ANALYSIS

1964, No. 122

An Act to amend the Land and Income Tax Act 1954

[*27 November 1964*

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

1. Short Title—This Act may be cited as the Land and Income Tax Amendment Act 1964, and shall be read together with and deemed part of the Land and Income Tax Act 1954 (hereinafter referred to as the principal Act).

2. Application—Except where this Act otherwise provides, this Act shall apply with respect to the tax on income derived in the income year that commenced on the first day of April, nineteen hundred and sixty-four, and in every subsequent year.

PART I

AMENDMENTS TO PRINCIPAL ACT RELATING TO NON-RESIDENTS, NON-RESIDENT WITHHOLDING TAX, AND OTHER MATTERS

3. Additional definitions—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

" 'Fixed establishment', in relation to any person, means a fixed place of business in which substantial business is carried on by that person; and includes—

"(a) A branch, factory, shop, or workshop in which in each case substantial business is carried on; and

"(b) A mine, quarry, oil well, or other place of natural resources subject to exploitation; and

"(c) An agricultural, pastoral, or forestry property;—

but does not include—

"(d) The use of facilities solely for the purpose of the storage, display, or delivery of goods or merchandise belonging to a business; or

"(e) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information or for advertising for a business:

" 'Gross', in relation to an amount, means without any deduction whatsoever from that amount:

" 'Non-resident withholding income' means income to which section 203s of this Act applies:

" 'Non-resident withholding tax' means non-resident withholding tax payable in accordance with section 203T of this Act."

4. Basic rates of ordinary income tax—(1) The First Schedule to the principal Act (as substituted by section 4 (1) of the Land and Income Tax Amendment Act 1962) is hereby amended by repealing subclause (1) of clause 4 of Part A, and substituting the following subclause:

"(1) For the purposes of this clause, the effective rate of tax for any income shall—

"(a) In the case of—

"(i) A company that is deemed to be resident in New Zealand within the meaning of Part VI of this Act; and

"(ii) A public authority,—

be ascertained by calculating tax on that income in accordance with the rates of tax specified in Part B of this Schedule and dividing the tax so calculated by the number of pounds included in that income:

"(b) In the case of a company that is not deemed to be resident in New Zealand within the meaning of Part VI of this Act, be ascertained by calculating tax on that income in accordance with the rates of tax specified in Part BB of this Schedule and dividing the tax so calculated by the number of pounds included in that income."

(2) The First Schedule to the principal Act (as so substituted) is hereby further amended by inserting in the heading to Part B, after the words "Referred to in", the words "Paragraph (a) of".

(3) The First Schedule to the principal Act (as so substituted) is hereby further amended by inserting, after Part B, the following Part:

"PART BB

"Rates Referred to in Paragraph (b) of Subclause (1) of Clause 4 of Part A

"1. On so much of the income as does not exceed £3,600, the rate of tax for every £1 shall be 3s. 6d., increased by 1/100d. for every £1 of so much of the income as does not exceed £3,600.

"2. On so much of the income as exceeds £3,600, the rate of tax for every £1 shall be 9s. 6d."

(4) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty-four. Section 2 of this Act shall not apply in respect of this section.

5. New sections inserted as to rebates from tax payable by non-resident companies—(1) The principal Act is hereby further amended by inserting, after section 78B (as inserted by section 4 of the Land and Income Tax Amendment Act 1959), the following sections:

"78C. **Rebate from tax payable by non-resident investment companies**—In the assessment of every non-resident investment company, as defined in subsection (2) of section 86A of this Act, there shall be allowed from the amount of ordinary income tax that would, apart from the provisions of section 78B of this Act, be payable by the company in respect of the income derived by it in the income year, a rebate of a sum equal to five per cent of so much of the taxable income of the company as consists of income derived from investments or other assets that are deemed to be development assets for the purposes of the last-mentioned section.

"78D. **Rebate from tax payable by non-resident life insurance companies**—In the assessment of every company (being a company that is not resident in New Zealand) engaged in carrying on in New Zealand the business of life insurance, there shall be allowed from the amount of ordinary income tax that would, apart from the provisions of section 150 of this Act, be payable by the company in respect of the income derived by it in the income year a rebate of a sum equal to five per cent of so much of the taxable

income of the company as consists of income that is assessable under section 149 of this Act (other than any amount that is included in the company's assessable income by virtue of subsection (4) of that section).

"78E. **Rebate from tax payable by non-resident companies paying dividends to shareholders resident in New Zealand**—(1) For the purposes of this section—

" 'Income before tax', in relation to the income for an income year of a company that is not resident in New Zealand, means the aggregate of—

"(a) The gross amount of any non-resident withholding income consisting of royalties or other like payments referred to in paragraph (b) of section 203z of this Act derived by the company in the income year; and

"(b) So much of the taxable income of the company for the income year as does not consist of proprietary income within the meaning of section 138 of this Act or of income in respect of which a rebate is allowable under section 78C or section 78D of this Act:

" 'Ordinary capital', in relation to a company, means capital of that company other than capital that is represented by shares bearing a fixed rate of dividend only:

" 'Prescribed proportion', in relation to any income derived in any income year by a company that is not resident in New Zealand, means a proportion of that income equal to the proportion that the amount of the paid-up ordinary capital of the company on the last day of that income year that is held by or on behalf of persons who are resident in New Zealand bears to the total paid-up ordinary capital of the company on that day:

" 'Qualifying dividend' means a dividend paid, credited, or distributed to a shareholder who at the time of the payment, crediting, or distribution was resident in New Zealand; but does not include—

"(a) Any amount which, under the law of any country or territory outside New Zealand, the company paying the dividend has deducted or was authorised to deduct from the dividend in respect of income tax which the person deriving the dividend was not personally liable to pay (being any

tax which in the opinion of the Commissioner is substantially of the same nature as income tax under this Act); or

"(b) Any sum which is deemed to be a dividend under section 144A of this Act:

"'Ratio of income before tax to tax-paid residue', in relation to the income of a company for an income year, means the same ratio as the amount of the income before tax bears to the residue of that amount after deducting therefrom the amount by which the tax (including non-resident withholding tax) payable on the income before tax exceeds five per cent of the income before tax.

