COLONY AND PROTECTORATE OF KENYA

SESSIONAL PAPER No. 5 of 1957/58

INCOME TAX PROPOSALS

1958
PRINTED BY THE GOVERNMENT PRINTER, NAIROBI
Price: *Sh.* 1/50

K/SES

SESSIONAL PAPER No. 5 OF 1957/58

INCOME TAX PROPOSALS

The Government intentions in regard to the Coates Commission recommendations referred to in the Budget proposals for 1958/59 are here set out in the order of those recommendations as they appear in the summary of Chapter XX of the Coates Report. References to the "Management Act" relate to the East African Income Tax (Management) Act, 1952, which is at present in course of being revised.

A—RATES OF TAX AND PERSONAL ALLOWANCES

RECOMMENDATION (1): COMPANY RATE

2. The company rate of tax will be increased to Sh. 5/50 in the £. A similar increase will be made in the standard debenture interest and standard mortgage interest rates. A comparison with rates in other Commonwealth and Colonial territories is given in Appendix B.

RECOMMENDATION (6): DOUBLE TAXATION: UNILATERAL RELIEF

3. It is not proposed to introduce unilateral relief since this is not considered to be appropriate to the present circumstances of East Africa.

RECOMMENDATION (8): INDIVIDUAL RATES STRUCTURE AND PERSONAL ALLOWANCES

4. (*a*) It is proposed that income tax and surtax should be merged into one charge to be levied on chargeable income as defined in the Management Act, i.e. total income less personal allowances.

(*b*) The single person's allowance will be £225 except, for example, in the case of a widow or other single person who is entitled to an allowance in respect of a child, when the amount of the allowance will be £450.

(*c*) The married allowance will be £500 increasing by one-fifth of the amount by which total income exceeds £500, to a maximum allowance of £700. This maximum will, therefore, be reached at a total income of £1,500.

(*d*) The children's allowance will remain at £120 for the first child and £60 for each additional child up to three, i.e. the maximum children's allowance will be £300.

(*e*) The dependant allowance will remain at £60.

(*f*) The passage deduction will be increased from £125, for each single journey to and from East Africa, to £150.

(*g*) The resident individual rates to be levied on chargeable income will be as follows:—

On the first	£400 chargeable income	..	Sh. 2 in the £
On the next	£400 chargeable income	..	Sh. 3 in the £
On the next	£400 chargeable income	..	Sh. 4 in the £
On the next	£400 chargeable income	..	Sh. 5 in the £
On the next	£400 chargeable income	..	Sh. 6 in the £
On the next	£500 chargeable income	..	Sh. 7 in the £
On the next	£500 chargeable income	..	Sh. 8 in the £
On the next	£1,000 chargeable income	..	Sh. 9 in the £

Thereafter for each additional £1,000 chargeable income at an additional Sh. 1 in the £, to a maximum rate of Sh. 15 in the £, i.e. for the excess of chargeable income over £9,000.

(*h*) There will be no change in the non-resident personal allowances and rates of tax.

(*i*) The individual debenture interest and individual mortgage interest rates will remain at Sh. 2.

(*j*) The surcharge on chargeable income in excess of £800 will remain at cents 75 in the £, but will apply without limit as to total income, i.e. the maximum rate of tax inclusive of surcharge will be Sh. 15/75 in the £.

RECOMMENDATION (9): MARRIED WOMAN'S EARNED INCOME ALLOWANCE

5. In view of the administrative and other objections which would arise in the circumstances of East Africa, income tax relief on account of a married woman's earnings will not be introduced.

RECOMMENDATION (10): EDUCATION ALLOWANCE

6. Where tuition fees are paid and boarding fees are not paid, the education allowance will be the excess of twice the amount of the tuition fees charged over the sum of—

(i) any scholarship, bursary or similar educational endowment paid in respect of the child;

(ii) any contribution to fees made in respect of the child by a Government or other public authority; and

(iii) any excess of the income of the child in his own right over £75.

subject to a maximum of £75.

7. Where both tuition fees and boarding fees are paid, the education allowance will be the excess of the sum of twice the amount of the tuition fees and one-third the amount of the boarding fees over the sum of the above amounts, subject to a maximum of £125.

8. Where boarding fees are paid but tuition fees are not paid, the education allowance will be the excess of one-third of the amount of the boarding fees over the sum of the above amounts, subject to a maximum of £50.

9. As at present, no education allowance will be granted unless the child was receiving education in such manner as may be approved by the Commissioner in consultation with the Director of Education.

10. The above figures of £75, £125 and £50 will be increased to £100, £175 and £75 respectively in the case of a child over the age of 18 who at any time within the year of income was receiving full-time education at a university or similar educational establishment or was serving under articles or indentures with a view to qualifying in a trade or profession.

11. Where the tuition fees and boarding fees have not been charged separately to the individual claiming the education allowance, the Commissioner will determine what portion of the amount charged will be deemed to be in respect of tuition fees and what portion in respect of boarding fees.

12. In determining the income of the child in his own right no account will be taken of any scholarship, bursary, or similar educational endowment.

EXAMPLES:—

		Present Relief	Relief Proposed	
(1) Tuition fees ..	£25	£75		£50
No scholarship, etc.		£45 (child under 12)		
(2) Tuition fees ..	£50	£75	Twice tuition fees	£100
Scholarship ..	£20		Scholarship	£20
			Allowance ..	£80
			Restricted to £75.	
(3) Tuition fees ..	£100	£75	Twice tuition fees	£200
Boarding fees ..	£200		One-third boarding fees	£67
Government Grant	£100			£267
			Less: Grant	£100
			Allowance ..	£167
			Restricted to £125.	
(4) Tuition fees ..	£120	£75	Twice tuition fees	£240
Boarding fees ..	£210		One-third boarding fees	£70
				£310
Government Grant	£130		*Less*: Grant	£130
Child at university, etc.			Allowance ..	£180
			Restricted to £175.	

