

New Zealand



ANALYSIS

Title.

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1940, No. 3

AN ACT to amend the Land and Income Tax Act, 1923. Title.  
[19th July, 1940]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Land and Income Tax Amendment Act, 1940, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal Act). Short Title.

2. (1) For the purposes of the principal Act, unless the context otherwise requires,— See Reprint of Statutes, Vol. VII, p. 271

“Basic rates” means the rates of income-tax specified in the Schedule to this Act: Basic rates of income-tax.

“Annual rates” means the rates of income-tax fixed for any year of assessment by the annual taxing Act for that year.

(2) The Commissioner may in any year of assessment (whether before or after the passing of the annual taxing Act for that year) assess the income-tax of any taxpayer at the basic rates. No such assessment shall be deemed to be invalid on the ground that it is made before the passing of the annual taxing Act.

(3) If the annual rates for any year of assessment are higher or lower than the basic rates, the amount of every assessment of income-tax made under this section in respect of that year shall be deemed to be increased or reduced accordingly, and every such assessment shall have the same effect as if the amount thereof as so increased or reduced had been specified therein.

(4) Notwithstanding anything to the contrary in this section or in the Schedule to this Act or in any annual taxing Act, the rate of income-tax for any one pound of income shall not exceed fifteen shillings and sixpence in the pound.

(5) Section six of the Finance Act, 1923, section twelve of the Finance Act, 1925, and section six of the Land and Income Tax Amendment Act, 1939, are hereby repealed.

**3.** For the purposes of section seventy-five of the principal Act every child brought to New Zealand under any Government scheme and for the time being supported by any taxpayer in accordance with any such scheme shall be deemed to be a child of that taxpayer.

**4.** (1) Section seventy-eight of the principal Act is hereby amended by omitting from paragraph (b) the words "State Advances Superintendent", and substituting the words "Public Works Department (in respect of the Electric Supply Account), the Internal Marketing Division of the Marketing Department, the Mines Department (in respect of the State Coal-mines Account), and the National Commercial Broadcasting Service".

(2) Section two of the principal Act is hereby amended by omitting from the definition of the term "public authority" the words "the State Advances Superintendent", and also the word "incorporated".

(3) All moneys payable as income-tax by any public authority shall be paid without further appropriation than this section.

Repeal.

See Reprint  
of Statutes,  
Vol. VII, p. 338  
1939, No. 34

Extending  
special  
exemption  
in respect of  
children.

State trading  
Departments  
liable for  
income-tax.

(4) This section shall apply with respect to the income-tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty, and for every subsequent year. With respect to the income-tax for any earlier year of assessment, the principal Act shall apply as if this section had not been passed.

5. (1) Section seventy-eight of the principal Act is hereby amended as follows:—

Additional  
exemptions  
of income from  
taxation.

(a) By omitting from paragraph (k) the words “Income derived by trustees”, and substituting the words “Income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of trustees”:

(b) By omitting from paragraph (k) the words “derived by any society”, and substituting the words “derived directly or indirectly from any business carried on by or on behalf of or for the benefit of any society”.

(2) Section seventy-eight of the principal Act is hereby further amended by inserting, before paragraph (k), the following new paragraph:—

“(jj) Income (not being income of the kind referred to in paragraph (k) hereof) derived by trustees in trust for charitable, religious, educational, or scientific purposes of a public nature, or derived by any society or institution established exclusively for such purposes and not carried on for private pecuniary profit:”.

(3) In addition to the incomes exempted by section seventy-eight of the principal Act, the following incomes shall be exempt from taxation:—

(a) Income derived by any person from any monetary benefit granted to him from the Social Security Fund:

(b) Income derived by any person from any maintenance or allowance provided for or paid to him in respect of his attendance at an educational institution in terms of a scholarship or bursary:

See Reprint  
of Statutes,  
Vol. VI, p. 40;  
Vol. III, p. 461

(c) Income derived by any person, in respect of any period of incapacity for work, from any sick-pay or other allowances paid to him under section seventeen of the National Provident Fund Act, 1926, or paid to him by a friendly society registered under the Friendly Societies Act, 1909, or paid to him from any sick, accident, or death benefit fund to which he was a contributor at the date of the commencement of that period of incapacity:

(d) Income derived by any trustee in trust for any sick, accident, or death benefit fund, not being income derived directly or indirectly from any business carried on by or on behalf of or for the benefit of that trustee:

(e) Income derived by any person from any compensation received by him under the Workers' Compensation Act, 1922, whether as a lump sum or by weekly payments.