"(2) Subject to subsection (3) of this section, where in any income year a company that is not resident in New Zealand has paid, credited, or distributed qualifying dividends, the following rebates shall be allowed from the tax (including non-resident withholding tax) payable by the company in respect of the income derived by it in the income year, namely:

"(a) If the company has in the income year derived any non-resident withholding income consisting of dividends (other than investment society dividends), there shall be allowed a rebate of a sum equal to fifteen per cent of the smaller of the following two sums:

"(i) A sum equal to the gross amount of that non-resident withholding income:

"(ii) A sum equal to the total of the qualifying dividends,—

and where the sum referred to in subparagraph (ii) of this paragraph is in excess of the sum referred to in subparagraph (i) of this paragraph there shall be allowed a further rebate of a sum equal to five per cent of the smaller of the following two sums:

"(iii) A sum equal to the amount which is ascertained by applying to that excess the ratio of income before tax to tax-paid residue in relation to the income of the company for the income year:

"(iv) A sum equal to the income before tax in relation to the income of the company for the income year:

"(b) If the company has not in the income year derived any non-resident withholding income consisting of dividends (other than investment society dividends), there shall be allowed a rebate of a sum equal to five per cent of the smaller of the following two sums:

"(i) A sum equal to the amount that is ascertained by applying to the total of the qualifying dividends the ratio of income before tax to tax-paid residue in relation to the income of the company for the income year:

"(ii) A sum equal to the income before tax in relation to the income of the company for the income year.

"(3) Where on the last day of any income year more than fifty per cent of the paid-up ordinary capital of a company that is not resident in New Zealand is held by or on behalf of persons who are resident in New Zealand, the company may, if it so elects, instead of claiming rebates in accordance with the provisions of subsection (2) of this section from the tax (including non-resident withholding tax) payable by it in respect of the income derived by it in the income year, claim the following rebates from that tax, namely:

"(a) If the company has in the income year derived any non-resident withholding income consisting of dividends (other than investment society dividends),—

"(i) A rebate of a sum equal to fifteen per cent of the prescribed proportion of the gross amount of that non-resident withholding income; and

"(ii) A rebate of a sum equal to five per cent of the prescribed proportion of the income before tax in relation to the income of the company for the income year:

"(b) If the company has not in the income year derived any non-resident withholding income consisting of dividends (other than investment society dividends), a rebate of a sum equal to five per cent of the prescribed proportion of the income before tax in relation to the income of the company for the income year.

"(4) Every reference in this section to an income year shall, where the company furnishes a return of income under section 8 of this Act for an accounting year ending with an

annual balance date other than the thirty-first day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case the provisions of this section shall, with any necessary modifications, apply accordingly."

(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 sixty-four, and for every subsequent year.

6. Consequential amendments—(1) Section 78B of the principal Act (as inserted by section 4 of the Land and Income Tax Amendment Act 1959) is hereby amended—

(a) By inserting in subsection (2), after the words "any income", the words "(other than dividends)":

(b) By inserting in subsection (2), after the words "development assets would", the words "after taking into account any rebate under section 78C of this Act".

(2) Section 78B of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsection:

"(2A) Where the Commissioner is satisfied that if this section had not been passed the amount of income tax, as determined by the provisions of section 203Z of this Act, payable by a non-resident investment company in respect of any dividends derived by it from development assets would, after taking into account any rebate in respect of that income tax under section 78E of this Act, exceed the amount of income tax that would be payable by the company in respect of those dividends if the company had derived those dividends from a source in the country or territory in which the company is resident, the Commissioner shall allow the amount of the excess as a rebate from the amount of income tax that would be payable by the company in respect of those dividends apart from the provisions of this section."

(3) Section 78B of the principal Act (as so inserted) is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) In this section—

"'Income tax' means, in respect of any country or territory other than New Zealand, any tax which in the opinion of the Commissioner is substantially of the same nature as—

"(a) In relation to income other than dividends, ordinary income tax under this Act:

"(b) In relation to dividends, income tax as determined by the provisions of section 203z of this Act:

" 'Dividend' means a dividend other than an investment society dividend."

(4) Section 150 of the principal Act is hereby amended by inserting, after the words "would be payable by the company", the words "(after taking into account any rebate under section 78D of this Act and any rebate from ordinary income tax under section 78E of this Act)".

(5) Section 150 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

"(2) For the purposes of this section—

"(a) 'Ordinary income tax' shall not include any income tax for which a company is liable as determined by the provisions of section 203z of this Act or of subparagraph (i) of paragraph (a) of subsection (1) of section 203ZA of this Act:

"(b) Any rebate to which a company is entitled under section 78E of this Act from the tax payable by the company in respect of the income derived by it in the income year shall be deemed to have been allowed in the following order:

"(i) Firstly, from any income tax for which the company is liable as determined by the provisions of section 203z of this Act:

"(ii) Secondly, from any income tax for which the company is liable as determined by the provisions of subparagraph (i) of paragraph (a) of subsection (1) of section 203ZA of this Act:

"(iii) Thirdly, from any ordinary income tax for which the company is liable on income other than income in respect of which the company is liable for income tax as determined by the provisions of section 203z of this Act or of subparagraph (i) of paragraph (a) of subsection (1) of section 203ZA of this Act."