RECOMMENDATION (11): OLD AGE ALLOWANCE

13. The present age and old age allowances will be merged in a new old age allowance available—

(*a*) to men over 65;

(*b*) to married men under 65 whose wives are over 60; and

(*c*) to women over 60.

The new relief will not be extended to married men in category (*b*) until year of income 1958: the current legislation already covers those in categories (*a*) and (*c*).

14. The amount of the allowance will be £250, reducing by £1 for every £2 by which the claimant's total income exceeds the following amounts:—

(i) Single persons	£1,000
(ii) Single persons entitled to a child allowance	£1,250
(iii) Married couples not entitled to a child allowance	£1,250
(iv) Married couples entitled to a child allowance	£1,500

15. The effect of the revised rates and personal allowances is illustrated in tables in Appendix A. These tables do not include the Kenya surcharge.

16. The new rates structure and personal allowances are considered to provide adequate relief on account of any double taxation in respect of liability to the territorial personal tax, and accordingly no direct set-off of personal tax against income tax will be granted.

B—CAPITAL DEDUCTIONS, ETC.

Recommendation (12): Hotel Buildings

17. Where new hotels, or extensions to existing hotels fufil conditions which, in the opinion of the Minister for Finance justify the grant of relief under the Second Schedule to the Management Act, the provisions of paragraph 7 of that Schedule will be applied. The initial deduction will be at the rate of 10 per cent, and the annual deduction at the rate of 6 per cent.

Recommendation (13): Housing of Employees

18. In the case of housing accommodation erected by an employer in accordance with the provisions of section 41 of the Employment Ordinance (Cap. 109) for employees of his business and certified by the Labour Commissioner as having been so provided, relief by way of industrial buildings allowance will be given, i.e. an initial deduction of 10 per cent of cost, and an annual allowance of 2 per cent. Where the Commissioner is satisfied that, having regard to the type of construction, the life of the building is likely to be substantially less than 50 years, the amount of these allowances may be increased to such an amount as he may consider just and reasonable.

Recommendation (15): Wear and Tear Allowance for Plant and Machinery

19. The wear and tear deduction in respect of machinery or plant will be such amount as the Commissioner considers to be just and reasonable, by reason of wear and tear during the year, and not five-fourths of that amount, as at present.

Recommendation (16): Mining

20. (*a*) The expenditure for which capital allowances will be granted includes any expenditure on, or in connexion with the acquisition of, or of rights in or over the deposits.

This means that where a prospector or operator sells his rights in the mineral deposits, the purchaser may include in the expenditure on which mining capital allowances are granted such sum as he pays to the vendor. The vendor in turn will be assessed in respect of the full amount which he receives, but he will be allowed to spread back any profit over six years, or the period during which he has been prospecting or operating, as the case may be, where less than six years.

(*b*) Relief for capital expenditure will normally be written off as to 40 per cent in the year in which incurred, and as to 10 per cent in each of the six following years. However, if the estimated life of the mine is less than seven years, or the residue of seven years from the date of incurring the expenditure, the rate of write-off will be accelerated correspondingly to such amount as the Commissioner considers just and reasonable.

(*c*) Vehicles and non-specialized machinery will not be dealt with in the foregoing manner, but will be relieved at the rates of wear and tear deductions applicable to machinery or plant.

(*d*) Abortive expenditure incurred by an existing operator in searching for further deposits anywhere in East Africa will be allowed as and when it is incurred.

Recommendation (17): Agriculture

21. (*a*) Relief for capital expenditure on agricultural works will be granted in future to the owner or tenant of agricultural land who has incurred capital expenditure after 1st January, 1958, on subjects which rank for allowance. Agricultural land is land, houses or other buildings in East Africa occupied wholly or mainly for the purposes of husbandry. The term "works" will be regarded as including such things as farmhouses, farm buildings, employees' houses, fences, dips, drains, water and electricity supply installations, and shelter belts of trees. Capital expenditure does not include any expenditure that may be allowed as a deduction in computing profits for income tax purposes, e.g. the cost of ordinary repairs carried out by a farmer. As at present, where the expenditure is on a farmhouse, not more than one-third of the expenditure can qualify for the allowance; and where the expenditure is on any other asset which is to be used partly for agricultural purposes and partly for other purposes, a proportion of the total amount of the expenditure corresponding to the use for other purposes will be left out of account.

(*b*) One-fifth of the amount of qualifying expenditure will be allowed in the year in which incurred, and one-tenth in each of the following eight years.

(*c*) The allowance will be made to the person who incurred the expenditure. If, however, he sells the land in question, or it is transferred to another person in some other way, before the end of the nine-year period over which the allowances are spread, or if he is a tenant and his tenancy comes to an end during that period, the allowance for the year in which this happens will be divided between the person who incurred the expenditure, and the person to whom his interest is transferred, and any allowances for the later years will be given to the transferee. A similar apportionment will be made if there is a subsequent transfer during the nine-year period. No balancing adjustments will be made. Where a part and not the whole of the land in question is transferred, only the portion of the annual allowance attributable to that part of the land will be dealt with on the foregoing lines, and the person who incurred the expenditure will continue to receive the remainder of the annual allowance.