Ibid., Vol. V,  
p. 597

(4) For the purposes of this section the expression "sick, accident, or death benefit fund" means any fund established for the benefit of the employees of any employer or of the members of any incorporated society or for the benefit of the widows and dependants of any deceased employees of any employer, or of any deceased members of any incorporated society, and approved for the time being by the Commissioner.

(5) This section shall apply with respect to the income-tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty, and for every subsequent year. With respect to the income-tax for any earlier year of assessment, the principal Act shall apply as if this section had not been passed.

Prescribing  
year in which  
land-tax is  
deductible for  
income-tax  
purposes.

6. For the purpose of calculating the assessable income of any person in accordance with section eighty of the principal Act, land-tax payable for any year of assessment after the year ended on the thirty-first day of March, nineteen hundred and thirty-nine, in respect of land used in the production of assessable income shall be deemed to be an expense incurred during the year in which that land-tax is assessed, and the deduction (if any) allowable in respect thereof under subsection two of the said section eighty shall be computed accordingly.

7. (1) This section applies with respect to every taxpayer who, during each income year included in a period of not less than four years ended on the thirty-first day of March, nineteen hundred and thirty-five, derived assessable income from live-stock, and who, in the return of income furnished by him in respect of the income year which included the date of commencement as hereinafter defined, adopted a standard value in respect of any live-stock that was less than the true value thereof at the date of commencement.

Relief in certain cases where unduly low standard values of live-stock were adopted.

(2) For the purposes of this section the expression "date of commencement", in relation to any taxpayer, means the date of the commencement of the period during which he derived assessable income from live-stock as mentioned in the last preceding subsection, or the first day of April, nineteen hundred and twenty-eight, whichever date is the later.

(3) Where in any income year (whether before or after the passing of this Act) the whole or substantially the whole of the live-stock from which he derived assessable income has been sold or otherwise disposed of by any taxpayer to whom this section applies, the Commissioner, upon application in that behalf made in writing by or on behalf of the taxpayer, may reduce the assessable income of the taxpayer for that year by such amount as he deems to be just and equitable (not exceeding the difference between the true value at the date of commencement of the live-stock owned by the taxpayer at that date and the value thereof computed in accordance with the standard value adopted as aforesaid), and may amend accordingly the assessment of income-tax made in respect of the taxpayer for that income year:

Provided that for the purposes of this subsection the true value of any live-stock shall not be deemed in any case to have exceeded nineteen shillings a head in the case of sheep or five pounds a head in the case of cattle.

(4) With the approval of the Minister of Finance, but not otherwise, the Commissioner may at any time, notwithstanding anything to the contrary in section one hundred and sixty-eight of the principal Act, refund without further appropriation than this section any tax paid by any taxpayer in excess of the amount payable under any amended assessment made pursuant to this section.

Amending  
definition of  
"dividends".  
1939, No. 34

8. Section twenty-two of the Land and Income Tax Amendment Act, 1939, is hereby amended as from the passing thereof as follows:—

(a) By adding to paragraph (c) of subsection one the words "to the extent to which that value exceeds the value of the consideration in money or money's worth (if any) paid or given by the shareholders to the company in respect of the shares so allotted":

(b) By adding to subsection one the following additional proviso:—

"Provided also that in any case the Minister of Finance may, upon the recommendation of the Commissioner, direct that the expression 'dividends' shall be deemed not to include any payment or other transaction to the extent to which, in the opinion of the Commissioner, that payment or transaction constitutes a return to shareholders of premiums paid to the company in respect of the issue of share capital by the company":

Repeal.

(c) By omitting from subsection two the words "that section is", and substituting the words "subsection two of section ninety-seven of the principal Act, and that section and subsection are".

