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PROCLAMATION

By His Royal Highness the High Commissioner.

Whereas it is expedient to provide for the raising of revenue in the Territory of Swaziland (herein after referred to as "the Territory") by the imposition of a tax on incomes;

Now therefore under and by virtue of the powers authorities and jurisdiction conferred upon and committed to me under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909 I do hereby declare, proclaim and make known as follows:—

CHAPTER I.

ADMINISTRATION.

1. (1) For the administration of this Proclamation the High Commissioner may appoint a Collector of Income Tax (herein after referred to as the Collector) and an Assistant Collector of Income Tax (herein after referred to as the Assistant Collector).

(2) An Assistant Collector shall, under the control of the Collector, perform such general official duties as he is required to perform by this Proclamation or by the Collector, and shall in case of illness, absence, or temporary incapacity of the Collector, act in his name and on his behalf, and while so acting shall have and may exercise all the powers conferred, and shall perform the duties imposed, upon the Collector under this Proclamation.

(3) Any office under this Proclamation may be held in conjunction with any other office in the Public Service.

(4) A notification in the Gazette that any person appointed to an office herein named has been so appointed shall be conclusive evidence of such appointment without further proof.

2. The Collector may, with the approval of the Resident Commissioner, delegate to any officer in the Public Service any duties, powers, and functions by this Proclamation conferred or imposed upon him other than such power of delegation.

3. (1) Every person appointed or employed in the carrying out of the provisions of this Proclamation shall preserve, and aid in preserving, secrecy with regard to all matters that may come to his knowledge in his official capacity in the performance of his duties in connection with those provisions, and shall not communicate any such matter to any other person, except in the performance of his duties under this Proclamation or by order of a competent Court of Justice.

(2) Every person so appointed or employed shall, before acting under this Proclamation, take and subscribe before an Assistant Commissioner or Justice of the Peace such oath of fidelity or secrecy as may be prescribed.

(3) Every person who, in contravention of the true intent of the oath of fidelity or secrecy taken by them and without lawful excuse, reveals any matter or thing which has come to his knowledge in his official capacity shall be guilty of an offence, and shall be liable on conviction to imprisonment for any term not exceeding two years with or without hard labour.

(4) If any person acts in the execution of his office before he has taken the prescribed oath he shall be guilty of an offence and shall be liable to a fine not exceeding ten pounds or, in default of payment, to imprisonment for a period not exceeding three months.

CHAPTER II.

INCOME TAX.

4. (1) There shall be charged, levied, and collected throughout the Territory, subject to such conditions and to such exemptions and abatements as are herein after provided, an income tax at the rate and calculated in the manner herein after specified in respect of any taxable income received by or accrued to or in favour of any person during the year ending the thirtieth day of June, 1921.

(2) If for any year thereafter the levying of an income tax is authorized by Proclamation the provisions of this Proclamation shall apply, except in so far as it may be amended.

(3) The rate to be levied shall be fixed annually by Proclamation, but the rate so fixed for any year shall be deemed to continue in force until the next such annual determination if, owing to the distribution or cessation of the income prior to such determination, the collection of the tax leviable upon any income received or accrued during that period cannot be postponed.

5. For the purposes of this Chapter—

"gross income" means the total amount, other than receipts or accruals of a capital nature, received by or accrued to or in favour of any person in any year or period assessable under this Chapter from any source within the Territory, or deemed to be within the Territory, and includes rents, interest, salaries, stipends, wages, allowances, the estimated annual value of any quarters or board or residence or any other benefit or advantage of any kind granted in respect of employment, whether in money or otherwise, and any pension, stipend, charge, or annuity;

An amount shall be deemed to be derived from a source within the Territory if it is received by or accrues to or in favour of any person ordinarily resident or carrying on business within the Territory, and is received or accrues from any country outside the Territory where, owing to the fact that such person is not domiciled or ordinarily resident therein, the amount is not chargeable with income tax;

"income" means the amount remaining of the gross income of any person for any such year or period after deducting therefrom any amounts exempt from income tax in the hands of such person;

"taxable income" means the amount remaining after deducting from the income of any person all the amounts, other than abatements, allowed as deductions under this Chapter;

"taxable amount" means the amount remaining after deducting from any taxable income any abatement allowed under this Chapter;

the taxable amount shall be the amount upon which the tax to be paid by any person shall be calculated.

6. The abatement to be deducted from the taxable income for the purpose of determining the taxable amount of any person or company shall be the sum of £1000.

In any case in which the period taxable under this Chapter is less than one year, any abatement allowable in accordance with this section shall be proportionately reduced.

7. There shall be deducted from the amount of income tax assessed in any year the amount of poll tax paid by any person under the Swaziland Poll Tax Proclamation, 1921.

8. There shall be charged, levied, and collected, subject to the provisions of this Proclamation, in respect of each year of assessment commencing from the 1st day of July, 1920, an income tax in respect of the taxable amount of any taxable income received by or accrued to or in favour of any person during the said period at the rate of one shilling for every £1 of the taxable amount.

9. Income shall be deemed to have accrued to a person within the meaning of this Proclamation though the same has not been actually paid over to such person but has been credited in account or reinvested or accumulated or capitalized or otherwise dealt with in his name or on his behalf, and a complete statement of all such income shall be included by any such person in the returns rendered by him under this Proclamation.

10. Income received or accrued

(1) by virtue of any contract made within the Territory for the sale of goods, whether such goods have been delivered or are to be delivered in or out of the Territory; and

(2) from any service rendered or work or labour done in the carrying on in the Territory of any business, trade, profession, or occupation, whether the payment for such service or work or labour is made, or is to be made, by a person resident in or out of the Territory and wherever payment for such service or work or labour is made or is to be made;

shall be deemed to be income received or accrued from a source within the Territory.