(*d*) On the death of a farmer who has elected that the values of livestock and produce shall not be taken into account in determining his farming income, tax will be payable by his personal representatives on the amounts realized by the sale of the stock existing at the date of death, subject to a right to have the amount spread over a period of six years. Where the farm is left by will or on an intestacy is succeeded to by a beneficiary who proceeds to carry on the farm, then, if the beneficiary himself elects that these values shall be left out of account in determining his income from the farm, no charge will be raised at the date of death, but the beneficiary will, in turn, be liable to tax on the proceeds of the stock when he sells it.

(*e*) Where livestock or produce is given away free, or at less than its commercial value, the market value will be treated as a business receipt as at the time of disposal.

C—LIFE ASSURANCE AND SAVINGS FOR RETIREMENT

Recommendations (18) to (20)

22. Premiums paid for insurance on the life of the taxpayer or his wife will be allowed as a deduction. The total relief in terms of tax may not, however, exceed Sh. 5 in the £ in respect of the first £200 of allowable premiums and Sh. 2/50 in the £ in respect of any excess over £200.

23. Relief in respect of savings for retirement will take three forms—relief in respect of contributions to provident funds, relief in respect of contributions to pension schemes and relief to the self-employed or unprovided for employee in respect of premiums to secure deferred annuities.

Pension Schemes

24. New rules are to be made governing the approval of employees' pension schemes. They will have effect from 1st January, 1958. Contributions to such schemes will be allowed as an expense to the employee, not, as at present, being aggregated with private life assurance premiums and only ranking for relief at Sh. 5 in the £ on the first £200 and Sh. 2/50 in the £ on any excess. Employers will be entitled to deduct their contributions as at present. The income of approved funds will be exempt.

25. The consequence of the more generous nature of the relief is that somewhat more stringent conditions for approval must be laid down and that limits must be set to the amount of allowable contributions and to the benefits payable. In fixing these limits the Government has been guided by Recommendation (20) of the Coates Commission that "it should be a condition of approval of a pension scheme that the aggregate value of benefits afforded is reasonably comparable to the aggregate value of benefits provided for public servants in East Africa in like circumstances".

26. The following will be the conditions of approval:—

(*a*) The scheme must be established in East Africa in connexion with the carrying on of a trade, etc., wholly or partly in East Africa.

(*b*) All benefits must be payable in East Africa.

(*c*) The scheme shall have for its sole or main purpose the provision of pensions for employees on retirement at a specified age or on earlier incapacity or on their death for their widows or dependants.

(*d*) Pensions must be unassignable.

(*e*) One-quarter only of the pension may be commutable. The total sum in commutation may not exceed £6,000. Where, however, the pension does not exceed £125 per annum the whole may be commuted. Commuted sums will not be liable to tax.

(*f*) The total pension for an employee who has served for 30 years or more may not exceed two-thirds of his average remuneration over his last three years of service nor £2,000 per annum. If his service is less than 30 years these limits will be reduced proportionately.

(*g*) Any death benefit payable may not exceed £6,000.

(*h*) The scheme must be mutually recognized by employer and employee and the latter given a prescribed title to defined benefits.

(*i*) Contributions of employer and employee shall not be returnable except in the case of an employee who leaves his employment before the retirement date. In such a case the employee will be taxed as outlined in paragraph 29 below and the employer will be liable to tax on the recovery in the year in which it is received.

(*j*) Directors may not participate in the scheme unless they are whole-time service directors, that is directors not able to control more than 5 per cent of the ordinary share capital of the company and required to devote substantially the whole of their time to the service of the company in a managerial or technical capacity.

(*k*) Contributions by employer and employee may not exceed in the aggregate £1,000 nor 20 per cent of the gross remuneration for the provision of benefits for the employee and 4 per cent for the provision of benefits for his widow or dependants. Gross remuneration is remuneration payable plus the employer's contribution.

(*l*) No employee may be admitted to membership of the scheme who is a member of another scheme approved under either the old or the new rules or who has received relief in respect of premiums for a deferred annuity under the provisions referred to below for relief to the self-employed, without the approval of the Commissioner. In approving his admission the Commissioner may make special conditions as to the amount of the contributions to be made in respect of him and as to the value of benefits payable to him.

(*m*) The employee may only make ordinary annual contributions to the scheme, i.e. fixed annual contributions or contributions determined by reference to earnings. Where the scheme provides for contributions by the employer which are not ordinary annual contributions, the Commissioner may direct that no allowance shall be made in respect of them or that allowance shall be spread over a period of years.

(*n*) On the winding up of a scheme any surplus remaining must be used to augment pensions payable to existing or future pensioners (within the limits set out above) or must be repaid to the employer who will be liable to tax on the amount received.

27. The arrangement whereby assurance premiums on the life of an employee paid by his employer are included in his income but he becomes entitled to insurance allowance in respect of them will be continued.

28. Where any pension scheme has been approved up to 31st December, 1957, it will continue to be approved so far as it relates to employees who were contributors at that date. Employees will, however, only be entitled to insurance allowance as at present. If new employees are admitted to an old scheme and it is not approvable under the new rules neither they nor the employer will be entitled to any relief in respect of contributions on their behalf.

29. Returned contributions (and commuted sums in excess of 25 per cent under old approved schemes) will no longer be treated as income of the years in which they were made but will be taxed according to the formula recommended in the Coates Report, which is as follows:—

(*a*) Where the contributor has contributed for six years or less, the returned contributions (including interest) are to be attributed to the years in which the relative contributions were allowed and taxed accordingly.

