



ANALYSIS

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1955, No. 91

Title.	AN ACT to amend the Land and Income Tax Act 1954. [27 October 1955 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:
Short Title.	1. This Act may be cited as the Land and Income Tax Amendment Act 1955, and shall be read together with and deemed part of the Land and Income Tax Act 1954 (hereinafter referred to as the principal Act).
1954, No. 67	

2. Except as otherwise provided herein, this Act shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-five, and for every subsequent year.

Application of Act.

Assessments

3. Clause four of the First Schedule to the principal Act is hereby amended by adding the following proviso:

Basic rates of income tax for companies and public authorities.

“Provided that, where the total income derived by the taxpayer during the income year included non-assessable income, the basic rate for every £1 of the taxable income shall be a rate equal to the basic rate under paragraph (a) or paragraph (b) of this clause, as the case may be, for a taxable income equal in amount to the total of the taxpayer’s taxable income and of that non-assessable income.”

REP. 10
No. 2.

4. (1) Section twenty-four of the principal Act is hereby amended by inserting, after the words “in any case where”, the words “in the opinion of the Commissioner”.

Limitation of time for amendment of assessment.

(2) Except where the hearing of an objection in a Magistrate’s Court has commenced before the passing of this Act, this section shall apply with respect to any alteration made to any assessment either before or after the passing of this Act.

Income Tax

5. Section seventy-nine of the principal Act is hereby amended by adding to subsection one the word “or” and the following paragraph:

Rate of income tax on interest from Government loans.
1953, No. 74

“(d) Any loan raised under the New Zealand Loans Act 1953 where the terms of the loan provide that a rebate of income tax will be granted to any investor to ensure a minimum net return to the investor of two per cent interest per annum on the nominal value of the stock after payment of income tax and social security charge (if any) on that interest, and that for the purpose of calculating the rebate the interest on the stock will be deemed to be the final increment of the investor’s income.”

AMP. 10
No. 2.

Exempt Income

Exempting
Geothermal
Development
Limited from
income tax.

6. Section eighty-six of the principal Act is hereby amended by inserting in subsection one, after paragraph (e), the following paragraph:

“(ee) The income of Geothermal Development Limited:”

Exempting
certain milk
treatment
corporations
from income
tax.

7. (1) Section eighty-six of the principal Act is hereby amended by inserting in subsection one, after paragraph (g), the following paragraph:

“(gg) The income of any milk treatment corporation established under regulations made pursuant to the Marketing Act 1936 and the Agriculture (Emergency Powers) Act 1934:”

1936, No. 5
1934, No. 34

(2) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-two, and for every subsequent year.

Exempting
Veterinary
Services
Council,
veterinary
clubs, and herd
improvement
associations
from income
tax.

8. (1) Section eighty-six of the principal Act is hereby amended by inserting in subsection one, after paragraph (o), the following paragraphs:

“(oo) Income derived by the Veterinary Services Council established under the Veterinary Services Act 1946; and income derived by any veterinary club, society, or association, whether incorporated or not, which is, in the opinion of the Commissioner, established substantially or primarily for the purpose of promoting efficient veterinary services in New Zealand, if no part of the income or other funds of the club, society, or association is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder thereof:

1946, No. 26

“(ooo) Income derived by any herd improvement society or association, whether incorporated or not, which is, in the opinion of the Commissioner, established substantially or primarily for the purpose of promoting the improvement of the standard of dairy cattle in New Zealand, if no part of the income or other funds of the society or association is used or available to be used for the private pecuniary profit of any proprietor, member, or shareholder thereof:”

(2) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-one, and for every subsequent year.

Assessable Income

9. The principal Act is hereby amended by inserting, after section ninety-six, the following section:

“96A. (1) Where a taxpayer derives income in any income year from the disposition to the Crown of any land owned by the taxpayer, whether the land is taken under the Public Works Act 1928 or otherwise acquired by the Crown, the Commissioner may, upon application made in writing by or on behalf of the taxpayer within twelve months after the end of that income year or within such further period as the Commissioner in his discretion allows, and, if required by the Commissioner, upon the taxpayer making arrangements to the satisfaction of the Commissioner for the payment of all income tax and social security charge that are or may become payable in respect of that income, apportion that income between that income year and any number of subsequent years not exceeding three, and in every such case the amount of income so apportioned to any income year shall be deemed to have been derived in that year.

“(2) Any apportionment made under this section may be at any time cancelled by the Commissioner, and in every such case the whole of the income so apportioned shall be deemed to have been derived in the income year immediately preceding the year in which the apportionment is cancelled, except to the extent to which the income has been apportioned to and assessed for any earlier income year.”