11. There shall be exempt from the tax—

(a) the revenues of building and friendly societies and life assurance companies;

- (b) the receipts of companies or societies carrying on business but not for the purpose of profit or gain which is to be divided amongst or credited to the shareholders or members thereof, except as regards the receipts from investments of such societies;
- (c) the revenues of all ecclesiastical, charitable, and educational institutions of a public character;
- (d) the salaries and emoluments payable in respect of their offices to consuls of foreign countries, and members of their staffs who are not British subjects nor permanently resident in the Territory;
- (e) the salaries and emoluments payable to all persons in the service of the Imperial Government (otherwise than under the Swaziland Administration) or the Government of the Union of South Africa in respect of their offices whether the service be naval, military, or other service;
- (f) war pensions or gratuities, whether granted from Imperial funds or by the Government of any British Dominion, Possession, or Protectorate;
- (g) dividends and interest on debentures or debenture stock received or accrued from any company in respect of which income tax has been paid by such company;
- (h) interest on sums deposited in the Post Office Savings Bank of the Territory;
- (i) interest received by or accruing to or in favour of any person from stock or securities (including Treasury Bills) issued by the Imperial Government or the Government of the Union of South Africa subject to a condition that such interest shall be exempt from income tax;
- (k) the income of any branch of a bank on which income tax is payable in the Union of South Africa;
- (l) excess profit as defined in the Swaziland Base Metals Excess Profits Tax Proclamation, 1918, which has been received by or accrued to or in favour of any person during any period in respect of which excess profits tax is payable under the said Proclamation;

provided that, notwithstanding these exemptions, all amounts which fall under sub-section (g) shall be set out by the taxpayer in the return rendered by him. The exemptions provided by sub-sections (a), (b), (c) shall not extend to the salaries, wages, allowances, or pensions of persons employed by any such society, institution, or company, although the same may be paid wholly or in part out of the income, revenue, or funds thereof.

12. In the case of persons whose business extends to any other country, the taxable income shall be the sum which shall bear the same proportion to the whole net profits as the assets in the Territory bear to the total assets of such person; provided that where the Collector on the one hand, or the taxpayer on the other hand, deem such method of estimating the income for taxation to be inequitable or inexpedient, the Collector or taxpayer may claim the right to an assessment on the actual profits derived from sources in the Territory.

13. (1) Every company which is subject to income tax and which pays interest upon or in respect of debentures or debenture stock shall be entitled to deduct from each amount of interest paid to the holder of any such debenture or debenture stock the proportionate amount of income tax paid by such company in respect of the total of such interest; provided that the Collector shall refund to a holder resident in the Territory such amount of any income tax so deducted as such holder would not have been chargeable with if such deduction had not been made.

(2) For the purposes of this section "Interest upon or in respect of debentures or debenture stock" shall include any interest payable under and by virtue of a debenture or debenture trust deed, whether in the form of a mortgage or any other instrument or document acknowledging indebtedness.

14. (1) For the purpose of ascertaining the taxable income of any person, there shall be deducted from the income of such person

- (a) losses and outgoings actually incurred in the Territory by the taxpayer in the production of his income, and including also such expenses incurred outside the Territory in the production of the taxable income as the Collector may allow: provided such losses or outgoings are not of a capital nature;
- (b) sums expended for the repairs of property occupied for the purpose of trade or in respect of which income is receivable, and sums expended for the repair of machinery, implements, utensils, and articles employed by the taxpayer for the purposes of his trade; such sums shall be the actual expenditure incurred by the taxpayer during the year of assessment;
- (c) such sum as the Collector may think just and reasonable as representing the diminished value by reason of wear and tear during the year of assessment of any machinery, implements, utensils, and articles used by the taxpayer for the purposes of any trade other than gold mining carried on by him: provided that where a deduction has been allowed under paragraph (b) of this sub-section, the Collector shall take into consideration the sum allowed under that sub-section in determining the sum to be allowed under this sub-section: provided that in no case shall any allowance be made for the depreciation of buildings or other structures or works of a permanent nature;
- (d) in respect of income from gold mining operations, an allowance for the redemption of capital expenditure in lieu of the allowance in paragraph (c) of this sub-section to be determined in accordance with the provisions of the Profits Tax (Gold Mines) Proclamation, 1902, of the Transvaal as in force in Swaziland;
- (e) in the case of a company such amount as may be paid by the taxpayer to the Swaziland Administration in respect of mining taxation under the laws of Swaziland for the period of assessment;
- (f) any gifts exceeding in the aggregate £50 made to any ecclesiastical, charitable, or educational institution of a public character within the Territory or to any public fund established in any part of His Majesty's Dominions, or in any country in alliance with Great Britain, for any purpose connected with the late war: provided that payments shall not be allowable as deductions under this paragraph unless verified to the satisfaction of the Collector.

(2) There shall be set off any loss made in any previous year of assessment which is established to the satisfaction of the Collector.

15. Where a taxpayer, either alone or with other persons, carries on or is interested as a partner (otherwise than as a member of a company the capital whereof is divided into shares) in more than one trade in the Territory, and makes a profit in one or more of such trades and a loss other than a loss of a capital nature in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.