(6) 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 sixty-four, and for every subsequent year.

7. Special exemptions for absentees—(1) The principal Act is hereby further amended by repealing section 79A (as substituted by section 4 (1) of the Land and Income Tax Amendment Act (No. 2) 1959), and substituting the following section:

"79A. Every absentee who has derived income from his personal services (being services performed for or on behalf of any other person) while personally present in New Zealand in an income year shall—

"(a) For the purpose of assessing ordinary income tax on the assessable income so derived by him from New Zealand in the income year, be entitled to a deduction by way of special exemption from that assessable income of an amount equal to the same proportion of every deduction by way of special exemption to which he would have been entitled under sections 80 to 84B of this Act if he were not an absentee as the proportion that—

"(i) If he was paid for regular pay periods in respect of those services, the number of weeks for which he was so paid in the income year bears to fifty-two:

"(ii) In every other case, the number of days for which he was paid for those services in the income year bears to the number of days in the income year:

"(b) For the purpose of assessing social security income tax on the assessable income so derived by him from New Zealand in the income year, be entitled to a deduction by way of special exemption from that assessable income of an amount equal to the same proportion of the deduction by way of special exemption to which he would have been entitled under section 85B of this Act if he were not an absentee as the proportion that—

"(i) If he was paid for regular pay periods in respect of those services, the number of weeks for which he was so paid in the income year bears to fifty-two:

"(ii) In every other case, the number of days for which he was paid for those services in the income year bears to the number of days in the income year."

(2) Section 76A of the principal Act (as inserted by section 79 of the Income Tax Assessment Act 1957) is hereby repealed.

(3) Section 85B of the principal Act (as inserted by section 3 (1) of the Land and Income Tax Amendment Act 1962) is hereby amended by inserting, after the words "other than", the words "an absentee or".

(4) The following enactments are hereby repealed:

(a) Section 79 of the Income Tax Assessment Act 1957:

(b) Section 4 of the Land and Income Tax Amendment Act (No. 2) 1959.

(5) This section shall come into force on the first day of April, nineteen hundred and sixty-five.

8. Income exempt from income tax—(1) Section 86 of the principal Act is hereby amended by repealing paragraph (k) of subsection (1), and substituting the following paragraph:

"(k) Income derived by a person who is not (within the meaning of this Part of this Act) resident in New Zealand from—

"(i) Stock or debentures which have been issued by the Government of New Zealand, or by any local or public authority, and the interest on which is payable out of New Zealand; or

"(ii) Loans the interest on which is, pursuant to an agreement or arrangement made with the Government of New Zealand, to be exempt from income tax in New Zealand:".

(2) Section 149 of the principal Act is hereby amended by omitting from subsection (7) the words "in respect of interest payable out of New Zealand".

9. Income of absentees exempt from social security income tax in certain cases—(1) Section 86A of the principal Act (as inserted by section 83 of the Income Tax Assessment Act 1957) is hereby amended by repealing paragraph (c) of subsection (1), and substituting the following paragraph:

"(c) The income of any absentee who was not personally present in New Zealand for more than one hundred and eighty-three days in the income year, not being income derived by him from his personal services (being services performed for or on behalf of any other person) while personally present in New Zealand:".

(2) This section shall come into force on the first day of April, nineteen hundred and sixty-five.

10. Exemption of dividends from income tax—(1) The principal Act is hereby further amended by inserting, after section 86B (as inserted by section 7 (1) of the Land and Income Tax Amendment Act (No. 2) 1963), the following section:

"86C. (1) Dividends derived by any company that is resident in New Zealand from companies, other than from companies that are exempt from income tax, shall be exempt from income tax.

"(2) Dividends derived by any person, other than a company, upon and from the winding up of companies, other than companies that are exempt from income tax, if the winding up commenced before the twenty-seventh day of June, nineteen hundred and fifty-eight, shall be exempt from income tax.

"(3) Dividends derived by any company that is not resident in New Zealand from companies, other than from companies that are exempt from income tax, shall be exempt from income tax, if and so far as—

"(a) The Commissioner is satisfied that—

"(i) The dividend was declared before the twenty-sixth day of June, nineteen hundred and sixty-four; and

"(ii) The period between the time at which the dividend was declared and the time at which the dividend was derived did not exceed such period as, in the opinion of the Commissioner, is reasonable in the circumstances of the particular case; or

"(b) The dividend was derived upon and from the winding up of a company, if the winding up commenced before the twenty-sixth day of June, nineteen hundred and sixty-four; or

"(c) The Commissioner is satisfied that—

"(i) The dividend was declared out of income derived, or deemed to have been derived, in any income year not later than the income year that ended with the thirty-first day of March, nineteen hundred and sixty-four; and

"(ii) The dividend was satisfied by the issue of fully paid-up or partly paid-up ordinary shares in the company declaring the dividend, or by giving credit in respect of the whole or part of the amount unpaid on any ordinary shares in that company, being shares that were issued before

the declaration of the dividend but were not at the time of the declaration of the dividend fully paid up; and

"(iii) The declaration of the dividend and the issue of the shares or, as the case may be, the giving of the credit in satisfaction of the dividend were both made not later than the thirty-first day of March, nineteen hundred and sixty-nine; and

"(iv) The amount comprising the dividend and satisfied in the manner prescribed in subparagraph (ii) of this paragraph is for use in the continuing interest of the business in New Zealand of the company declaring the dividend:

"Provided that the Commissioner may review any opinion, judgment, or determination formed or made under this subparagraph and make an assessment of tax as if this paragraph had not been enacted in any case where at any time within five years after the declaration of the dividend there is distributed any amount that, in the opinion of the Commissioner, is either directly or indirectly a distribution of the paid-up capital of shares which were wholly or partly paid up by the satisfaction of the dividend in manner aforesaid, and the Commissioner is not satisfied that the distribution was due to factors that substantially were not in existence at the time when the dividend was satisfied in the manner aforesaid; and, notwithstanding anything to the contrary in section 24 of this Act, the Commissioner may for the purpose of giving effect to this proviso amend any assessment or assessments at any time."

