____
 C. Trade, profession, etc. £ _____
 D. Rents, etc. £ _____
 E. Net annual value £ _____
 F. Dividends and Interest £ _____
 G. Other income in Kenya £ _____
 H. Income from abroad £ _____
 Less Interest paid £ _____
 Losses £ _____

TAX PAYABLE
 £ _____
 @ 1/6 Sh. _____
 @ 1/6 Sh. _____
 @ 2/6 Sh. _____
 @ 2/6 Sh. _____
 Double Tax relief Sh. _____
 Tax paid at source Sh. _____

Person	£	Debit	£
Wife (Child)	£	Credit	£
and	£	out	£
etc.	£		£
TOTAL	£		£

*Delete as necessary.
 If you dispute this Assessment you must give me notice of objection in writing, stating precisely the grounds of your objection, within 30 days of the date hereof. PLEASE READ NOTES ON THE BACK OF THIS FORM.

A notice of objection, if made after 30 days, cannot be accepted unless absent from the Colony, sickness, or other reasonable cause prevented the notice being given.

Dated this _____ day of _____ 1937

J. C. MUNDI,
 Commissioner of Income Tax

File No. _____
 Assr. No. _____
 Deductions of tax from emoluments or pension

Department Name _____
 Tax payable Sh. _____
 Poll Tax Sh. 40
 Sh. _____

The above amount is payable by deductions as follows:—
 September, 1937 Sh. _____
 October, 1937 Sh. _____
 November, 1937 Sh. _____
 December, 1937 Sh. _____
 Sh. _____

If the Poll Tax receipt is not surrendered before the 30th November, 1937, the deduction for December, 1937, will be increased by the sum of Sh. 40.

6102/37.

Draft on Bill 6102/37

71A
2 November 1937.

Dear Turner,

Would you please refer to our official letter (38054/1/37) of the 14th June about Kenya Income Tax and the query of the Chamber of Shipping regarding the provisions of Section 8 (t) of the Ordinance. I now enclose a copy of a further despatch on the subject from Kenya.

18.10.37.

The whole question of course, is bound up with the general problem of taxation of shipping profits on which I wrote to you on the 6th of November (our reference 6102/37); but I wonder if you would agree that we might write to the Chamber of Shipping (who are pressing for a reply) more or less as follows:- that the whole question of reciprocal exemption of shipping profits from Income Tax is at present under review in regard to Kenya and other income tax Colonies; that it is not possible for the Secretary of State to give a ruling as to the

interpretation

W. T. TURNER, ESQ.

interpretation to be placed on the Kenya provision in question as this, of course, is a matter for the Courts; but that the present position appears to be that, if French law exempts United Kingdom and Kenya shipowners, French shipowners would be exempt in Kenya; adding that this position may be altered at some future date as the result of the decision eventually taken on the question as a whole.

Yours sincerely,

15 13

P.S. I see that the Foreign Office have "reminded" about Japan and Aden, so it might be as well, if you agree, to have the interdepartmental meeting you suggested fairly soon.

19
67
K
SUPPLEMENT No. 33

COLONY AND PROTECTORATE OF KENYA



Supplement to the Official Gazette

Proclamations, Rules and Regulations
(No. 30)

Vol. XXXIX—No. 39

August 17, 1937

CONTENTS

	PAGE
Govt. Notices Nos. 644-5— The Criminal Procedure Code—Orders	337
Govt. Notice No. 646— The Income Tax Ordinance—Rules	338
647—Confirmation of Ordinance	337

GOVERNMENT NOTICE No. 644

THE CRIMINAL PROCEDURE CODE

ORDER

IN EXERCISE of the powers conferred upon me by section 81 of the Criminal Procedure Code I hereby order that the powers vested in me by section 80 of the said Code may, for the time being, be exercised by—

Theodore David Wallace, Esquire,
Thomas Andrews Dennison, Esquire,
Arthur Phillips, Esquire.

Government Notice No. 686 dated the 19th day of October, 1933, Government Notice No. 275 dated the 4th day of April, 1934, and Government Notice No. 159 dated the 22nd day of February, 1935, are hereby revoked.

Given under my hand at Nairobi this 9th day of August, 1937.