(*b*) Where the contributor has contributed for more than six years—

(i) the returned contributions (including interest) are to be attributed to the years in which the relative contributions were allowed; and

(ii) the amount of liability to tax on the returned contributions (including interest) for the last six complete years of income and for any final period or part of a year during which the contributor contributed is to be calculated, the tax chargeable being taken as the amount that would have been payable if the contributions (including interest) attributed to a year or part of a year had been included in the contributor's total income for that year; and

(iii) the tax so calculated for the last six complete years is to be divided by the total amount of the returned contributions (including interest) for those six years; and

(iv) the rate so arrived at is to be applied to the returned contributions (including interest) for earlier years; and

(v) the liability to tax for those earlier years arrived at as in Head (iv) above, is then to be reduced by a percentage calculated as follows:—

Where the contributor has contributed for—

more than six but less than 12 years, 20 per cent;

more than 12 but less than 18 years, 30 per cent;

more than 18 but less than 24 years, 40 per cent;

more than 24 but less than 30 years, 50 per cent;

more than 30 years, 60 per cent,

and the tax due shall be the tax in (*a*) or the tax in (*b*) (ii) plus (*b*) (v), as the case may be.

This introduces a considerable administrative simplification and in general will favour the taxpayer.

30. The consequence of non-approval of new schemes or of old schemes in relation to new employees will be that no allowance for contributions will be due to either employee or employer. It is not the present intention to assess the employee in such cases in respect of the benefit derived by him from the annual contribution of the employer, disallowance to the employer being regarded as "franking" the income in relation to the employee. This policy can, however, only be continued so long as it appears that, for example, highly paid executives are not securing the benefit of taxation at the lower company rate on such contributions compared with taxation at their own high personal rates. Undistributed income tax will in general ensure that this is not so in the field where extravagant retirement benefits are most likely to be paid, but the position will be carefully watched.

Provident Funds

31. Relief in respect of contributions to provident funds has hitherto been given to both employer and employee but tax has been chargeable when payment has been made from the fund on the basis of three-quarters of the tax which would have been payable had the employee not been entitled to any relief and had he received the employer's contribution and any accumulated interest year by year as additional remuneration. This has given rise to complaint since the tax charged has frequently substantially reduced the sum to which the employee has looked forward to receiving on his retirement.

32. It is now proposed that no relief should be given to the employee in respect of his contributions; that where the fund is an "approved fund" the employer shall be allowed to deduct his contribution as an expense in computing his profits; that the income of an approved fund shall be exempt; that the final pay out shall be tax free. The ultimate benefit to the employee from schemes which qualify for approval is likely to be greater than at present.

33. Approval will be confined to small schemes, i.e. generally those which provide benefits for lower paid employees for whom a full pension scheme might well be impracticable. The conditions which will have to be fulfilled before a scheme can be approved will be as follows:—

(*a*) The scheme must be established in connexion with a trade, etc., carried on wholly or partly in East Africa.

(*b*) The employer's annual contribution in respect of any one employee must not exceed 10 per cent of his remuneration or £100, whichever is the less.

(*c*) The total contributions by the employer in respect of any one employee may not exceed £1,500. When this limit is reached contributions must cease.

(*d*) The contributions of employer and employee must be credited to the employee's account in the scheme at intervals not exceeding one year.

(*e*) The employee shall not be entitled to withdraw any sum from the scheme except where the employee is dismissed for misconduct or voluntarily leaves his employment before completing any term of service laid down in the fund rules: any recovery is to be limited to the employer's contributions and interest thereon. Tax will be payable by the employer on any such recovery.

(*f*) The balance due to an employee is only to be payable to him on the day he ceases to be an employee.

(*g*) The employee may not pledge or assign the balance standing to his credit in the scheme nor may the employer exercise any right or lien over the amount standing to the credit of the employee which is attributable to the employee's contribution.

(*h*) On the winding up of a fund otherwise than on the cessation of the business the accumulated balance due to an employee may only be payable to him when he leaves the service of the employer permanently.

(*i*) No employee may be admitted to membership of a provident fund if he is a member of any other pension scheme or provident fund unless the accumulated balance due to him in such other fund is transferred to the new fund and taken into account in determining the limitation in (*b*) and (*c*).

(*j*) Directors are debarred from participation in the fund, as in the case of pension schemes.

34. The new rules will come into force with effect from 1st January, 1959. Until then, contributions to existing approved provident funds will receive the same relief as at present. Thereafter contributors to old funds will be advised of the accumulated tax liability calculated on the old basis as at 31st December, 1958, and the tax so payable will be finally accounted for when the employee permanently leaves his employment, by deduction from the balance in the fund payable to him.

Retirement Benefits for the Self-employed

35. The relief outlined below is for those who carry on any business, trade, profession or vocation on their own account or in partnership and those employees who do not participate in any pension scheme sponsored by their employer.

36. Where such persons take out a deferred annuity policy which fulfils certain conditions which enable it to be approved by the Commissioner they will be entitled, subject to certain limitations, to deduct the premium paid as an expense. The proposed legislation will be similar to that enacted in the United Kingdom by the Finance Act, 1956, but there are two important differences. First, the amount of allowable premium is higher and, second, tax free commutation of one-quarter of the annuity will be permitted.

37. To be approved by the Commissioner the contract for the annuity must fulfil the following conditions:—

(*a*) It must be made with a person legally carrying on in East Africa the business of granting annuities on human life.