(2) Section 2 of the principal Act is hereby further amended by repealing paragraph (c) of the definition of the term "non-assessable income" (as substituted by section 3 (2) of the Land and Income Tax Amendment Act (No. 2) 1958 and amended by section 22 (2) of the Land and Income Tax Amendment Act 1959 and by section 14 (2) (a) of the Land and Income Tax Amendment Act (No. 2) 1962), and substituting the following paragraph:

"(c) Dividends derived from companies and exempt from income tax under section 86C or subsection (2) of section 144B of this Act:".

(3) Section 172C of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act

(No. 2) 1958) is hereby amended by omitting from paragraph (d) the words "except under paragraph (i) of that subsection".

(4) The following enactments are hereby repealed:

(a) Paragraph (i) of subsection (1) of section 86 of the principal Act (as substituted by section 11 (1) of the Land and Income Tax Amendment Act 1960):

(b) Subsection (2) of section 3 of the Land and Income Tax Amendment Act (No. 2) 1958:

(c) Subsection (2) of section 22 of the Land and Income Tax Amendment Act 1959:

(d) Section 11 of the Land and Income Tax Amendment Act 1960:

(e) Paragraph (a) of subsection (2) of section 14 of the Land and Income Tax Amendment Act (No. 2) 1962.

(5) This section shall apply with respect to dividends derived after the twenty-fifth day of June, nineteen hundred and sixty-four.

11. Items included in assessable income—Section 88 of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraph:

"(ee) All payments for the supply, in connection with the carrying on of a business, of scientific, technical, industrial, or commercial knowledge, information, or assistance, not being payments which the Commissioner is satisfied constitute wholly reimbursement of expenditure that is—

"(i) Of a kind that is deductible under this Act; and

"(ii) Is incurred, in relation to the payments, by the persons to whom the payments are made:".

12. Power to determine amount paid for the supply of scientific, technical, industrial, or commercial knowledge, information, or assistance—The principal Act is hereby further amended by inserting, after section 88, the following section:

"88A. Where any payment is partly for any of the purposes specified in paragraph (ee) of section 88 of this Act and partly for any other purpose, the Commissioner may, for the purposes of this Act, determine to what extent the payment is for any of the purposes specified in that paragraph."

13. Rebate in respect of proprietary assessments—(1) Section 138 of the principal Act is hereby amended by repealing paragraph (a) of subsection (2), and substituting the following paragraph:

"(a) The ordinary income tax assessed for that year in a proprietary assessment made on the shareholder, after—

"(i) Making the deduction provided for by paragraph (c) of subsection (3) of this section; and

"(ii) Where the shareholder is a company that is not resident in New Zealand, allowing a rebate of a sum equal to five per cent of the amount of any taxable proprietary income included in that assessment; or".

(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 sixty-four, and for every subsequent year.

14. Assessment of life insurance companies—Section 149 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

"(3A) For the purposes of subsections (2) and (3) of this section, any dividends that are derived by a company that is not resident in New Zealand from New Zealand companies, other than from companies that are exempt from taxation, shall be deemed to be exempt from taxation."

15. Classes of income deemed to be derived from New Zealand—(1) Section 167 of the principal Act is hereby amended by inserting, after paragraph (j), the following paragraph:

"(jj) Income derived from money lent outside New Zealand to—

"(i) Any person who is resident in New Zealand (other than a banking company that is so resident), except where that money is used by him for the purposes of a business carried on by him outside New Zealand through a fixed establishment outside New Zealand; or

"(ii) Any person who is not resident in New Zealand if that money is used by him for the purposes of a business carried on by him in New Zealand through a fixed establishment in New

Zealand, not being money used by that person in the business of the borrowing and lending of money:".

(2) Section 167 of the principal Act is hereby further amended by inserting, after paragraph (l), the following paragraph:

"(ll) Royalties and other like payments of any of the kinds referred to in paragraph (e) of section 88 of this Act and payments of any of the kinds referred to in paragraph (ee) of that section, being royalties or payments—

"(i) That are paid by a person who is resident in New Zealand and are not paid in respect of a business carried on by him outside New Zealand through a fixed establishment outside New Zealand; or

"(ii) That are paid by a person who is not resident in New Zealand and are deductible by him in calculating his assessable income for the purposes of taxation in New Zealand:".

16. Assessment of insurance underwriters—Section 203B of the principal Act (as inserted by section 29 of the Land and Income Tax Amendment Act 1959 and amended by section 24 (3) of the Land and Income Tax Amendment Act 1960) is hereby amended by inserting in subparagraph (ii) of paragraph (b) of subsection (1), after the word "companies", the words "that are deemed to be resident in New Zealand within the meaning of Part VI of this Act".

17. New Part VIIc inserted in principal Act—The principal Act is hereby further amended by inserting, after Part VIIB (as inserted by section 7 of the Land and Income Tax Amendment Act 1960), the following new Part:

"PART VIIC

"NON-RESIDENT WITHHOLDING TAX

"203R. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

" 'Paid', in relation to non-resident withholding income, includes distributed, credited, or dealt with in the interest of or on behalf of a person; and 'pay' and 'payment' have corresponding meanings:

" 'Resident in New Zealand' means deemed to be resident in New Zealand within the meaning of Part VI of this Act.

"203s. **Application of this Part**—(1) This Part of this Act shall apply notwithstanding anything to the contrary in any other Part of this Act.