Amending  
provisions as  
to proprietary  
companies.  
1939, No. 34

9. Section twenty-three of the Land and Income Tax Amendment Act, 1939, is hereby amended as from the passing thereof as follows:—

(a) By inserting in paragraph (a) of subsection one, after the words "four persons", the words "or a company which at the end of that year is being or has been wound up and was at the commencement of the winding-up under the control of not more than four persons":

(b) By repealing paragraph (h) of subsection one:

(c) By repealing paragraph (a) of subsection three, and substituting the following paragraph:—

"(a) No portion of any loss incurred by any taxpayer (being a loss of the kind referred to in section eighty-one of the principal Act) shall be deducted from or set off against his proprietary income":

- (d) By adding to paragraph (c) of subsection three the words "For the purposes of this paragraph the tax payable by the shareholder in respect of his proprietary income shall be computed, in the case of earned income, at the rate ascertained by dividing the total tax payable by the shareholder in respect of earned income by the number of pounds included in the total earned income on which tax is payable by him and, in the case of unearned income, at the rate ascertained by dividing the total tax payable by the shareholder in respect of unearned income by the number of pounds included in the total unearned income on which tax is payable by him":
- (e) By adding the following new subsections:—

"(5) Nothing in the foregoing provisions of this section shall be construed to affect the assessment or liability of any shareholder for Social Security Contribution.

"(6) Section six of the Land and Income Tax Amendment Act, 1931, shall not apply with respect to any dividend or interest (being interest of the kind referred to in section one hundred and seventeen of the principal Act) derived by a shareholder from any proprietary company where the Commissioner is satisfied that the dividend or interest was paid out of income derived by the company in the income year ended on the thirty-first day of March, nineteen hundred and thirty-nine, or in any income year in which the shareholder derived proprietary income from the company."

See Reprint  
of Statutes,  
Vol. VII, p. 353

10. (1) In the exercise of the powers conferred by section one hundred and thirty-three of the principal Act, the Governor-General in Council may, in respect of the payment of income-tax for any year, appoint several dates on each of which an instalment of the income-tax for that year shall become due and payable. Such dates may be appointed at any time notwithstanding that the annual taxing Act may not then have been passed, or that an assessment of the tax payable by any taxpayer may not then have been made.

Payment of  
income-tax by  
instalments.

(2) Without limiting the general power to make regulations conferred by section one hundred and seventy-two of the principal Act, it is hereby declared that regulations may be made under that section for all or any of the following purposes:—

- (a) Providing for the fixing of the amounts of the instalments of income-tax payable by any taxpayers or by any class of taxpayers for any year, whether by reference to the basic rates, or by reference to the amount of income-tax payable for the last preceding year, or otherwise:
- (b) Prescribing the manner in which the payment of instalments of income-tax or of any class of instalments shall be denoted or acknowledged:
- (c) Providing for the allowance of interest or discount in respect of instalments of income-tax or in respect of any class of instalments:
- (d) Making any provision which may be necessary or convenient in relation to the assessment, collection, and adjustment of instalments of income-tax, or generally for the purposes of this section.

Repeal  
1936, No. 34

(3) This section is in substitution for section fourteen of the Land and Income Tax Amendment Act, 1936, and that section is hereby accordingly repealed.

Unpaid land-tax  
to constitute  
a charge on  
land.

**11.** (1) Land-tax which has been assessed and has become due and payable in respect of any land (whether before or after the passing of this Act) shall be a charge on the land in respect of which it is payable.

(2) Subject to the provisions of this subsection, every charge created by this section shall have priority over all existing or subsequent mortgages, charges, or encumbrances, and the land on which any charge is created under this section shall continue to be subject to the charge, notwithstanding any disposition of the land. Notwithstanding anything to the contrary in any other Act, if any land subject to a charge created by this section is also subject to a charge created by that other Act, the charges shall rank equally with each other unless by virtue of that Act the charge created thereby would be deferred to the charge created by this section.



(3) The Commissioner may, at any time before any charge created by this section has been discharged or has lapsed as provided in subsection seven of this section, register the charge by depositing with the District Land Registrar or Registrar of Deeds, as the case may require, in the land registration district in which the land is situated a certificate under his hand referring to the land charged and stating that there are arrears of land-tax payable in respect thereof, and the Registrar shall thereupon, without payment of any fee, register the certificate accordingly. No disposition of any estate or interest in any land shall be registered while a charge under this section is registered against the land.

(4) For the purpose of enforcing any charge registered under this section the Supreme Court may make such order as it thinks fit, either for the sale of the estate or interest that is subject to the charge, or for the appointment of a Receiver, or otherwise howsoever, and any order for sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ of sale, with any modifications that may be necessary or may be provided for by rules of Court in that behalf.