16. (1) No deductions shall in any case be made in respect of any of the following matters:

- (a) the cost incurred in the maintenance of any taxpayer, his family, or establishment;
 - (b) domestic or private expenses;
 - (c) any loss or expense which is recoverable under any insurance, contract, or indemnity;
 - (d) income tax levied under this Proclamation;
 - (e) income carried to any reserve fund or capitalized in any way;
 - (f) any expenses incurred in respect of any amounts received or accrued which are not included in the term "income" as defined in this Chapter.
- (2) No deduction shall, as regards income derived from any trade, be made in respect of any of the following matters:
- (a) any moneys not wholly or exclusively laid out or expended for the purposes of trade;
 - (b) the rent or value or cost of repairs of any premises not occupied for the purposes of the trade, or of any dwelling-house or domestic premises except such part thereof as may be occupied for those purposes;
 - (c) interest which might have been made on any capital employed in the trade;
 - (d) any debts owed to the taxpayer, except such as are proved to the satisfaction of the Collector to be bad or doubtful, deductions for doubtful debts being made according to a value estimated by the Collector;
 - (e) debenture interest.

17. For the purpose of this Chapter, the expression "trade" shall include every profession, trade, employment, or calling.

CHAPTER III.

GENERAL PROVISIONS.

Part I.

Return and Assessments.

18. (1) The Collector shall annually give public notice in the prescribed manner that all persons liable to taxation personally, or in any representative capacity, under the provisions of this Proclamation, are required to furnish within thirty days after the date of such notice or within such further time as the Collector may for good cause allow, returns for the assessment of the tax. Such notice shall state the places at which the prescribed forms may be obtained, and it shall be the duty of all such persons, and of all persons required by this Proclamation to furnish such returns, to apply for the prescribed forms of returns. Any such person failing to furnish such returns shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form not having been delivered to him, but the Collector may, if he deem it so advisable, cause forms to be delivered or sent by post to any person.

(2) If in any particular case the Collector has reason to believe that any tax payable may not be recovered, he may, prior to the issue of any such annual notice, require any person by notice in writing to render *interim* accounts for any period he may designate in such notice, and shall proceed to make an assessment in respect of that period.

(3) Every such person shall, on publication of the annual notice, or on receipt of such written notice, prepare and deliver in the prescribed manner, within the period mentioned in such notice, to the person appointed to receive the same, a return in the form prescribed, giving the particulars required, and all other details in relation thereto which may be prescribed; such returns shall be signed by the taxpayer or by his agent duly authorized in that behalf.

(4) Any return made, or purporting to be made or signed by or on behalf of any person for the purposes of this Proclamation, shall be deemed to be duly made and signed by the person affected, unless such person prove that such return was not made or signed by or on his behalf.

(5) If any person fails to make such return, the Collector may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall be, for all the purposes of this Proclamation, the return of the person liable to make the same.

(6) The returns furnished by or on behalf of every person required to furnish returns under this Proclamation shall contain such particulars, be in such form, and be furnished to the Collector at such time as may be prescribed or publicly notified.

(7) The Collector may, when and so often as he thinks necessary, require any person to make fuller or further returns respecting any matter of which a return is authorized or prescribed by this Proclamation.

(8) All returns required to be furnished under this Proclamation shall be delivered at, or sent by post to, the prescribed address. Any such returns shall, if marked with the words "Income Tax" and "On the Public Service" be carried and delivered free of postal or other charges by the postal department.

(9) Returns of income to be made by any person shall be based on the amount of income which was received by or accrued to or in favour of the person making the return during the twelve months which ended the thirtieth day of June preceeding the date of the notice calling for returns: provided that where the income of a person cannot be conveniently returned for such period the Collector may, in his discretion, accept returns made up to a date agreed by him, such date not being later than the thirtieth day of June. Where the income of any person has been assessed under the provisions of this sub-section upon a period ending upon a date other than the thirtieth day of June the returns to be rendered under this Proclamation shall be for the succeeding period of twelve months ending upon such other date.

(10) If any person, when called upon to furnish a return of income under this Proclamation, is unable to furnish such return, the Collector may accept a return of estimated income for assessment, and such assessment shall be adjusted by the Collector when an actual return of income is furnished.

(11) Persons carrying on any business in partnership shall be liable to make a joint return as partners in respect of such business and to furnish such particulars as may from time to time be prescribed, and each such partner shall be separately and individually liable for the rendering of the joint return and for the furnishing of such particulars, but they shall be liable to tax only in their individual capacities.

19. (1) For the purpose of obtaining full information in respect of any income of any taxpayer or of any part thereof, the Collector may require any person to produce for examination by the Collector, or by any person appointed by him for that purpose, at such time and place as may be appointed by the Collector in that behalf, any deeds plans instruments books accounts trade-lists stock-lists or documents that may be deemed necessary for the purposes of this Proclamation.

(2) The Collector may, by notice in writing, require any person entitled to or in receipt of any income (whether in his own behalf, or as a public officer of a company or as an agent or trustee of any person), or any person whomsoever that the Collector may deem able to furnish information, to attend at a time and place to be named by the Collector, for the purpose of being examined by him on oath respecting the income of any person, or any transactions or matters affecting the same, or any of them or any part thereof.

Any person so attending may be allowed by the Collector any reasonable expenses necessarily incurred by such person in so attending.

20. (1) The income of a woman married and not separated from her husband under a judicial order or written agreement, shall, for the purposes of this Proclamation, be deemed to be income accrued to her husband, and shall be included by him in returns of income required to be rendered by him under this Proclamation: provided that in the event of the death or bankruptcy of the husband during any year in respect of which such income is chargeable, the income of the wife for the period elapsing between the date of such death or bankruptcy and the last day of the year of assessment shall be taxable as the separate income of such wife: provided further that, if either the husband or the wife makes written application to the Collector, returns of income may be rendered by such husband and wife separately, and assessments may be levied upon each separately of an amount of tax proportionate to the share of the combined incomes returned by each: provided also that the total amount so assessed upon the husband and the wife together shall not be less than the total amount which would have been assessed upon the husband alone if the incomes of both husband and wife had been included in one return, as required by this section.