(*b*) It must not provide for any payment to the individual other than a non-assignable annuity for life or for a term of years certain not exceeding ten. One-quarter of the annuity may, however, be commutable for a lump sum not exceeding £6,000, which will be tax free.

(*c*) It must not provide for any payment to his widow or dependants other than by way of life annuity which may not be commutable. If there are no dependants the only sum which may be payable to his personal representatives (other than the remainder of an annuity for a term of years certain) is return of premiums plus interest and bonuses, if any.

(*d*) The annuity payable to the individual may not exceed £2,000.

(*e*) The annuity may not become payable until the individual reaches 55 years of age nor after he reaches 65 years of age. Where, however, it is customary for people in his particular occupation to retire at an earlier age the annuity may be payable at that earlier age but not earlier than age 50. The contract may provide for earlier payment of an annuity on the individual becoming incapable through infirmity of mind or body of carrying on his occupation.

The limits of £6,000 and £2,000 per annum in (*b*) and (*d*) cover sums payable under all such annuity contracts or under any pension scheme approved under the old or new rules of which he may formerly have been a member.

38. The amount of deductable premium for which allowance will be made may not exceed £1,000 per annum or 24 per cent of the *net relevant income* of the individual in the year of claim. The amount of such premium applicable to benefits for the individual may not exceed five-sixths of these limits, and not more than one-sixth of such premium may relate to benefits to a dependant. The £1,000 limit may be increased for persons age 40 or more as follows:—

Born in 1918	..	£1,120
Born in 1917	..	£1,200
Born in 1916	..	£1,280
Born in 1915	..	£1,360
Born in 1914	..	£1,440
Born in 1913	..	£1,520
Born in 1912	..	£1,600 or earlier.

The relief in terms of tax may not, however, exceed £750.

39. "Relevant income" is income (as computed for income tax purposes) of the individual from any trade, business, profession, vocation or employment (other than pensionable employment), but excludes any such income of his wife. Pensionable employment includes any employment in respect of which a pension scheme is in existence and part of the cost of that scheme is borne by some other person (e.g. the employer). (If the individual is concurrently a contributor to an approved pension scheme under the old or new rules other than a provident fund he will not be entitled to any relief at all in respect of premiums for deferred annuities.)

"Net relevant income" is relevant income less any allowance for losses incurred in the trade, profession or vocation since 1st January, 1958, and set off against total income for income tax purposes.

40. Where in any year net relevant earnings are so low that full deduction for the premium paid cannot be allowed the excess may be carried back and allowed in the previous year (subject to the limits of £1,000 or 24 per cent of net relevant income of that year). Any excess premiums which cannot be so carried back may be carried forward to future years (subject to the same maxima).

41. Similar relief will be given in respect of contributions to a trust scheme approved by the Commissioner where the scheme is established in East Africa for the benefit of individuals engaged in or connected with a particular occupation for the purpose of providing annuities for them on retirement. The scheme must be established under an irrevocable trust by a body of persons representing a substantial proportion of the individuals engaged in the particular occupation.

42. The provisions relating to retirement benefits have been set out at length in this Paper as it is expected that employers and others will wish to know how they stand as soon as possible. The Commissioner is now in a position to advise as to whether present or proposed schemes will comply with the proposed legislation.

D—UNDISTRIBUTED INCOME TAX

RECOMMENDATIONS (32) TO (37)

General

43. The provisions in section 22 of the present Management Act whereby in certain circumstances the undistributed income of certain companies can be deemed to have been distributed and then charged to tax on the shareholders at their appropriate personal rate of tax, will be replaced by a tax charged direct upon the companies (as redefined) at a rate of Sh. 9/50 in the £. The following notes outline the proposals.

Companies Affected

44. The companies which are to be made liable to undistributed income tax are—

(i) a resident company which, not being a subsidiary company, is either under the control of not more than five persons, or is a company in which the public are not substantially interested; or

(ii) a non-resident company which is under the control of not more than five persons, each of whom is resident in the Territories and which, not being a sudsidiary company, is a company in which the public are not substantially interested; such a company will, by definition, be deemed to be resident in the Territories.

45. "Control" for purposes of the definition will be deemed to exist if any five or fewer persons—

(*a*) are able to exercise or acquire direct or indirect control over the company's affairs, e.g. if they possess or are entitled to acquire the greater part of the share capital or voting power;

(*b*) are entitled to acquire either the greater part of the issued share capital or such part as would entitle them to receive the greater part of the company's income if it were all distributed.

46. A company in which the public are not substantially interested will be defined in similar terms to those of the present section 22.

47. In determining control or public interest, persons who are relatives, joint nominees, partners, or trustees, will be treated as a single person.

48. "Relative" or a person will mean a spouse, ancestor (including stepfather and stepmother), lineal descendant, brother, sister, uncle, aunt, nephew, neice, stepchild, adopted child and his adopters, together with the spouse of any such relative.

Assessment of Income Chargeable to Undistributed Income Tax: Distributable Income

49. The distributable income chargeable to undistributed income tax for any accounting period will be arrived at by deducting from the total income as calculated under the Management Act—

(*a*) 20 per cent of that part of the total income which represents profits from a trade or profession;

(*b*) the amount expended during the accounting period on assets for which relief will be provided by the Second Schedule;

(*c*) the total of any balancing charges and amounts treated as trading receipts under the provisions of the Second Schedule;

(*d*) the gross amount of dividends paid out of profits of the accounting period up to the end of 12 months after the end of the accounting period;

and by adding—

(*e*) the total of the deductions made for the accounting period in respect of Second Schedule capital expenditure incurred in that period or in any previous accounting period ending after 30th June, 1957;

(*f*) the sum realized for, or the original cost, if less, of any asset sold during the accounting period which was bought after 30th June, 1957. The adjustments in respect of Second Schedule assets will only apply to such assets if used in a trade or profession.