"(2) This Part of this Act shall apply to income (in this Act referred to as non-resident withholding income), being income that is deemed under this Act to be derived from New Zealand and that consists of—

"(a) Dividends (other than investment society dividends), royalties or other like payments of any of the kinds referred to in paragraph (e) of section 88 of this Act, or payments of any of the kinds referred to in paragraph (ee) of that section, being dividends, royalties, or payments that are derived—

"(i) On or after the twenty-sixth day of June, nineteen hundred and sixty-four, by a company that is not resident in New Zealand; or

"(ii) On or after the first day of April, nineteen hundred and sixty-five, by a person (other than a company) who is not resident in New Zealand; or

"(b) Interest or investment society dividends, being interest or investment society dividends that are derived—

"(i) On or after the twenty-sixth day of June, nineteen hundred and sixty-four, by a company that is not resident in New Zealand, not being a company that is engaged in business in New Zealand through a fixed establishment in New Zealand; or

"(ii) On or after the first day of April, nineteen hundred and sixty-five, by a person (other than a company) who is not resident in New Zealand, not being a person who is engaged in business in New Zealand through a fixed establishment in New Zealand,—

not being income that is—

"(c) Exempt from ordinary income tax; or

"(d) Assessable under section 23 of the Finance Act 1954; or

"(e) Derived from the business of life insurance by a company that is assessable for ordinary income tax under section 149 of this Act; or

"(f) Derived by a company that is assessable for income tax under section 152 or section 153 of this Act; or

"(g) Derived otherwise than by way of a dividend (not being an investment society dividend) by a non-resident investment company, as defined in subsection (2) of section 86A of this Act, from any investments or other assets that are deemed to be development assets for the purposes of section 78B of this Act.

"203T. **Non-resident withholding tax imposed**—Every person who derives non-resident withholding income shall be liable to pay non-resident withholding tax upon that income at the rate of fifteen per cent of the gross amount of that income.

Deduction of Non-resident Withholding Tax

"203U. **Deduction of non-resident withholding tax**—(1) Where a person makes a payment consisting of non-resident withholding income, he shall, at the time of making the payment, make a deduction of non-resident withholding tax therefrom of an amount determined in accordance with section 203T of this Act.

"(2) Where—

"(a) A payment consisting of non-resident withholding income has been made to an agent or other person in New Zealand for or on behalf of the person entitled to the payment; and

"(b) The non-resident withholding tax payable in respect of that non-resident withholding income has not been deducted, or has not been deducted in full, under subsection (1) of this section—

that agent or other person shall, at the time of receiving the payment, make a deduction therefrom of the amount of the non-resident withholding tax or, as the case may be, of the amount of the deficiency in that tax.

"(3) Where—

"(a) A person makes a deduction of non-resident withholding tax under subsection (1) of this section from a payment consisting of non-resident withholding income; and

"(b) The payment of that non-resident withholding income is made by him to an agent or other person in New Zealand for or on behalf of the person entitled to the payment,—

that first-mentioned person shall, at the time of making the

payment, advise that agent or other person in writing of the amount of the deduction made by him from the payment.

"(4) This section shall not apply where the non-resident withholding income consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (c) or paragraph (d) or paragraph (f) of subsection (1) of section 4 of this Act.

"203v. **Non-resident withholding tax on dividends not paid in money**—(1) Where—

"(a) Any non-resident withholding income that consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (c) or paragraph (d) or paragraph (f) of subsection (1) of section 4 of this Act is to be paid by a company to a person; and

"(b) The company would, but for subsection (4) of section 203U of this Act, be required to make a deduction of non-resident withholding tax under that section from the dividend,—

the company shall not pay the dividend to or in the interest of or on behalf of any person until an amount equal to the amount of non-resident withholding tax that, but for that last-mentioned subsection, would have been required to be deducted has been paid to the Commissioner in respect of the dividend.

"(2) Where—

"(a) Any non-resident withholding income that consists of a dividend of any of the kinds referred to in paragraph (b) or paragraph (c) or paragraph (d) or paragraph (f) of subsection (1) of section 4 of this Act is paid to an agent or other person in New Zealand for or on behalf of the person entitled to the dividend; and

"(b) That agent or other person would, but for subsection (4) of section 203U of this Act, be required to make a deduction of non-resident withholding tax under that section from the dividend,—

that agent or other person shall not pay the dividend to or in the interest of or on behalf of any person until an amount equal to the amount of non-resident withholding tax that, but for that last-mentioned subsection, would have been required to be deducted has been paid to the Commissioner in respect of the dividend.

"(3) A person who has paid to the Commissioner an amount equal to the non-resident withholding tax in relation to a dividend in accordance with this section may, in writing, request the Commissioner to inform the company by which the dividend is to be paid, or any person to whom the dividend has been paid, that that amount has been so paid in respect of that dividend, and, upon receipt of such a request, the Commissioner shall, in writing, inform that other person accordingly.

"203W. **Power of Commissioner to grant relief from or vary amount of deductions**—(1) The Commissioner may, for the purpose of meeting the special circumstances of any case or class of cases and to such extent as he thinks fit, and upon or subject to such terms and conditions as he in his discretion requires—

"(a) Relieve any person from an obligation to make a deduction of non-resident withholding tax imposed upon him by section 203U of this Act, or from an obligation to comply with the provisions of section 203V of this Act; or

"(b) Vary the amount to be deducted under section 203U of this Act by any person from any payments consisting of non-resident withholding income or from any class or classes of such payments.

"(2) In every such case the provisions of this Part of this Act shall apply as if they had been amended in accordance with the decisions or requirements of the Commissioner for the time being in force under this section.