(2) Any amount payable by way of alimony or allowance by one spouse to the other under any judicial order or written agreement of separation shall be returned as separate income of the spouse to whom the payment is made, and shall be assessable only in the hands of such spouse.

21. (1) Every person shall, if required by the Collector, furnish to him, in such form and at such times as may be prescribed or as the Collector may require, returns of all or any particular class of persons employed by him, and the earnings salary wages allowances or pensions whether in money or otherwise, paid or allowed to each person so employed.

(2) Every person carrying on business in the Territory shall, in such manner and form and at such times as may be prescribed or the Collector may require, furnish to the Collector returns showing

- all payments made to any person in respect of any share or interest in such business;
- all moneys received by him from any person on deposit for any fixed time or period with or without interest;
- all such other information in his possession with regard to the income received by, or accruing to, or in favour of, such person as may be prescribed or may be required by the Collector.

22. Any person, whether liable for taxation under this Proclamation or not, to whom any notice or request for information is sent by the Collector, or by any officer acting under the authority of the Collector, shall comply with the terms of that notice or furnish the information so requested under pain of the penalties for default under the next succeeding section.

23. Any person who

- (1) fails or neglects to furnish any return as and when required by this Proclamation or the regulations or by the Collector, under the powers conferred by this Proclamation or by the regulations; or
- (2) without just cause shown by him, refuses or neglects to attend and give evidence as and when required by the Collector, or any officer duly authorized by him, or to answer truly and fully any questions put to him, or to produce any books or papers required of him by the Collector or any such officer; or
- (3) obstructs or hinders any officer in the discharge of his duties under this Proclamation;

shall be guilty of an offence, and liable on conviction to a fine not exceeding One Hundred Pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one year, and may be further sentenced by the convicting Court to a fine not exceeding Ten Pounds in respect of each day during which any default aforesaid continues after the conviction.

24. In every case in which any taxpayer makes default in furnishing any return, or if the Collector is not satisfied with the return furnished by any taxpayer, the Collector may make an assessment in such sum as in the Collector's judgment ought to be charged in accordance with this Proclamation, and thereupon shall give notice thereof to the taxpayer to be charged, and such taxpayer shall be liable to pay the tax upon the same. Such assessment shall be subject to objection and appeal, as provided by this Proclamation, and the taxpayer, if he has made default, shall not be entitled to any costs on such objection or appeal: provided that if it appears to the Collector that any person is

unable from any cause to furnish an accurate return of his income, the Collector may agree with such person what shall be the taxable amount of such income.

25. (1) Any taxpayer who makes default in rendering a return in respect of any year of assessment shall be chargeable in respect of his taxable income for such year of assessment with a double rate of tax and any taxpayer who omits from his return any amount which should have been included therein shall be chargeable with an amount equal to the difference between the tax as calculated in respect of the taxable income returned by him and the tax properly chargeable in respect of his taxable income as finally determined after including the amounts omitted and shall be required to pay this amount in addition to the tax properly chargeable in respect of his true taxable income.

(2) If the Collector is satisfied that the default in rendering the return was not due to any intent either to defraud the revenue or to postpone payment by the taxpayer of the tax chargeable or that any such omission was not due to any intent to evade taxation on the part of the taxpayer he may remit such part or all of the said double rate or additional charge as he may think fit.

(3) The powers conferred upon the Collector by this section shall be in addition to any right conferred upon him by this Proclamation to take proceedings for the recovery of any penalties for evading or avoiding assessment or the payment of tax or attempting to do so.

26. (1) The particulars of every assessment, and the amount of tax payable thereon, shall be entered in an assessment register, which shall be kept in the office of the Collector.

(2) Upon entering any assessment in any assessment register, the Collector shall give notice of the assessment to the taxpayer whose income has been assessed.

(3) Such notice shall be in the form prescribed and shall be sent to such person by post in a registered letter or envelope, or delivered to such person in such other manner as the Collector may consider necessary, or convenient.

(4) The Collector shall, in the notice of assessment, give notice to the taxpayer that any objection to the assessment made must be sent to him within twenty-one days after the date of such notice or within such further time as the Collector or the Special Court of Swaziland may for good cause allow.

27. The register of income tax assessments shall not be open to public inspection, but every taxpayer shall be entitled to copies, certified by or on behalf of the Collector, of such entries therein as relate to the assessment of his own income.

Part II.

Representative Taxpayers and Companies.

28. For the purposes of this Proclamation, "representative taxpayer" means—

- (1) in respect of the income of a company, the public officer thereof;
- (2) in respect of the income of every person permanently or temporarily absent from or resident out of the Territory, the agent of such person, and for the purpose of this Proclamation every person in the Territory having the receipt, management, or control of income on behalf of any person absent or resident as aforesaid, or omitting or paying income to or receiving moneys for such person shall be deemed to be the agent of such person;
- (3) in respect of the income of any trust or any minor or mentally disordered and defective person or any other person under legal disability, the trustee, guardian, curator, or other person entitled for the time being to the receipt, management, disposal, or control of such income, or remitting or paying to, or receiving moneys on behalf of, such person under disability;
- (4) in respect of income paid under the decree or order of any Court to any receiver or other person, such receiver or person whoever may be entitled to the benefit of such income, and whether or not it accrues to any person on a contingency or an uncertain event;
- (5) in respect of any person who dies during any year of assessment, or who dies after the close of any year of assessment, but before rendering a return of his income for such year of assessment, the executor or administrator of the estate of such person;

but nothing herein contained shall be construed as relieving any person from any liability, responsibility, or duty imposed upon him by this Proclamation.