H. C. WILLAN,
Acting Attorney General.

GOVERNMENT NOTICE No. 645

THE CRIMINAL PROCEDURE CODE

ORDER

IN EXERCISE of the powers conferred upon me by section 81 of the Criminal Procedure Code I hereby order that informations drawn up in pursuance of section 236 of the said Code may be signed in my name and on my behalf by—

Theodore David Wallace, Esquire,
Thomas Andrews Dennison, Esquire,
Arthur Phillips, Esquire.

Government Notice No. 687 dated the 19th day of October, 1933, Government Notice No. 276 dated the 4th day of April, 1934, and Government Notice No. 160 of 22nd day of February, 1935, are hereby revoked.

Given under my hand at Nairobi this 9th day of August, 1937.

H. C. WILLAN,
Acting Attorney General.

GOVERNMENT NOTICE No. 646

THE INCOME TAX ORDINANCE, 1937

RULES

IN EXERCISE of the powers conferred upon him by section 89 of the Income Tax Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Rules:—

1. These Rules may be cited as the Income Tax (Forms) Rules, 1937.

2. In these Rules unless the context otherwise requires—"the Ordinance" means the Income Tax Ordinance, 1937.

3. The return of income specified in sub-section (2) of section 51 of the Ordinance shall—

(a) in the case of a person on his own behalf or by a trustee, agent, guardian, curator, committee, attorney, factor, receiver, manager, or on behalf of any incapacitated person or non-resident person, be in the Form I.T. 1 set out in the Schedule hereto;

(b) in the case of a company, body of persons or partnership, be in the Form I.T. 2 set out in the Schedule hereto; and

(c) in the case of an insurance company, be in the Form I.T. 2 set out in the Schedule hereto and shall have annexed thereto a return in the Form I.T. 2 (L.I.) set out in the Schedule hereto.

4. The return specified in section 58 of the Ordinance shall be in the Form I.T. No. 6 set out in the Schedule hereto.

5. The list specified in section 30 of the Ordinance shall be in the Form I. T. No. 7 set out in the Schedule hereto.

6. The return specified in section 60 of the Ordinance shall be in the Form I.T. No. 8 set out in the Schedule hereto.

7. The return specified in section 59 of the Ordinance shall be in the Form I.T. No. 9 set out in the Schedule hereto.

By Command of His Excellency the Governor in Council.

Nairobi.

This 12th day of August, 1937.

R. W. BAKER-BEALL.

Clerk to the Executive Council

SCHEDULE
COLONY AND PROTECTORATE OF KENYAFORM I. T. 1
YEAR 1937

INCOME TAX

Return by a person on his own behalf or by a trustee, agent, etc., on behalf of any incapacitated person or non-resident person.

Please quote

File No.
in any communication relating to this form.

To:

In pursuance of the provisions of the Income Tax Ordinance, 1937, it is my duty to require from you a Return showing the total income chargeable upon you—

- (1) ACCRUED in the Colony;
- (2) DERIVED from the Colony; and
- (3) RECEIVED in the Colony;

under the different heads on pages 2 and 3 of this form in respect of the year ended 31st December, 1936.

I have accordingly to request that you will complete this form and send it by post or deliver it to me within one month from this date.

If you have any difficulty in completing this form or require any further information, you are invited to write to me or call at this office. For your guidance in filling up the return, explanatory notes are given in the enclosure.

A duplicate form upon which a copy of the return may be kept will be supplied on request.

J. C. MUNDY,

Commissioner of Income Tax.

Date

Law Courts Buildings,
P.O. Box 520, Nairobi.

DECLARATION:

I hereby declare—

(1) That this Return is made—

* (a) on my own behalf;

* (b) on behalf of

residing at

my income

(2) That this Return contains a full, just and true account of the whole of the income from the sources detailed and that all information whatsoever given by me in this Return is true and correct.

(3) That* I was resident in Kenya for the year ended 31st December, 1936.

he or she was not

Signature of Person making the Return

Residence.

Whether Trustee, Agent, Receiver, etc.

Date

*Delete as necessary.

NOTE.—The income of a married woman not separated from her husband under a judicial order or written agreement is deemed to be the income of her husband and must be included in this Return.

This Return or any correspondence thereon will be carried free through the post if enclosed in an envelope marked "Income Tax".

Page 4

CLAIM FOR DEDUCTIONS

TO BE COMPLETED BY OR ON BEHALF OF A RESIDENT IN KENYA

NOTE.—These deductions will be allowed by the Commissioner, and should NOT be deducted in computing the income returned on pages 2 and 3 of the form.