Payment of Non-resident Withholding Tax

"203X. **Payment of deductions of non-resident withholding tax to Commissioner**—(1) Every person who makes deductions of non-resident withholding tax from payments consisting of non-resident withholding income shall, not later than the twentieth day of the month next after the month in which he has made any such deductions, pay to the Commissioner the amount of the deductions.

"(2) The Commissioner may extend the time for payment of any amount of non-resident withholding tax in such cases and to such extent as he thinks fit.

"203Y. **Statements to be delivered to Commissioner**—Every person who in any year makes deductions of non-resident withholding tax from payments consisting of non-resident

withholding income, or pays to the Commissioner any amounts in respect of the non-resident withholding tax in relation to dividends in accordance with section 203v of this Act, shall, not later than the twentieth day of June next after the end of that year, deliver to the Commissioner a statement in a form authorised by the Commissioner showing such particulars as are prescribed in that statement of the non-resident withholding income and of the non-resident withholding tax relating thereto.

Assessment of Income Tax

"203z. **Non-resident withholding tax to be final tax in certain cases**—Notwithstanding anything to the contrary in this Act, non-resident withholding income that consists of—

"(a) A dividend (other than an investment society dividend); or

"(b) A royalty or other like payment of any of the kinds referred to in paragraph (e) of section 88 of this Act, and is for the use, production, or reproduction of, or for the privilege of using, producing, or reproducing, a literary, dramatic, musical, or artistic work in which copyright subsists,—

shall not be included in the assessable income of a person, and the amount of income tax for which a person is liable in respect of the amount of that non-resident withholding income derived by him in any income year shall, subject to section 78B and section 78E of this Act, be determined exclusively and finally by the total amount of non-resident withholding tax for which that person is liable in accordance with section 203T of this Act in respect of that non-resident withholding income.

"203ZA. **Non-resident withholding tax to be minimum tax in certain cases**—(1) Where a person derives in any income year non-resident withholding income that consists of interest, or of an investment society dividend, or of a royalty or other like payment of any of the kinds referred to in paragraph (e) of section 88 of this Act (other than a royalty or other like payment referred to in paragraph (b) of section 203z of this Act), or of a payment of any of the kinds referred to in paragraph (ee) of section 88 of this Act, the amount of income tax for which that person is liable in respect of the aggregate amount of that non-resident withholding income and any other assessable income derived by him in that income year shall, subject to section 78E of this Act, be the greater of—

"(a) The sum of—

"(i) The total amount of non-resident withholding tax for which that person is liable in accordance with section 203T of this Act in respect of that non-resident withholding income; and

"(ii) The amount of income tax for which that person would be liable, in an assessment made under Part VI of this Act, in respect of that other assessable income if that person had not derived that non-resident withholding income in that income year:

"(b) The amount of income tax for which that person would be liable, in an assessment made under Part VI of this Act, in respect of the aggregate amount of that non-resident withholding income and any other assessable income derived by him in that income year:

"Provided that where, in the case of a company, the aggregate of the gross amount of that non-resident withholding income and any other taxable income derived by the company in that income year does not exceed five hundred pounds, the amount of income tax for which the company is liable in respect of that aggregate shall be an amount ascertained in accordance with paragraph (a) of this subsection.

"(2) Against the income tax assessed in accordance with the provisions of subsection (1) of this section, there shall be allowed a credit of an amount equal to the non-resident withholding tax (but not including any additional tax or penal tax) deducted from the non-resident withholding income to which that subsection applies or paid to the Commissioner in respect of that non-resident withholding income.

Recovery and Assessment of Non-resident Withholding Tax

"203ZB. **Person deriving non-resident withholding income to pay non-resident withholding tax to Commissioner**—Where for any reason—

"(a) A deduction of non-resident withholding tax is not made or is not made in full in accordance with this Part of this Act from any payment consisting of non-resident withholding income; or

"(b) A payment that is required to be made to the Commissioner, in accordance with section 203V of this Act, of an amount equal to the non-resident

withholding tax in relation to a dividend has, in contravention of that section, not been made or not been made in full to the Commissioner,—

the person who derives the non-resident withholding income shall pay to the Commissioner an amount equal to the amount of the deduction or, as the case may be, the payment that should have been made and was not made, and that amount shall be due and payable to the Commissioner on the twentieth day of the month next after the month in which the deduction was required to be made, or, as the case may be, the dividend was paid, or in either case, on such later date as the Commissioner, in his discretion, may in any case allow.

"203zc. **Failure to make deductions of non-resident withholding tax or to make payments to Commissioner**—(1) Where a person fails to make any deduction of non-resident withholding tax from any payment consisting of non-resident withholding income in accordance with his obligations under section 203u of this Act, the amount in respect of which default has been made shall constitute a debt payable by that person to the Commissioner, and shall be deemed to have become due and payable to the Commissioner on the twentieth day of the month next after the month in which the payment consisting of that non-resident withholding income was made.

"(2) Where a person has, in contravention of section 203v of this Act, paid non-resident withholding income consisting of a dividend without payment to the Commissioner of an amount equal to the non-resident withholding tax in relation to the dividend, that amount or, as the case may be, so much thereof as has not been paid to the Commissioner shall constitute a debt payable by that person to the Commissioner, and shall be deemed to have become due and payable to the Commissioner on the day on which the dividend was paid.

"(3) The right of the Commissioner to recover the amount in respect of which default has been made in the manner referred to in subsection (1) or subsection (2) of this section from a person who has made default shall be in addition to any right of the Commissioner to recover that amount from the person chargeable with the non-resident withholding tax to which that amount relates; and nothing in this Part of this Act shall be construed as preventing the Commissioner from taking such steps as he thinks fit to

recover that amount from both of those persons concurrently, or from recovering that amount wholly from one of those persons, or partly from one and partly from the other of those persons.