29. Every representative taxpayer as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment, or control, shall be chargeable with the taxation imposed by this Proclamation and be subject in all respects to the same duties, responsibilities, and liabilities as if the income were income received by or accruing to or in favour of him beneficially, except that no representative taxpayer (not being a public officer of a company) shall, save as provided by section thirty-one, be personally liable for the payment of any tax beyond the amount of the income of which he has in such capacity aforesaid the management, receipt, disposal, or control; provided that nothing herein contained shall, in any case where the representative taxpayer acts as an agent or trustee or in any other capacity for several persons, prevent him from claiming that each agency or trust or other capacity shall be treated separately for the purpose of claiming any exemption or deduction provided by this Proclamation.

30. Every representative taxpayer who, as such, pays any tax, shall be entitled to recover from the person on whose behalf it is paid, or to retain out of any moneys that may come to him in his representative capacity, so much as is required to indemnify him in respect of the payment.

31. Every representative taxpayer shall be personally liable for any tax if, while it remains unpaid,

- (1) he alienates, charges, or disposes of such income;
- (2) he disposes of or parts with any fund or money which comes to him after the tax is payable when from or out of such fund or money the tax could legally have been paid.

32. The Collector may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Proclamation.

33. The Collector or any person empowered under this Proclamation shall have such and the like remedies against all property of any kind vested in or under the control or management of any agent or trustee as he would have against the property of any person liable to pay any tax and in as full and ample a manner.

34. Every company carrying on business or having an office in the Territory shall at all times be represented by an individual residing therein. That individual shall be appointed by the company or by an agent or attorney who has authority to appoint such a representative for the purposes of this Proclamation, and the following provisions shall have effect:—

- (1) The representative shall be called the public officer of the company, and shall be appointed, in the case of a company which at the commencement of this Proclamation so carries on business or has an office in the Territory, within two months after such commencement, and in the case of a company which thereafter begins to carry on business or has an office in the Territory within one month after so beginning to carry on business or acquiring the office; in default of any such appointment the public officer of any company shall be such managing director, director, secretary, or other officer of the company as the Collector may designate for that purpose;
- (2) every company shall also, within the period prescribed in respect of it by sub-section (1), appoint a place within the Territory at which any notices or other instruments under this Proclamation affecting the company may be served or delivered, or to which any such notices or documents shall be sent;
- (3) no appointment shall be deemed to have been made under sub-sections (1) or (2) until notice thereof, specifying the name of the public officer and an address for service or delivery of notices and documents, has been given to the collector;
- (4) every company shall keep the office of public officer constantly filled and shall at all times maintain a place for the service or delivery of notices in accordance with sub-section (2) of this section; any change of public officer or of the place for service or delivery of notices shall be notified to the Collector within fourteen days of such change taking effect;
- (5) any company which makes default in appointing a public officer or appointing a place for service or delivery of notices, in accordance with this Proclamation, or in keeping the office of public officer constantly filled or in maintaining a place for the service or delivery of notices or which fails to notify to the Collector any change of public officer or of the place for the service or delivery of notices, and every person who acts within the Territory as agent or manager or representative of such company shall be liable to a fine not exceeding five pounds for every day during which the default continues;
- (6) every notice, process, or proceeding which under this Proclamation may be given to, served upon, or taken against any company, may be given to, served upon, or taken against its public officer, and if at any time there is no public officer, then any such notice, process, or proceeding may be given to, served upon, or taken against any officer or person acting or appearing to act in the management of the business or affairs of such company or as agent for such company;
- (7) every public officer shall be answerable for the doing of all such acts, matters, or things as are required to be done under this Proclamation by a taxpayer, and in case of default shall be liable to the penalties provided in respect of defaults by a taxpayer;
- (8) everything done by any public officer which he is required to do in his representative capacity shall be deemed to have been done by the company which he represents;
- (9) the absence or non-appointment of a public officer shall not exonerate any company from the necessity of complying with the provisions of this Proclamation, but the company shall in all respects be subject to and liable to comply with the provisions of this Proclamation as if there were no requirement to appoint such officer.

Part III.

Objections and Appeals.

35. (1) Objections to any assessment made under this Proclamation may be made within twenty-one days after the date of the assessment notice or within such further time as the Collector or the Special Court of Swaziland (herein after referred to as "the Court") may for good cause allow, in the prescribed manner and under prescribed terms, by any taxpayer who is aggrieved by any assessment in which he is interested.

(2) Subject to the provisions of the last preceding sub-section, no objection shall be entertained by the Collector which is not delivered at his office or posted to him in sufficient time to reach him on or before the last day appointed for lodging objections unless the taxpayer satisfies the Collector that reasonable grounds exist for delay in lodging his objection.

(3) Every objection shall be in writing and shall specify in detail the grounds upon which such objection is made.

(4) On receipt of a notice of objection to an assessment, the Collector may reduce or alter the assessment or may disallow the objection, and shall send the taxpayer notice of such alteration, reduction, or disallowance, and shall record in the assessment register any alteration or reduction made in the assessment.

(5) Where no objections are made to any assessment or where objections have been allowed or withdrawn, such assessment or altered or reduced assessment, as the case may be, shall, subject to the right of appeal herein after provided, be final and conclusive.

36. The burden of proof that any income is exempt from or not liable to any tax chargeable under this Proclamation, or is subject or entitled to any deduction or abatement, shall be on the person claiming such exemption, non-liability, or deduction.

37. (1) Any taxpayer dissatisfied with any decision of the Collector, as notified in the notice of alteration or reduction of an assessment or disallowance of an objection, or with any other decision which is subject to objection and appeal as provided

by this Proclamation, may appeal therefrom to the Court. Unless the taxpayer gives notice of such appeal within the period prescribed by sub-section (2) his objection shall be deemed to be determined.

(2) Notice of such appeal shall be in writing and shall be lodged with the Collector within twenty-one days after the date of the notice mentioned in sub-section (4) of section thirty-five or within such further time as the Collector or the Court may for good cause allow.