1. A DEDUCTION OF £50 IS ALLOWED TO A RESIDENT IN KENYA.

2. WIFE.—(A deduction of £100 is allowed.)

Full name of wife
who was living with the taxpayer or wholly maintained by him during the year ended 31st December, 1936.

3. CHILDREN.—(A deduction of £75 is allowed for one child and £80 for each subsequent child, with a maximum of £225), living during the year ended 31st December, 1936, and under sixteen years of age on 1st January, 1936, or who, if over that age were receiving full-time instruction at any University, College, School or other Educational Establishment, or were articulated or indentured. "Child" includes a step-child, an illegitimate child, or an adopted child who was during the year ended 31st December, 1936, wholly maintained by the individual.

Name and Address of the University, College, etc., in the case of a child over sixteen years of age
In the case of step-child, illegitimate child or adopted child state whether wholly maintained

Full name of each child: Date of Birth:
.....

4. DEPENDANTS.—(A deduction of the amount expended during the year ended 31 12 36 is allowed subject to a maximum of £1000. A dependant is a relative of the taxpayer or of his wife who is either incapacitated by old age or infirmity, from maintaining himself, or is the widowed mother of any son paid by way of alimony or maintenance under an order of a widowed mother. Any sum paid by way of alimony or maintenance under an agreement in writing competent court made on the dissolution of marriage or under an agreement in writing between the parties whose marriage has been dissolved is deemed to be a sum expended on maintenance of a dependant relative.)

Name and Address of Dependant	Relation to Taxpayer or his wife	Date of Birth, if aged, or nature of Infirmity	Date of any Court Order or Agreement	Amount Expended
.....
.....

5. LIFE INSURANCE OR CONTRIBUTIONS TO PENSION FUNDS.—A deduction is allowed in respect of—

- (a) The amount of premium paid in respect of an insurance on the taxpayer's or his wife's life,
(b) The annual contribution to a Widows' and Orphans' Pension Scheme or Approved Fund, etc.

The allowance is restricted to one-sixth of the assessable income or £200, whichever is the less.

Name of Assurance Company, Fund or Pension Scheme	Whether on life of Taxpayer or his Wife	Capital sum payable at Death	Amount of Annual Premiums or contributions paid in the year ended 31st Dec., 1936
.....
.....

No deduction can be allowed of any contribution made to any provident fund unless the contribution is made pursuant to a statutory or contractual obligation to a provident fund under the rules of which such contribution may not be withdrawn from the fund except upon the death of the contributor or upon termination of his employment.

COLONY AND PROTECTORATE OF KENYA FORM I.T. 2

INCOME TAX

YEAR 1937

Please quote

File No.
in any communication relating to this form.

Return to be made on behalf of Companies, Body of Persons, Partnership, etc.

To:

In pursuance of the provisions of the Income Tax Ordinance, 1937, it is my duty to require from you a Return showing the total amount of income of—

- (1) ACCRUED in the Colony ;
(2) DERIVED in the Colony ; and
(3) RECEIVED in the Colony.

under the different heads on page 2 of this form in respect of the year ended 31st December, 1936. I have accordingly to request that you will complete this form and send it to me prior to or deliver it to me within one month from this date.

In the case of—

- (a) A Company or Body of Persons—Section A should be completed.
(b) A Partnership—Sections A and B should be completed.

If you wish for any further information or guidance you are invited to apply to me.

A duplicate form upon which a copy of the return may be kept will be supplied on request.

J. C. MUNDY,
Commissioner of Income Tax.

Date
Law Courts Buildings,
P.O. Box 820, Nairobi.

DECLARATION

I hereby declare that this return contains a full, just and true account of the required particulars in regard to the income of..... for the year ended 31st Dec., 1936

..... Signature of Person making the Return

..... Designation.

NOTE.—The return is to be completed—

- (a) By the manager or other principal officer of a company or body of persons,
(b) By the precedent partner in the case of a partnership, or where no partner is resident in the Colony by the attorney, agent, manager or factor of the partnership resident in the Colony.