"(4) Where any amount recoverable in accordance with this Part of this Act from the person chargeable with the non-resident withholding tax to which that amount relates is in fact paid by another person, the amount so paid may be recovered by that other person from that first-mentioned person.

"203ZD. **Assessment of non-resident withholding tax and of amounts to be accounted for or paid under this Part**—(1) The Commissioner may, in respect of any person who is chargeable with non-resident withholding tax, make an assessment of the amount of non-resident withholding income on which in his judgment non-resident withholding tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not chargeable with the tax so assessed.

"(2) The Commissioner may make an assessment of any amount which in his judgment any person is liable to account for or pay to the Commissioner under this Part of this Act, and any person who is so assessed shall be liable to pay the amount so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not liable to account for or pay the amount so assessed.

"(3) Sections 22, 25, 26, 27, and 28 of this Act shall apply, so far as may be, with respect to every assessment made under subsection (1) or subsection (2) of this section, as if—

"(a) The expression 'tax already assessed' used in the said section 22 included non-resident withholding tax already assessed under subsection (1) of this section or, as the case may be, an amount already assessed under subsection (2) of this section; and

"(b) The term 'taxpayer' used in the said sections 22, 26, and 28 included a person who is chargeable with non-resident withholding tax or, as the case may be, a person who is assessed or is liable to be assessed under subsection (2) of this section.

"(4) An assessment made under this section shall be subject to objection in the same manner as an assessment of income tax levied under section 77 of this Act, and the provisions of Part III of this Act shall apply, so far as may be, to an

objection to an assessment made under this section as if the terms 'income tax' and 'tax' used in that Part included non-resident withholding tax or, as the case may be, an amount assessed under subsection (2) of this section.

Penalties and Offences

"203ZE. **Additional tax for default in making or paying deductions of non-resident withholding tax**—(1) Where—

"(a) Any person, being a person under an obligation under this Part of this Act to make a deduction of non-resident withholding tax from a payment consisting of non-resident withholding income, fails wholly or in part to make the deduction; or

"(b) Any person who has made a deduction of non-resident withholding tax fails wholly or in part within the prescribed time to pay the amount of the deduction to the Commissioner; or

"(c) Any person who is liable to pay any amount to the Commissioner under this Part of this Act fails to pay the amount on the due date for payment thereof,—

that person shall, unless the Commissioner is satisfied that he has not been guilty of wilful neglect or default, be liable, without conviction, in addition to any other penalty to which he may be liable, to a penalty equal to ten per cent of the amount in respect of which default has been made.

"(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of non-resident withholding tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of non-resident withholding income.

"(3) A penalty imposed under this section shall for all purposes be deemed to be of the same nature as the amount or part thereof in respect of which it is imposed, and shall be recoverable accordingly.

"(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to the amount of every penalty imposed under this section as if it were additional tax under section 208 of this Act and as if the person liable to the penalty were the taxpayer.

"203ZF. **Penal tax for default in making or paying deductions of non-resident withholding tax**—(1) Where—

"(a) Any person, being a person under an obligation under this Part of this Act to make a deduction of non-resident withholding tax from a payment consisting of non-resident withholding income, fails wholly or in part to make the deduction; or

"(b) Any person knowingly applies or permits to be applied the amount of any non-resident withholding tax or any part thereof for any purpose other than the payment thereof to the Commissioner,—

that person shall be chargeable by way of penalty, in addition to any other penalty to which he may be liable, with an additional amount (hereinafter referred to as penal tax) not exceeding an amount equal to treble the amount in respect of which default has been made (hereinafter referred to as the deficient deduction).

"(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of non-resident withholding tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of non-resident withholding income, and the amount of any non-resident withholding tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Commissioner:

"Provided that no person shall be chargeable with penal tax under paragraph (b) of subsection (1) of this section if he satisfies the Commissioner that the amount of the non-resident withholding tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

"(3) Penal tax imposed by this section shall for all purposes be deemed to be of the same nature as the deficient deduction, and shall be recoverable accordingly.

"(4) Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to all penal tax imposed under this section as if—

"(a) It were penal tax under section 231 of this Act; and

"(b) The person chargeable with the penal tax imposed under this section were the taxpayer; and

"(c) The deficient deduction were deficient tax payable for the same year of assessment as that in which the deficient deduction became due and payable to the Commissioner.

"203ZG. **Offences**—(1) Without limiting the application of section 228 of this Act, it is hereby declared that every person commits an offence against this Act who—

"(a) Being a person under an obligation under this Part of this Act to make a deduction of non-resident withholding tax from a payment consisting of non-resident withholding income, fails wholly or in part to make the deduction; or

"(b) Knowingly applies or permits to be applied the amount of any non-resident withholding tax or any part thereof for any purpose other than the payment thereof to the Commissioner.

"(2) For the purposes of paragraph (b) of subsection (1) of this section, a deduction of non-resident withholding tax shall be deemed to have been made if and when payment is made of the net amount of any payment consisting of non-resident withholding income, and the amount of any non-resident withholding tax shall be deemed to have been applied for a purpose other than the payment thereof if that amount is not duly paid to the Commissioner:

"Provided that no person shall be convicted of an offence under paragraph (b) of subsection (1) of this section if he satisfies the Court that the amount of the non-resident withholding tax has been accounted for, and that his failure to account for it within the prescribed time was due to illness, accident, or other cause beyond his control.