This calculation may result in a deficit of distributable income.

Optional Adjustments to Distributable Income

50. Distributable income calculated as above may be adjusted as follows:—

(1) The company may elect not later than six months after the end of any accounting period that a specified part or the whole of the Second Schedule capital expenditure incurred in that period shall be treated as if it had been incurred in either or both of the two preceding accounting periods in specified amounts.

(2) The company may elect not later than 18 months after the end of any accounting period in which a deficit of distributable income arises that a specified part or the whole of any dividend paid out of the company's income for that period not exceeding the amount of the deficit shall be treated as if it had been paid out of the income of the preceding accounting period.

Assessment and Collection

51. Undistributed income tax will be assessable immediately after the end of 12 months following the accounting period to which it relates by way of additional assessment, the tax on which will be payable within 30 days of the

date of the notice. Exercise of the options referred to above will not affect payment of tax so assessed except in the case of an election to carry back Second Schedule capital expenditure to the immediately preceding accounting period made before the expiry of 12 months after the end of that accounting period. Relief in respect of the optional carry back will otherwise be given by repayment. Collection of income tax will be made at the normal due dates.

Transitional Period

52. Undistributed income tax will first apply to the profits of accounting periods ending after 30th June, 1957, since profits of accounting periods ending on or before that date may be deemed distributed as income of 1957 under the provisions of section 22 of the Management Act.

53. Apart from other transitional provisions, e.g. in regard to the exemption provided by sub-section (5) of section 22, it is proposed that in applying the new provisions to 1957 the period of payment of dividends will be extended to 30th September, 1958, if that date is later than 12 months after the end of the accounting period which forms the basis period for assessment to income tax for the year of income 1957.

E—ASCERTAINMENT OF TOTAL INCOME

RECOMMENDATION (38): LEGAL COSTS

54. No income tax relief will be granted for legal costs incurred in the course of appeals relating to claims for personal allowances. The present relief in respect of the legal costs of appealing against the amount of income assessed will be withdrawn.

RECOMMENDATION (39): CHARITABLE SUBSCRIPTIONS

55. No income tax relief will be granted in respect of subscriptions to charities, other than any which are already allowable under the present law as expenditure incurred in the production of trade, etc., income.

RECOMMENDATION (40): LOSSES; BENEFICIARIES OF DECEASED TAXPAYERS

56. Where the widow, widower, partner or employee of a deceased person succeeds to a trade or business carried on by the deceased, or to a share therein, either as beneficiary under the will or on the intestacy of the deceased, that person will be granted a deduction from his total income for the year in which he succeeds in respect of any unrelieved losses sustained by the deceased up to the date of his death. If the deduction more than offsets his other income, the balance will be carried forward. Where two or more persons are in this category of beneficiary, each will be entitled to so much of the unrelieved loss as his share under the will or intestacy bears to the sum of the shares of those in the same category.

F—SCOPE OF CHARGE TO TAX

RECOMMENDATION (43): ANNUAL VALUE EXEMPTIONS

57. Exemption of the annual value of quarters or houses situated on farms or mines will not extend to those in which the accommodation or amenities are out of due relation to the nature and extent of the farm or mine.

RECOMMENDATION (44): ANNUAL VALUES; BASIS OF CHARGE

58. Annual value will be determined in accordance with regulations shortly to be issued under the Management Act. The definition to be included in that Act will be related to the yearly rent which a willing tenant might reasonably be expected to pay in a free market if he undertook to bear the usual tenant's obligations, and if the landlord undertook to bear the cost of repairs, insurance and other expenses necessary to maintain the property in a state to command the rent. Annual values and net annual values will be estimated by the Commissioner in accordance with the following table:—

Year of Purchase or Erection	*Annual Value for Every £100 of the Cost*
1939 or earlier	14.85
1940	14.08
1941	13.36
1942	12.73
1943	12.16
1944	11.13
1945	9.54
1946	8.36
1947	7.44
1948	6.68
1949	6.08
1950	5.80
1951	5.68
1952	5.56
1953	6.08
1954	5.24
1955	4.60
1956	4.46
1957	4.30

These figures are approximately two and a quarter times the figures hitherto adopted for income tax purposes.

59. Certain of the tables in the Appendix to this White Paper indicate the effect of the increase in annual values in a sample range of incomes and personal circumstances, and provide a comparison with the present tax payable and with that proposed in the Coates Report.

60. The existing right of appeal against the figure assessed will in future operate on the basis of the definition of "annual value".