GOVERNMENT NOTICE No. 647

CONFIRMATION OF ORDINANCE

The Secretary of State for the Colonies has been pleased to notify that His Majesty's power of disallowance will not be exercised in respect of the under-mentioned Ordinance:—

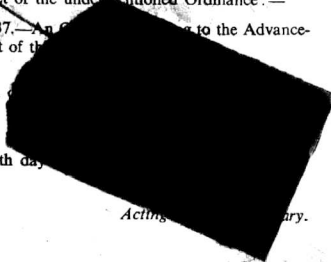
No. XI of 1937.—An Ordinance relating to the Advancement of the

By Command of

Nairobi,

Dated this 11th day

Acting Secretary.



GOVERNMENT NOTICE No. 632

THE INCOME TAX ORDINANCE, 1937

RULES

IN EXERCISE of the powers conferred upon him by section 89 of the Income Tax Ordinance, 1937, His Excellency the Governor in-Council has been pleased to make the following Rules:—

1. These Rules may be cited as the Income Tax (Form of Declaration) Rules, 1937.

2. The declaration to be made under sub-section (1) of section 4 of the Income Tax Ordinance, 1937, by any person having any official duty or being employed in the administration of the said Ordinance shall be in the Form set out in the Schedule hereto.

By Command of His Excellency the Governor in Council.

Nairobi,

This 3rd day of July, 1937.

R. W. BAKER-BEALL,

Clerk to the Executive Council.

SCHEDULE

I,
do solemnly and sincerely declare that I will not disclose any particular or any information contained in any document, information, return, assessment, list, or copies thereof, relating to the income or items of any income of any person, or any evidence or answer given by any person who may be examined, or who makes any affidavit or deposition, respecting his income, except to such persons only as shall act or be concerned in the administration of the said Ordinance, and where I am directed so to do by the said Ordinance * (or by the Commissioner).

Copy to sub. I. K. - 84

Made and subscribed before me,

this day of 193...

Magistrate

* In the case of the Commissioner the words in brackets must be deleted.

Kenya Proclamations, Rules and Regulations, 1937

GOVERNMENT NOTICE No. 633

THE INCOME TAX ORDINANCE, 1937

RULES

IN EXERCISE of the powers conferred upon him by section 89 of the Income Tax Ordinance, 1937, His Excellency the Governor in Council has been pleased to make the following Rules:—

1. These Rules may be cited as the Income Tax Rules, 1937.
2. In these Rules, unless the context otherwise requires—
“the Ordinance” means the Income Tax Ordinance, 1937.

PASSAGE ALLOWANCES

3. (a) Any employee who wishes, under the provisions of sub-section (2) of section 5 of the Ordinance, to elect to apportion his passage allowance over a number of years, shall notify the Commissioner to that effect within the time specified by the Commissioner under sub-section (2) of section 51 of the Ordinance for the submission of the return of income in which such passage allowance is, under the provisions of the Ordinance, required to be included.

(b) The maximum number of years over which any such employee may elect to apportion such passage allowance shall be such number of years, not exceeding five inclusive of the year in which the passage allowance was paid, as may reasonably be expected in the ordinary course of events to elapse before a further passage allowance will become payable to, or in respect of, such employee.

ANNUAL VALUE OF LAND AND IMPROVEMENTS THEREON OCCUPIED RENT FREE BY PERSONS IN THE PUBLIC SERVICE OF THE COLONY OR IN THE KENYA AND UGANDA RAILWAYS AND HARBOURS ADMINISTRATION

4. The annual value of land and improvements thereon occupied rent free by persons in the service of the Government of the Colony or of the Kenya and Uganda Railways and Harbours Administration, shall be the net annual value with an addition thereto of one third of such value.

The net annual value shall be deemed to be five per centum of the capital value.

Kenya Proclamations, Rules and Regulations, 1937

The capital value shall be the value estimated in accordance with the provisions of section 6 of the Local Government (Rating) Ordinance, 1928:

Provided that—

- (a) no person shall be assessed in a sum exceeding the annual value of the quarters or residence which, in the opinion of the Commissioner, such person might reasonably be expected to occupy, having regard to the total emoluments of his office or employment;
- (b) nothing in this rule contained shall affect the right of any person so assessed to have the annual value determined in accordance with the provisions of the Ordinance relating to an objection or appeal against the assessment.

DEDUCTION OF TAX FROM EMOLUMENTS AND PENSIONS PAYABLE OUT OF THE REVENUES OF THE COLONY OR FROM THE FUNDS OF THE KENYA AND UGANDA RAILWAYS AND HARBOURS ADMINISTRATION.