(5) Every charge heretofore registered against any land under section eleven of the Land and Income Tax Amendment Act, 1924, shall, until a release of the charge is registered, operate to secure all land-tax secured thereby at the passing of this Act, together with all land-tax from time to time payable by the taxpayer in respect of that land for the year of assessment ended on the thirty-first day of March, nineteen hundred and forty, or for any subsequent year of assessment, or so much thereof as from time to time remains unpaid.

(6) Every charge hereafter registered against any land under this section shall, until a release of the charge is registered, operate to secure all land-tax from time to time payable by the taxpayer in respect of that land for the year of assessment ended on the thirty-first day of March last preceding the registration of the charge or for any subsequent year of assessment, or so much thereof as from time to time remains unpaid.

(7) Every charge created by this section on any land in respect of any land-tax shall, if it has not been sooner discharged, lapse at the end of the year next following

See Reprint  
of Statutes,  
Vol. VII, p. 339

the year of assessment for which the tax is payable unless at that time the tax is secured by a charge previously registered against the land under this section :

Provided that if, owing to the failure of the taxpayer to furnish a complete return of the land owned by him, a correct assessment of land-tax is not made before the time specified in this subsection, that time shall be deemed to be extended to the end of the year next following the year in which a correct assessment of the tax is made.

(8) Notwithstanding anything to the contrary in section one hundred and forty-seven of the principal Act, no demand may be made by the Commissioner under that section in respect of any land-tax at any time after the charge created by this section in respect of that tax has lapsed under the last preceding subsection:

(9) Upon payment of all tax for the time being secured by any charge registered under this section the Commissioner shall cause a release of the charge to be registered. On the registration of any such release there shall be payable to the District Land Registrar or Registrar of Deeds, as the case may require, a registration fee of ten shillings, or, if the maximum amount of land-tax secured by the charge at any one time was less than ten shillings, a registration fee equal to that maximum amount :

Provided that, in special circumstances, and on the recommendation of the Commissioner, a release may be registered without payment of a registration fee.

(10) The fees prescribed by this section shall be payable by the owner of the land charged or other person by whom the land-tax secured by the charge was payable, and shall be paid in the first instance to the Commissioner.

(11) Application for the registration of a release shall be made by the Commissioner in writing, and in the application the Commissioner shall certify that the registration fee has been paid, or, if the case so requires, shall recommend that the release be registered without payment of a registration fee.

(12) This section is in substitution for section eleven of the Land and Income Tax Amendment Act, 1924, and section nine of the Land and Income Tax Amendment Act, 1926, and those sections and section ten of the Land and Income Tax Amendment Act, 1929, are hereby accordingly repealed.

Repeals.

See Reprint  
of Statutes,  
Vol. VII,  
pp. 339, 344, 347

(13) All charges, registrations, releases, applications, recommendations, and generally all acts of authority which originated under any of the sections repealed by the last preceding subsection, and are subsisting or in force at the passing of this Act, shall enure for the purposes of this section as fully and effectually as if they had originated under this section, and accordingly shall, where necessary, be deemed to have so originated. All matters and proceedings commenced under any of the said sections, and pending or in progress at the passing of this Act, may be continued, completed, and enforced under this section.

12. Section one hundred and seventy of the principal Act is hereby amended by omitting the words "land-tax or".

Permitting agreements for apportionment of land-tax, &c.

13. Notwithstanding anything to the contrary in section two of the Land and Income Tax Amendment Act, 1939, sections five and thirty-one of that Act shall apply with respect to the tax for any year of assessment, whether before or after the year that commenced on the first day of April, nineteen hundred and forty.

Extending application of sections 5 and 31 of Land and Income Tax Amendment Act, 1939.  
1939, No. 34

## SCHEDULE.

Schedule.

### BASIC RATES OF INCOME-TAX.

Section 2

#### PART A.

##### *Interpretation.*

1. For the purposes of this Schedule,—

"Taxable income" means income on which income-tax is payable:

The effective earned rate of tax for any income shall be ascertained by computing tax on that income in accordance with the rates of tax specified in Part B of this Schedule and dividing the tax so computed by the number of pounds included in that income:

The effective unearned rate of tax for any income shall be ascertained by computing tax on that income in accordance with rates of tax exceeding by one-third those specified in Part B of this Schedule (but subject to the limitation imposed by subsection (4) of section 2 of this Act), and dividing the tax so computed by the number of pounds included in that income.