(3) At any such appeal the taxpayer shall be limited to the grounds stated in his notice of objection.

(4) If the assessment has been altered or reduced, the assessment as altered or reduced shall be deemed to be the assessment against which the appeal is made.

(5) So many days before the date fixed for the hearing of an appeal as the Court may direct the Collector shall send to the taxpayer or to his duly authorized attorney or representative a written notice of the time and place appointed for the hearing of such appeal. The hearing of an appeal may be adjourned by the Court from time to time to any time and place that may seem convenient.

(6) The sittings of the Court for the hearing of such appeals shall not be public, and the Court shall at any time, on the application of the appellant, exclude from such sitting, or require to withdraw therefrom, all or any persons whomsoever whose attendance shall not be necessary for the hearing of the appeal under consideration.

(7) The Collector, or any person authorized by him, may appear in support of the assessment on the hearing of any appeal, and the appellant and any person who is interested in such appeal may appear in person or by his counsel, solicitor, or agent.

(8) The Court may alter or order the alteration of the assessment book in accordance with the decision given on any appeal, but may only make an order as to costs when the claim of the Collector is held to be unreasonable or the grounds of appeal therefrom to be frivolous.

38. The obligation to pay and the right to receive and recover any tax chargeable under this Proclamation shall not, unless the Collector shall so direct, be suspended by any appeal or pending the decision of the Court under the next succeeding section, but if any assessment is altered on appeal or in conformity with any such decision, a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded and amounts short paid shall be recoverable.

39. Whenever a question of law arises with regard to any assessment or altered or reduced assessment under this Proclamation, the Collector may, within thirty days after the receipt of any notice of objection or any notice of appeal under this Proclamation, of his own motion or at the request of the taxpayer concerned state a case for the determination of such question by the Court.

40. A member of the Court shall not solely on account of his liability to be assessed under this Proclamation be deemed to be interested in any matter upon which he may be called upon to adjudicate thereunder.

Part IV.

Payment and Recovery of Tax.

41. Any tax chargeable under this Proclamation shall be paid on such days and at such places as may be notified by the Collector: provided that nothing herein contained shall take away the right of any taxpayer to pay his tax either through the post or personally at the chief office of the Collector.

42. Subject to the provisions of this Proclamation, the tax leviable shall be payable

- (1) by the representative taxpayer in respect of any income received or controlled by him in such representative capacity;
- (2) in respect of every other income and in all other cases by the person by whom the income is received, or to whom or in whose favour it accrues, or who is legally entitled to the receipt thereof.

43. Any tax shall, when it becomes due or is payable, be deemed to be a debt due to the Government, and shall be payable to the Collector in the manner and at the time and place prescribed, and may be sued for and recovered by action in any Court of competent jurisdiction by the Collector suing on behalf of the Government.

44. (1) Proceedings in any Court for the recovery of any tax shall be deemed to be proceedings for the recovery of a liquid debt.

(2) In any action or proceeding for the recovery of any tax it shall not be competent for the defendant to question the correctness of the assessment book or any certified extract therefrom.

45. Any tax due and payable under the provisions of this Proclamation shall be a first charge upon the assets of the person by whom such tax is due.

46. The production of any assessment book, or of any document under the hand of the Collector purporting to be a copy of or extract from any assessment book, shall be conclusive evidence of the making of the assessment and except in the case of proceedings on appeal against the assessment, shall be conclusive evidence that the amount and all the particulars of such assessment appearing in such book or document are correct.

Part V.

Miscellaneous.

47. If it is proved to the satisfaction of the Collector that the amount paid by any taxpayer is in excess of the amount properly chargeable under this Proclamation, the Collector may authorize a refund to such person of any tax overpaid: provided, however, that no such refund may be authorized unless the claim therefor is made within two years after the date when the payment was made.

48. (1) Any person

- (a) who knowingly and wilfully makes any false statement in any return, or makes any false answer, whether verbally or in writing, for the purpose of evading, or enabling any other person to evade, assessment or taxation; or

(b) who by any falsehood, wilful neglect, fraud, art, or contrivance whatever, evades or attempts to evade assessment or taxation; shall be guilty of an offence, and liable on conviction to a fine not exceeding One Hundred Pounds or in default of payment thereof to imprisonment with or without hard labour for a period not exceeding one year.

49. (1) Every form, notice, demand or other document issued or given by or on behalf of the Collector, or other officer under this Proclamation, shall be sufficiently authenticated if the name of the Collector, or officer by whom the same is issued or given, is stamped or printed thereon.

(2) Any notice required or authorized under this Proclamation to be served upon any person shall be sufficiently and effectively served

(a) if personally served upon him; or

(b) if left at his usual or last place of abode or office or place of business in the Territory; or

(c) if sent in a registered letter addressed to such place of abode, office, place of business, or to his usual or last known postal address in the Territory;

and, in the case of a company, shall be sufficiently and effectively served if personally served on the public officer of the company or delivered to him, or left at the company's address for service under this Proclamation, or if the company has lodged no address for service as required by this Proclamation, then if the notice is left at or sent in a registered letter by the post addressed to any office of the company in the Territory or any premises therein where it carried on its business.

50. The High Commissioner may make regulations not inconsistent with the provisions of this Proclamation, for all or any of the following purposes, that is to say:

(1) prescribing the duties of all persons engaged or employed in the administration of this Proclamation;

(2) prescribing the forms of returns to be furnished to the Collector, and by whom the same shall be made, and the time and mode of making and furnishing the same;

(3) prescribing the procedure to be observed in the conduct and hearing of objections and appeals before the Court;

and generally for giving effect to the objects and purposes of this Proclamation. The regulations may prescribe penalties to which any person convicted of any contravention thereof or failure to comply therewith, shall be liable, not exceeding a fine of Twenty Pounds, or, in default of payment, imprisonment with or without hard labour for a period not exceeding three months.