RECOMMENDATION (45): EMPLOYEES; RESTRICTION OF ANNUAL VALUE

61. Government servants and employees of firms to whom the present administrative arrangement for standard annual values applies, will have the

charge on the annual value of quarters increased accordingly, and the administrative restriction of annual value in their case to 10 per cent of remuneration will be abandoned. A sample of East African Government servants affected by the annual value proposals, and based on 1956 incomes, is given below:—

SINGLE PERSONS (OTHER PERSONAL CIRCUMSTANCES DIFFER IN EACH CASE)

Grade of house	Total income adjusted for increased Annual Value	Present Tax	New Tax	Saving
	£	£	£	£
B	1,099	119	108	11
B	1,913	129	114	15
C	1,448	207	207	—
D	994	81	77	4
D	1,046	54	36	18
E	378	11	8	3
E	1,134	52	26	26

MARRIED PERSONS (OTHER PERSONAL CIRCUMSTANCES DIFFER IN EACH CASE)

Grade of house	Total income adjusted for increased Annual Value	Present Tax	New Tax	Saving
	£	£	£	£
A	2,980	525	517	8
B	1,439	41	20	21
B	1,577	89	76	13
B	1,756	129	108	21
B	2,503	258	212	46
C	1,158	60	53	7
C	1,574	94	79	15
C	1,917	129	103	26
C	3,174	527	433	94
D	1,526	82	69	13
D	1,630	101	76	25
D	1,929	132	109	23

G—EVASION AND AVOIDANCE

RECOMMENDATION (61): TRUSTS

62. In view of the large-scale avoidance of tax effected by means of the creation of trusts, provision is to be made so that in certain circumstances a settlor will be charged to tax on the income of a trust created by him; thus—

(1) income arising from any trust the assets of which remain the property of the settlor will be deemed to be income of the settlor;

(2) income arising from a revocable settlement will be deemed to be income of the settlor;

(3) where, in any circumstances, the settlor has had the use of any trust income or trust assets by borrowing or otherwise, the amount will be deemed to be part of his total income.

63. A trust will be deemed to be revocable if, under its terms, the settlor can reassume control, directly or indirectly, over its income or assets, or is able to have access to the income by borrowing or otherwise, or has power to revoke the settlement in circumstances in which the settlor (or the wife or husband of the settlor) may become beneficially entitled to the whole or part of the trust property. A trust will not be deemed revocable, however, solely by reason of the fact that the settlor can reassume control of assets or income relating to the interest of a beneficiary who predeceases him.

H—APPLICATION OF NEW PROVISIONS, RELIEFS, ETC.

64. (*a*) With the minor exception of a small category of old people, the new rates of tax and personal allowances will apply to assessments made in respect of income of 1957, i.e. to year of income 1957.

(*b*) The relief in respect of retirement benefit schemes for the self-employed, and under the revised pension scheme rules will apply in respect of the year of income 1958. The new provident fund rules will first apply to year of income 1959.

(*c*) Undistributed income tax, i.e. the charge on the undistributed income of controlled companies, as defined, will apply to income arising in accounting periods which end after 30th June, 1957.

(*d*) The increase in annual values and net annual values will apply to year of income 1957.

(*e*) The provisions of the new East African Income Tax (Management) Act, the Bill for which will be published in August, will first apply to income for 1958, with the exception of the undistributed income tax provisions referred to above.

I—OTHER RECOMMENDATIONS

65. Reference was made in the December, 1957, session of the Central Legislative Assembly of the East Africa High Commission to the following recommendations which will be covered by amending High Commission legislation at present being prepared:—

Nos. (2), (5), (7), (14), (17) (v) and (vi), (19), (24), (25), (26), (27), (31), (41), (42), (47), (48), (49), (50), (51), (52), (53), (56), (62), (65), (66), (67), (68), (69), (71), (72), (73) and (74).

APPENDIX A—TABLES

I—Single Person

(*a*) No other allowances. (*b*) Widow with one child.

Total Income	(a) Present Tax	(a) Coates Proposals	(a) Budget Proposals	(b) Present Tax	(b) Coates Proposals	(b) Budget Proposals
	Nearest	Nearest	Nearest	Nearest	Nearest	Nearest
£	£	£	£	£	£	£
300	9	7	7	Nil	Nil	Nil
500	28	27	27	13	15	Nil
700	56	54	51	28	36	13
1,000	112	102	96	63	81	45
1,250	160	152	145	101	129	82
1,500	216	211	199	146	181	132
1,750	277	274	261	199	244	176
2,000	340	336	333	260	314	237

Note.—These tables do not include the surcharge.

APPENDIX A—TABLES—(*Contd.*)

II—Married Person—No Other Allowances

(*a*) Includes case of man with £5,000 invested at 5%.

(*b*) Same person, but where £5,000 invested in residence: present net annual value £98: increased N.A.V. £219.

These two tables provide a comparison, e.g., of (*a*) Married man with earnings of £750 and investment income £250., i.e., total income £1,000, with (*b*) Married man with earnings of £750 and present N.A.V. £98—future N.A.V. £219, i.e., men with same earnings but different investment of £5,000.

Total Income (*a*)	Present Tax	Coates Proposals	Budget Proposals	Total Income (*b*)		Present Tax	Coates Proposals	Budget Proposals
				With Present N.A.V.	With Revised N.A.V.			
£	Nearest £	Nearest £	Nearest £	£	£	Nearest £	Nearest £	Nearest £
500	11	10	—	348	469	Nil	13	Nil
1,000	59	57	40	848	969	40	54	38
1,500	140	127	100	1,348	1,469	112	123	96
2,000	252	242	205	1,848	1,969	215	235	197
2,500	399	374	340	2,348	2,469	351	365	331
3,000	575	536	505	2,848	2,969	520	525	494
4,000	1,018	936	910	3,848	3,969	946	922	896
5,000	1,518	1,399	1,375	4,848	4,969	1,439	1,383	1,359
10,000	4,762	4,461	4,450	9,848	9,969	4,648	4,438	4,427

Note.—These tables do not include the surcharge.

APPENDIX A—TABLES—(*Contd.*)

III—Married Person—Two Children under School Age

(*a*) Includes case of man with £5,000 invested at 5%.