5. (1) Deductions on account of tax in respect of emoluments or pensions paid to persons in the service of, or in respect of past services with, the Government of the Colony or the Kenya and Uganda Railways and Harbours Administration shall be made at such times in each year as the payments on account of such emoluments or pensions are made:

Provided that, in respect of the year of assessment commencing on the first day of January, 1937, tax in respect of that year shall be deducted in four instalments commencing with the month of September, 1937, unless the taxpayer informs the Commissioner within one month from the date of the coming into force of these Rules that, in respect of that year, he wishes to pay his tax in a lump sum by the thirtieth day of November, 1937, or within ninety days after the date of assessment, whichever is the later date:

Provided further that—

- (a) if, on the assessment becoming final and conclusive, the deductions of tax made exceed the tax payable the amount overpaid shall be refunded;
- (b) where any such deduction has been made from the emoluments or pension of any person, he shall have the same right of appeal against the deduction as he has against the assessment of the emoluments or pension;

(c) in so far as any emoluments or pensions are paid without deduction of tax, the tax assessed may be collected and payment enforced in like manner as if this Rule had not been made.

(2) The Commissioner shall deliver schedules of the tax charged on each person to the head of the department concerned and such head of department shall keep accounts and be answerable for all tax deductions and the tax shall be accounted for and paid to the Treasurer.

By Command of His Excellency the Governor in Council.

Nairobi,

This 22nd day of July, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

GOLD COAST.
NO. 483



GOVERNMENT HOUSE,
ACCRA.

4th August, 1957.

RECEIVED
23 AUGUST 1957
G. O. REGY

Sir,

59 on file

I have the honour to refer to your despatch No.499 dated the 15th June, 1957, and to forward, at the request of the Association of European Civil Servants (Gold Coast), a further letter from that Association on the subject of income tax legislation in Kenya.

19th July, 1957.

I have the honour to be,

Sir,

Your most obedient, humble Servant,

Robert Gordon

GOVERNOR'S DEPUTY.

*Ann 65
Copy to Kenya 68*

The Right Honourable

W.G.A. ORMSBY-GORE, P.C., M.P.,

&c., &c., &c.

46

ASSOCIATION OF EUROPEAN CIVIL SERVANTS.
(GOLD COAST)

P.O.Box No.571,
Accra,
Gold Coast Colony.
19th July, 1937.

Ref.No.128.

Sir,

I am directed by the Council of the Gold Coast Civil Servants Association to refer to my letter of 7th^X April 1937, and to inform you that the Council has since then obtained a copy of the Report of the Select Committee of the Kenya Legislative Council and of the Income Tax Bill in its final form from which it appears that the worst anticipations of the Council have been more than realized as the Bill discriminates against non-residents (including pensioners) in the most marked manner and much more so than did the original Bill. My Council therefore respectfully invites your attention to the changes which will prejudicially affect Civil Servants on pension.

2. In the first place under the original Bill a personal allowance of £150 was allowed to non-residents. This compared unfavourably with the £350 allowed to residents but even this morsel has now been taken away altogether, while the deductions previously allowed in respect of wife and children are now allowed to residents only. Such discrimination is we respectfully submit unprecedented as such allowances are in the United Kingdom and elsewhere allowed to every British taxpayer irrespective of his income.

3. In the next place while Income Tax in Kenya is to be payable upon the estimated annual value of quarters it is not to be payable on the value of any house occupied by a

farmer.

X
{ Enclosure in }
{ Gold Coast }
{ No.264 of 23rd }
{ April, 1937 }

50 on Part 1

farmer. The effect of this will be that the Civil Servant living perhaps in a bush house will pay tax on that at the rate of 15% of his salary but a wealthy settler residing in a house of considerable value will pay nothing.

4. To illustrate what the cumulative effect of these provisions mean, a married settler with two children who has an income of £635 and a fine freehold house will pay no tax while a non-resident pensioner with like domestic responsibilities but who is in receipt of a Kenya pension of £100 a year or even less will pay 1/- in the £ on the whole of his pension. It is true that under the proviso to clause 10(2) of the Bill the Governor in Council may make rules for determining what deductions may be allowed to non-residents but as these Rules require the consent of the Legislative Council we do not feel that any reliance can be placed on such a provision as it is reasonably certain that the Unofficial majority will oppose anything beyond the most trifling concession to non-resident pensioners.