51. In this Proclamation, unless inconsistent with the context, "agent" includes any partnership, company, or any other body of persons, whether incorporated or not, which is acting as an agent;

"company" includes any association incorporated or registered under any law in force in any part of the Territory relating to companies, banking companies, or insurance companies, or under a special law, and further includes any such association which, though incorporated or registered outside the Territory, carries on business or has an office or place of business therein;

"mining operations" and "mining" include every method or process by which any mineral is won from the soil or from any substance or constituent thereof;

"person" includes any partnership, any company, and any body of persons whether incorporated or not;

"tax" or "taxation" means any tax leviable under this Proclamation;

"taxpayer" means any person chargeable with any tax leviable under this Proclamation, and for the purposes of any provision relating to any return, includes every person required by this Proclamation to furnish such return;

"trustee" in addition to every person appointed or constituted such by act or parties, by will, by order or declaration of Court or by operation of law, includes an executor or administrator, guardian or curator, and any person having the administration or control of any property subject to a trust, or other limited interest, or acting in any fiduciary capacity or having, either in a private or an official capacity, the possession, direction, control, or management of any property of any person under legal disability;

"prescribed" means prescribed by or under the authority of this Proclamation and, in the case of a prescribed form, means a form substantially as prescribed or to the effect thereof;

"regulation" means a regulation lawfully made and in force under this Proclamation;

"year of assessment" means any period in respect of which any tax leviable under this Proclamation is chargeable.

52. All offences under this Proclamation may be prosecuted in the Court of the Assistant Commissioner within whose jurisdiction they shall have been committed and any Assistant Commissioner may impose any penalty provided for by this Proclamation.

53. Nothing in this Proclamation contained shall be deemed to apply to the income of any aboriginal native of a tribe south of the Equator.

54. This Proclamation may be cited as the Swaziland Income Tax Proclamation 1921 and shall have force and take effect on the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown, this Tenth day of June, One thousand Nine hundred and Twenty-one.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness the
High Commissioner.

C. L. O'B. DUTTON,
Acting Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 32 of 1921.]

PROCLAMATION

By His Royal Highness THE HIGH COMMISSIONER.

Whereas it is expedient to impose a poll tax upon adult European males in Swaziland;

Now therefore under and by virtue of the powers, authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare, proclaim and make known as follows:—

1. There shall be paid annually to the Swaziland Administration by every European male domiciled in Swaziland who shall have attained the age of twenty-one years a poll tax amounting to the sum of two pounds per annum which shall become due and payable half-yearly in equal instalments on the first day of April and the first day of October in every year beginning from the first day of April 1921. In case of any doubt as to the age of any person the onus of proof that his age is under twenty-one years shall be upon him.

2. Any person liable to pay poll tax under the preceding section who shall be certified by a duly qualified medical practitioner to be suffering or to have suffered from any mental or physical defect which in the opinion of such medical practitioner incapacitates or incapacitated such person from earning his living may be exempted by the Resident Commissioner from the payment of poll tax for such period as the Resident Commissioner considers equitable having regard to the duration of such incapacity.

3. Every instalment of poll tax payable under this Proclamation shall be paid at the Office of the Assistant Commissioner of the District in which the person liable resides within one month of the date on which it becomes due and payable provided that in respect of the current year the time within which payment of the first instalment of the tax shall be made shall be extended to the first day of August 1921.

4. Any person liable thereto who fails to pay any instalment of the poll tax within the prescribed time may be sued in the Court of the Assistant Commissioner of the District in which such person resides for the recovery thereof without demand being made for payment, and should the defendant be adjudged to pay any sum on account of poll tax he shall be liable to pay all costs as in an ordinary civil action, and execution may be levied on the goods of such defendant in respect of such costs and the amount of poll tax payable. In any proceedings the onus of proof of payment shall lie upon the defendant.

5. This Proclamation may be cited for all purposes as the Swaziland Poll Tax Proclamation 1921 and shall have force and take effect on the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown, this Tenth day of June, One thousand Nine hundred and Twenty-one.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness the
High Commissioner.

C. L. O'B. DUTTON,
Acting Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

No. 33 of 1921.]

PROCLAMATION

By His Royal Highness THE HIGH COMMISSIONER.

Whereas it is expedient to impose a tax on mineral rights in Swaziland in cases where the property in respect of which the same are held is not being adequately exploited;

Now therefore under and by virtue of the powers, authorities and jurisdiction conferred upon and committed to me by His Majesty under the Swaziland Order-in-Council 1903 as amended by the Swaziland Order-in-Council 1906 and the Swaziland Order-in-Council 1909, I do hereby declare, proclaim and make known as follows:—

1. For the purpose of this Proclamation unless the context otherwise requires

"Owner" shall mean the person in whose name are registered in the Deeds Office of Swaziland any mineral rights, whether held under Concession or other title and if such person has disposed of the whole or part of his rights by lease or other document registered against title it shall include the person registered as the holder of such lease or document. It shall further include the legal representative of any such person who has died, become insolvent, is a minor, or is of unsound mind or is otherwise under disability.

"Property" shall mean any land in respect of which mineral rights are held by an owner.

2. (1) There shall be payable by every owner to the Swaziland Administration a tax of 5s. per 100 morgen per annum in respect of every property which has not been adequately exploited during the preceding calendar year by the carrying on of prospecting or mining operations thereon.

(2) Where it appears to the Resident Commissioner that the tax mentioned in this section is payable in respect of any property for the year 1921 he shall give notice to the owner that such tax is payable not later than the month of June 1922, and where it appears to the Resident Commissioner that such tax is payable in respect of any property for any calendar year subsequent to 1921, he shall give notice to the owner that such tax is payable not later than the month of June in the next succeeding calendar year.