*Debentures issued by Companies and Local and Public Authorities.*

2. On income assessable under subsection (3) of section 116 or subsection (3) of section 118 of the principal Act, the rate of income-tax for every £1 of the taxable income shall be as follows:—

- (a) Where the income has been derived from debentures issued by a company on terms providing for the payment of income-tax by the company, as provided in section 171 of the principal Act, the rate shall be 8s. 9d.
- (b) In every other case, where the income has been derived by a company or a public authority the rate shall be 12s., and where the income has been derived by any other taxpayer the rate shall be 12s., increased by one-third thereof.

*Companies and Public Authorities.*

3. On all income not included within clause 2 of this Schedule the rate of income-tax for every £1 of the taxable income shall, in the case of companies and public authorities, be as follows:—

- (a) Where the taxable income does not exceed £6,600, the rate shall be 2s. 6d., increased by  $\frac{1}{100}$ d. for every £1 of the taxable income.
- (b) Where the taxable income exceeds £6,600, the rate shall be 8s., increased by  $\frac{1}{80}$ d. for every £1 of the taxable income, but so as not to exceed in any case the rate of 8s. 9d. in the £1.

*Other Taxpayers.*

4. On all income not included within clause 2 of this Schedule the rate of income-tax shall, in the case of all taxpayers other than companies and public authorities, be as follows:—

- (a) Where the total income derived by the taxpayer during the income year did not include any non-assessable income to which section 6 of the Land and Income Tax Amendment Act, 1931, applies, the rate for every £1 of so much of the taxable income as is earned shall be the effective earned rate of tax for the taxable income, and the rate for every £1 of so much of the taxable income as is unearned shall be the effective unearned rate of tax for the taxable income.
- (b) Where the total income derived by the taxpayer during the income year included non-assessable income to which section 6 of the Land and Income Tax Amendment Act, 1931, applies, then, notwithstanding anything to the contrary in that section, the rate for every £1 of so much of the taxable income as is earned shall be the effective earned rate of tax for an income equal in amount to the total of the taxable income and of that non-assessable income, and the rate for every £1 of so much of the taxable income as is unearned shall be the effective unearned rate of tax for an income equal in amount to the total of the taxable income and of that non-assessable income.

## PART B.

*Rates referred to in Clause 1 of Part A.*

On so much of the income as—		The rate of tax for every £1 shall be—	
		s. d.	
Does not exceed	£100	.. ..	2 6
Exceeds	£100, but does not exceed	£200 ..	2 9
"	£200	" £300 ..	3 0
"	£300	" £400 ..	3 3
"	£400	" £500 ..	3 6
"	£500	" £600 ..	3 9
"	£600	" £700 ..	4 0
"	£700	" £800 ..	4 3
"	£800	" £900 ..	4 6
"	£900	" £1,000 ..	4 9
"	£1,000	" £1,100 ..	5 0
"	£1,100	" £1,200 ..	5 3
"	£1,200	" £1,300 ..	5 6
"	£1,300	" £1,400 ..	5 9
"	£1,400	" £1,500 ..	6 0
"	£1,500	" £1,600 ..	6 3
"	£1,600	" £1,700 ..	6 6
"	£1,700	" £1,800 ..	6 9
"	£1,800	" £1,900 ..	7 0
"	£1,900	" £2,000 ..	7 3
"	£2,000	" £2,100 ..	7 6
"	£2,100	" £2,200 ..	7 9
"	£2,200	" £2,300 ..	8 0
"	£2,300	" £2,400 ..	8 3
"	£2,400	" £2,500 ..	8 6
"	£2,500	" £2,600 ..	8 9
"	£2,600	" £2,700 ..	9 0
"	£2,700	" £2,800 ..	9 3
"	£2,800	" £2,900 ..	9 6
"	£2,900	" £3,000 ..	9 9
"	£3,000	" £3,100 ..	10 0
"	£3,100	" £3,200 ..	10 3
"	£3,200	" £3,300 ..	10 6
"	£3,300	" £3,400 ..	10 9
"	£3,400	" £3,500 ..	11 0
"	£3,500	" £3,600 ..	11 3
"	£3,600	" £3,700 ..	11 6
"	£3,700	" £3,800 ..	11 9
"	£3,800	.. ..	12 0