5. Another innovation introduced into the Bill is that the passage allowance granted to civil servants is deemed to be income and taxed accordingly. As we have always understood it the reason why free passages are granted to Civil Servants in the tropics is to enable them to recuperate in a temperate climate as well as to rejoin their families. The fact that the cost of a passage from Kenya is perhaps four times as much as one from Gibraltar does not however make the Civil Servant stationed in the former any better off financially than one stationed in the latter. In short while you Sir have been improving passage and other conditions of the Colonial Service, the settlers of Kenya with the help of the local Government are doing their utmost to whittle them away.

6. These then are the principal features of this markedly discriminatory legislation which affects members

of our Association who have served in or may hereafter be transferred to Kenya. As it would appear from Press reports it is possible that other East African Colonies may be asked to fall into line with Kenya by introducing Income Tax we venture earnestly to express the hope that they will not adopt as a model this Kenya Ordinance but that they be invited to follow the more equitable provisions of the Nigerian Income Tax Ordinance or indeed the Income Tax legislation of any Colony/other than Kenya.

I have, etc.,
 (SGD) G. W. STACPOOLE
 COUNCIL CHAIRMAN.

AIR MAIL

KENYA
No. 282



34
63
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED
27 MAY 1937
C. O. REGY

20 May, 1937.

Sir,

47
With reference to your despatch No.347 of the 29th April regarding a memorandum prepared by the East African Section of the London Chamber of Commerce on the Income Tax Bill, I have the honour to transmit, for your information, the accompanying copy of a letter, dated the 14th May, addressed to the Chamber.

I have the honour to be,

SIR,

Your most obedient, humble servant,

Admiral
GOVERNOR'S DEPUTY.

THE RT. HON.
W. ORMSBY GORE, P.C., L.F.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

R/TAX.8/4.VII/26

14th May, 1937.

SIR,

With reference to your letter No. AKA/DE of the 15th April, under cover of which you forwarded a memorandum prepared by the East African Section of the London Chamber of Commerce on the subject of the Kenya Income Tax Bill, I have the honour to state that this Government has carefully considered the views and suggestions contained in the memorandum and appreciates the interest shown in the matter by the East African Section of your Chamber.

2. As you are now no doubt aware, the measure has now been passed as an Ordinance and I should explain that it was passed two days before the receipt of your letter. Several of the points raised in the memorandum had, however, already received consideration during the passage of the measure through the Legislative Council, but it will perhaps be convenient to offer the following observations on the various points raised, seriatim, under the headings of the relative sections of the Bill to which reference is made in the memorandum. For ease of reference I enclose a copy of the Ordinance as finally passed.

3. (a) Section 8(b) - Passages Allowances: I am advised that passages allowances paid by an employer will be treated as outgoings and can therefore be deducted as such by the employer under Section 10 of the Ordinance.

(b) Section 12 - Trade Losses: It will be seen that under the Ordinance as now passed trade losses as far back as 1932 may be taken into consideration. The

extension/

THE SECRETARY
TO THE LONDON CHAMBER OF COMMERCE (Incorporated),
60 CANON STREET,
LONDON, E.C.4.

2.

extension of the period provided for in the Bill received the careful consideration of the Select Committee, but it was not thought possible to extend the period beyond the year 1932.

(c) Section 16 - Non Residents Allowance:

No non-resident deduction is allowed in respect of Companies. Section 16 of the Bill was deleted in Select Committee, and it will be seen that under Section 10(2) of the Ordinance only certain non-resident individuals receive any allowance.

(d) Sections 69(6) and (69) - Appeals: It will be observed from Sections 69 and 70 of the Ordinance that in the event of any disagreement with the assessment made by the Commissioner an appeal may be made either to a local committee or direct to a judge.

(e) The Pound Sterling: I am advised that no difficulty such as suggested in the memorandum is likely to arise in view of the provisions of Section 4 of Chapter 2 of the Revised Edition of the Laws of Kenya, which reads as follows:-

"4. Any reference in an Ordinance to pounds or pounds sterling shall have effect as if reference had been made to twenty times the number of shillings".

4. The remaining points raised in the memorandum would appear to be concerned with the interpretation and administration of the Ordinance and arrangements will be made to bring them to the notice of the Commissioner who is expected to arrive in the Colony shortly to administer the Income Tax Ordinance.

I have the honour to be,

Sir,

Your obedient servant,

A. DE V. WADE
COLONIAL SECRETARY.