(3) Such tax shall become due and payable on the expiration of three months from the date when such notice is given; provided that an owner may if aggrieved by such notice appeal within a period of sixty days from such date to the High Commissioner who may allow or dismiss the appeal and whose decision shall be final and in case on such appeal the High Commissioner shall uphold the decision of the Resident Commissioner the tax shall become due and payable on the expiration of one month from the date on which notice of the High Commissioner's decision is given to the owner.

(4) Any notice which is required by this section to be given to an owner may be served personally or by registered letter addressed to such owner at his ordinarily known address, or if the address of such owner shall not be known notice shall be deemed to have been duly served by one publication thereof in the *High Commissioner's Gazette*.

3. An owner shall be entitled to deduct from any amount of tax due by him for a calendar year under this Proclamation the amount of the rental payable to the Government in respect of that year in terms of the Deed of Concession from which his title is derived.

4. Where an owner proves to the Resident Commissioner that conflicting rights may interfere with the exploitation of his property and that notwithstanding the provisions of existing legislation he is thereby prevented from adequately exploiting the same he shall be exempt from the tax levied by this Proclamation.

5. In case any tax which becomes due under this Proclamation shall remain unpaid after the date upon which the same is required to be paid under section two hereof interest upon the same shall be chargeable and recoverable by the Swaziland Administration at the rate of one-half per cent. for every month or portion of a month for which the tax remains unpaid reckoned from the date aforesaid.

6. This Proclamation may be cited for all purposes as the Swaziland Mineral Rights Taxation Proclamation 1920, and shall have force and take effect on the date of its publication in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown, this Tenth day of June, One thousand Nine hundred and Twenty-one.

ARTHUR FREDERICK,
High Commissioner.

By Command of His Royal Highness the
High Commissioner.

C. L. O'B. DUTTON,
Acting Imperial Secretary.

(Printed by the Government Printer, Pretoria.)

HIGH COMMISSIONER'S NOTICE No. 51 of 1921.

Notice is hereby given that His Royal Highness the High Commissioner, acting under the powers conferred on him by section one of Proclamation No. 26 of 1917, has been pleased to make the following regulations in regard to the sale of sugar in Basutoland:

1. Save as is excepted in paragraph three of these regulations, no person shall, on and after the date of this notice, sell any first quality sugars at a price exceeding the following maximum price, viz., 5½d. per lb.

2. In the case of traders at a distance from the railway, when the maximum price fixed does not allow of a profit being made, the Resident Commissioner may, on application, grant such addition to such price as will allow of a profit being made, such profit to be calculated to the nearest halfpenny per pound gross.

3. The above-mentioned maximum price shall not be taken as applying to cube, castor, Hulett's chemists' special quality, or icing sugars.

4. No person shall sell any sugar of a quality inferior to first quality sugar at a price equalling the price hereby fixed for first quality sugar.

5. Any person who is in possession of reliable information that the above-mentioned orders are being evaded by any person or firms is required to give information thereof without delay to the nearest Assistant Commissioner or to the Resident Commissioner.
Notice No. 70 of 1920 is hereby cancelled.

By Command of His Royal Highness the
High Commissioner.

C. L. O'B. DUTTON,
Acting Imperial Secretary.

High Commissioner's Office,
Capetown, 11th June, 1921.

(Printed by the Government Printer, Pretoria.)

DISSOLUTION OF PARTNERSHIP.

We, the undersigned, carrying on business as FREER & CO., storekeepers at Butha Buthe, Basutoland, have dissolved partnership as from the 31st May, 1921. I, the undersigned, WALTER JOHN LEACROFT FREER will continue to carry on the said business under the title of FREER & CO., and will discharge the whole of the liabilities of and collect all accounts due to the dissolved firm.

W. J. L. FREER.
R. M. G. GOVETT.

Butha Buthe, 12th June, 1921.

In the Estate of the late JULIUS HESSELSOHN, of Standerton, Transvaal Province.

All Creditors and persons interested, *ab intestato* or otherwise, in the above Estate are hereby called upon within twenty-one days from the date of publication of this notice to lodge in writing with the Master of the Special Court of Swaziland, at Mbabane, the particulars of their claims against the Estate and of their objections to the signing and sealing by him of the Letters of Administration granted by the Master of the Supreme Court of South Africa (Transvaal Provincial Division), on 25th March, 1920, to Ethel Hesselsohn (born Katzen), as Executrix Dative in the above Estate.

Mbabane, 7th June, 1921.

W. B. LOVEMORE,
Attorney for the above-named Executrix.

Box 9, Mbabane.

NOTICE OF SURRENDER.

Notice is hereby given that application will be made to the Special Court for Swaziland, Mbabane, on the 11th day of July, 1921, at 10 o'clock in the forenoon, or as soon thereafter as Counsel can be heard, for the voluntary surrender of the Estate of ANDRIES STEPHANUS VERMEULEN, a farmer, residing at Ntambaam, District Hlatikulu, Swaziland, as insolvent; and that his Schedules will lie for inspection at the Office of the Master of the Special Court at Mbabane and at the Office of the Assistant Commissioner at Hlatikulu for a period of fourteen days from the date of publication hereof.

Dated at Hlatikulu, this 13th day of June, 1921.

E. J. ENGELBRECHT, Hlatikulu,
Attorney for Applicant.

NOTICE TO CREDITORS.

In the Estate of the late STANLEY HOPE HARRY.

All claims must be lodged, and all claims be settled, with the undersigned, within six weeks from this date.

S. D. GWYNNE,
Executrix.

Mafeking,
6th June, 1921.