(*b*) Same person with £5,000 invested in residence.

Total Income (*a*)	Present Tax	Coates Proposals	Budget Proposals	Total Income (*b*) With Present N.A.V.	Total Income (*b*) With Revised N.A.V.	Present Tax	Coates Proposals	Budget Proposals
£	Nearest £	Nearest £	Nearest £	£	£	Nearest £	Nearest £	Nearest £
1,000	37	32	22	848	969	24	30	20
1,500	107	92	73	1,348	1,469	83	87	69
2,000	209	198	164	1,848	1,969	174	185	158
2,500	354	329	286	2,348	2,469	306	320	277
3,000	532	491	442	2,848	2,969	475	480	431
4,000	973	891	829	3,848	3,969	901	877	815
5,000	1,473	1,354	1,285	4,848	4,969	1,394	1,338	1,270
10,000	4,717	4,416	4,315	9,848	9,969	4,603	4,393	4,292

Note.—These tables do not include the surcharge.

APPENDIX A—TABLES—(*Contd.*)

IV—Married Person—Two Children Boarding at School—Maximum Allowance

(*a*) Includes case of man with £5,000 invested at 5%.

(*b*) Same person with £5,000 invested in residence.

TOTAL INCOME (*a*)	Present Tax	Coates Proposals	Budget Proposals	TOTAL INCOME (*b*)		Present Tax	Coates Proposals	Budget Proposals
				With Present N.A.V.	With Revised N.A.V.			
£	Nearest £	Nearest £	Nearest £	£	£	Nearest £	Nearest £	Nearest £
1,C00	24	7	Nil	848	969	13	5	Nil
1,500	83	53	37	1,348	1,469	61	49	35
2,000	175	141	114	1,848	1,969	144	135	108
2,500	317	266	223	2,348	2,469	269	258	215
3,000	495	429	361	2,848	2,969	437	418	352
4,000	936	829	723	3,848	3,969	864	815	711
5,000	1,436	1,291	1,166	4,848	4,969	1,356	1,276	1,153
10,000	4,679	4,354	4,134	9,848	9,969	4,565	4,330	4,112

Note.—These tables do not include the surcharge.

V—Married Person—Four Children (Two at Day School—Maximum Allowance—Two under School Age)

Total Income	Present Tax	Coates Proposals	Budget Proposals
	Nearest	Nearest	Nearest
£	£	£	£
1,000	15	5	Nil
1,500	66	50	35
2,000	150	137	110
2,500	287	256	218
3,000	465	436	355
4,000	906	824	715
5,000	1,406	1,286	1,158

Note.—These tables do not include the surcharge.

VI—Married Person—Self-employed—No Dependants

Contributes 20% of Earnings to Retirement Benefit Scheme
Owns Residence—Present Net Annual Value £100

Earned Income	Present N.A.V.	Revised N.A.V.	Total Income Present	Total Income Revised	Present Tax	Coates Proposals	Budget Proposals
					Nearest	Nearest	Nearest
£	£	£	£	£	£	£	£
3,000	100	225	3,100	3,225	617	484	377
4,000	100	225	4,100	4,225	1,066	799	665
5,000	100	225	5,100	5,225	1,571	1,211	1,011

Note.—These tables do not include the surcharge.

VII—Married Person—Self-employed—Two Children at Day School (Maximum Allowance)

Contributes 12½% *of Earnings to Retirement Benefit Scheme*
Owns Residence—Present Net Annual Value £100

Earned Income	Present N.A.V.	Revised N.A.V.	Total Income Present	Total Income Revised	Present Tax	Coates Proposals	Budget Proposals
					Nearest	Nearest	Nearest
£	£	£	£	£	£	£	£
2,000	100	225	2,100	2,225	199	156	129
3,000	100	225	3,100	3,225	534	401	346
4,000	100	225	4,100	4,225	983	731	653
5,000	100	225	5,100	5,225	1,461	1,124	1,032

Note.—These tables do not include the surcharge.

APPENDIX B

Rates of Company Tax in Commonwealth and Colonial Territories

	Sh.	cts.	
British Virgin Islands	13	50	
Pakistan	10	62	
Gambia	9	00	
Gold Coast	9	00	
Sierra Leone	9	00	
Nigeria	9	00	
British Guiana	9	00	
India	8	70	
United Kingdom	8	50	
Cyprus	8	50	
Antigua	8	00	
Barbados	8	00	
Trinidad	8	00	
North Borneo	8	00	
St. Christopher Nevis	8	00	
Jamaica	8	00	
Mauritius	8	00	
British Honduras	8	00	
New Zealand	7	75	to 8 66
Grenada	7	50	
Rhodesia and Nyasaland	7	50	
St. Vincent	7	50	
Australia	7	00	to 8 00
St. Lucia	6	66	
Aden	6	50	
Fiji	6	25	
Dominica	6	00	
Malaya and Singapore	6	00	
Brunei	6	00	
Sarawak	6	00	
Seychelles	6	00	
South Africa (other than gold and diamond mines)	5	00	plus approximately Sh. 1 provincial tax.
Montserrat	5	50	
Tanganyika	5	50*	
Zanzibar	5	50*	
Uganda	5	50*	
Kenya	5	50*	
Malta	5	00	
Canada	3	60	on first £20,000.
	9	00	on balance.
Falkland Islands	3	50	
Hong Kong	2	50	
Gibraltar	2	00	
Gilbert and Ellice Islands	1	50	
British Solomon Islands	1	50	
St. Helena	1	50	

* Proposed rate.