Deductions in Calculating Assessable Income

10. (1) Section one hundred and fourteen of the principal Act is hereby amended by omitting from subsection one the words “nineteen hundred and fifty-six”, and substituting the words “nineteen hundred and fifty-seven”.

(2) Section one hundred and fourteen of the principal Act is hereby further amended by adding to subsection one the following proviso:

Spreading of income derived by land dealers on acquisition of land by Crown.

See Reprint of Statutes, Vol. VII, p. 622

A.M.D. 19
No. 2.

Special depreciation allowance on buildings and plant.

“Provided that this subsection shall not apply with respect to any premises acquired, erected, or extended by the taxpayer after the twenty-first day of July, nineteen hundred and fifty-five, unless the Commissioner is satisfied either—

“(a) That the premises have been acquired, erected, or extended for the purposes of a farming or agricultural business in which the taxpayer is engaged; or

“(b) That a binding contract for the acquisition, erection, or extension of the premises was completed by all the necessary parties thereto on or before the twenty-first day of July, nineteen hundred and fifty-five.”

Initial depreciation allowance on farm equipment and accommodation for farm workers.

11. Section one hundred and fifteen of the principal Act is hereby amended by omitting from subsection five the words “nineteen hundred and fifty-six” wherever they occur, and substituting in each case the words “nineteen hundred and fifty-seven”.

Initial depreciation allowance on accommodation for business workers.

12. Section one hundred and sixteen of the principal Act is hereby amended by omitting from subsection five the words “nineteen hundred and fifty-six” wherever they occur, and substituting in each case the words “nineteen hundred and fifty-seven”.

Deductions for deferred maintenance.

13. (1) Section one hundred and eighteen of the principal Act is hereby amended by inserting in subsection two, after the words “income year”, the words “not later than the income year ending with the thirty-first day of March, nineteen hundred and fifty-five”.

(2) Section one hundred and eighteen of the principal Act is hereby further amended by inserting, after subsection nine, the following subsection:

“(9A) Where any deposit made under this section is not wholly refunded on or before the thirty-first day of March, nineteen hundred and sixty, the amount of the deposit or so much thereof as has not been refunded shall forthwith after that date be refunded without interest. Every amount refunded under this subsection shall be deemed to be assessable income derived by the taxpayer or by his personal representatives during the income year in which the refund is made.”

Companies and Associations

14. (1) Section one hundred and thirty-eight of the principal Act is hereby amended by adding the following subsection:

Limiting
proprietary
company
provisions to
shareholders
that are
companies.

“(11) This section shall not apply so as to affect the assessment or liability for tax of any taxpayer who is not a company.”

(2) With respect to tax for the year of assessment which commenced on the first day of April, nineteen hundred and fifty-five, a taxpayer who is not a company shall be entitled to the same deduction by way of rebate as that to which he would have been entitled under subsection seven of section one hundred and thirty-eight of the principal Act if this section had not been passed.

15. (1) The principal Act is hereby amended by inserting, after section one hundred and forty-seven, the following section:

Distribution of
trading stock to
shareholders of
a company.

“147A. (1) Where any trading stock of a company is distributed to any shareholder of the company as such, whether on a reduction of the share capital of the company, or on a reconstruction of the company, or on the winding up of the company, or otherwise, the following provisions shall apply, namely:

“(a) The distribution shall be deemed for the purposes of this Act to be a sale of the trading stock by the company to the shareholder, and the trading stock shall be deemed to have been sold at and to have realized the market price thereof at the date of the distribution, but, where there is no market price, shall be deemed to have been sold at and to have realized such price as the Commissioner determines:

“(b) The price which under this section the trading stock is deemed to have realized shall be taken into account in calculating the assessable income of the company:

“(c) The shareholder shall, for the purpose of calculating his assessable income, be deemed to have purchased the trading stock at the price which under this section the trading stock is deemed to have realized.

“(2) It shall be a ground for objection under Part III of this Act to an assessment of income tax that any determination of the Commissioner made for the purposes of this section is erroneous in fact.

“(3) Nothing in this section shall be construed to prevent any such distribution from being a dividend to the extent to which the price which under this section the trading stock is deemed to have realized exceeds what, in the opinion of the Commissioner, is a return of share capital or equivalent to a return of share capital.

“(4) For the purposes of this section the term ‘trading stock’ includes anything produced or manufactured, and anything acquired or purchased for the purposes of manufacture, sale, or exchange; and also includes live-stock; and also includes any other real or personal property where the business of the company comprises dealing in such property or the property was acquired by the company for the purpose of sale or other disposal.”

(2) This section shall be deemed to have come into force on the twentieth day of October, nineteen hundred and fifty-five, and shall apply only to distributions made on or after that date.