Miscellaneous Provisions

"203ZH. **Non-resident withholding tax on dividends paid to company under control of non-resident**—Where—

"(a) Shares in a company that is resident in New Zealand were formerly held by a person not resident in New Zealand and while those shares were so held the company was under the control of that person or was deemed under this Act to be under the control of persons of whom that person was one; and

"(b) That person has sold or otherwise disposed of those shares to another company that is resident in New Zealand and is under the control of that person or is deemed under this Act to be under the control of persons of whom that person is one; and

"(c) Any part of the price at which that other company acquired those shares remained unpaid after the acquisition by that other company of those shares or thereafter remained owing in any way directly or

indirectly to that person and whether or not secured by mortgage or otherwise—

any dividends paid in respect of those shares to that other company while any part of that price remains unpaid or owing as aforesaid shall, to the extent to which that price is unpaid or owing at the time when the dividends are paid to that other company, be deemed to have been paid to that person and to have been derived as dividends by that person at that time, and the provisions of this Act (including this Part of this Act) shall apply accordingly.

"203ZI. **Deductions of non-resident withholding tax deemed to be received by person entitled to payment**—Where any non-resident withholding tax has been deducted from a payment consisting of non-resident withholding income, the amount so deducted—

"(a) As between the person by whom the deduction was made and the person entitled to the payment consisting of the non-resident withholding income from which the deduction was made, shall be deemed to have been received by the person entitled to that payment—

"(i) In any case where the deduction was made under subsection (1) of section 203U of this Act, at the time at which the payment consisting of the non-resident withholding income was made:

"(ii) In any case where the deduction was made under subsection (2) of section 203U of this Act, at the time at which the payment consisting of the non-resident withholding income was received, for or on behalf of the person entitled to that payment, by an agent or other person in New Zealand:

"(b) For the purposes of this Act (including this Part), shall be deemed to have been derived by the person entitled to the payment consisting of the non-resident withholding income at the same time and in the same manner as the residue of that payment.

"203ZJ. **Application of certain provisions of the Income Tax Assessment Act 1957**—Subject to the provisions of this Part of this Act, the provisions of sections 31, 32, and 36 of the Income Tax Assessment Act 1957, as far as they are applicable and with the necessary modifications, shall, for the purposes of this Part of this Act, apply as if—

"(a) Every reference in those sections to a tax deduction were a reference to a deduction of non-resident withholding tax:

"(b) Every reference in those sections to an employer were a reference to a person by whom a deduction of non-resident withholding tax has been or, as the case may be, is required to be made:

"(c) Every reference in those sections to Part II of that Act were a reference to this Part of this Act.

"203ZK. **Application of other Parts of this Act**—Subject to the provisions of this Part of this Act, the provisions of the other Parts of this Act (except section 207), as far as they are applicable and with the necessary modifications, shall apply with respect to non-resident withholding tax as if it were income tax levied under section 77 of this Act."

18. Dividends, interest, and royalties derived on or after 26 June 1964 and before 1 April 1965 by subsisting companies resident in the United Kingdom—(1) This section shall apply notwithstanding anything to the contrary in the principal Act (including this Act).

(2) This section shall apply to income, being income that is deemed under the principal Act (including this Act) to be derived from New Zealand, that—

(a) Is derived on or after the twenty-sixth day of June, nineteen hundred and sixty-four, and before the first day of April, nineteen hundred and sixty-five, by a subsisting company, as defined in section 2 of the Income Tax Assessment Act 1957, which is, within the meaning of the Double Taxation Relief (United Kingdom) Order 1947, resident in the United Kingdom; and

(b) Consists of a dividend or of interest, or of a royalty to which Article VII of the agreement set out in the Schedule to that Order has applied (not being income of any of the kinds referred to in paragraphs (c) to (g) of subsection (2) of section 203s of the principal Act, as inserted by section 17 of this Act).

(3) Nothing in Part VIIc of the principal Act (as inserted by section 17 of this Act) shall apply to any income to which this section applies, but, subject to this section, income tax shall be levied and paid thereon under Part VI of the principal Act for the year of assessment commencing on the first day of April, nineteen hundred and sixty-five, and the amount of income tax for which a company shall be liable in respect of any such income shall be as provided in this section.

(4) Where the income consists of a dividend (other than an investment society dividend) or of a royalty of any of the kinds referred to in paragraph (b) of section 203z of the principal Act (as enacted by section 17 of this Act), the amount of income tax for which the company shall be liable in respect of that income shall be fifteen per cent of the gross amount of the dividend or, as the case may be, of the royalty, and that amount shall, subject to sections 78B and 78E of the principal Act, determine exclusively and finally the company's liability for income tax in respect of that dividend or, as the case may be, that royalty.

(5) Where the income consists of interest or of an investment society dividend or of a royalty (other than a royalty to which subsection (4) of this section applies), the amount of income tax for which the company shall be liable in respect of that income shall be determined in accordance with the provisions of section 203ZA of the principal Act (as enacted by section 17 of this Act), as if that income were non-resident withholding income.

19. Payments before passing of this Act—(1) The provisions of section 203U and of section 203V of the principal Act (as enacted by section 17 of this Act) shall not apply to any payment of non-resident withholding income made on or after the twenty-sixth day of June, nineteen hundred and sixty-four, and before the passing of this Act; but nothing in this section shall be construed as preventing the Commissioner from recovering the amount of the non-resident withholding tax relating to any such non-resident withholding income from the person chargeable with that non-resident withholding tax.

(2) Notwithstanding anything in subsection (1) of this section, every person who has made deductions of non-resident withholding tax from payments consisting of non-resident withholding income referred to in that subsection shall, not later than the twentieth day of the month next after the month in which this Act is passed or on such later date as the Commissioner, in his discretion, may in any case allow, pay to the Commissioner the amount of the deductions.

PART II

MISCELLANEOUS AMENDMENTS TO PRINCIPAL ACT

20. Extension of employees' superannuation funds—(1) Section 2 of the principal Act is hereby amended by adding to the definition of the term "superannuation fund"

(as substituted by section 3 of the Land and Income Tax Amendment Act (No. 2) 1957) the following proviso:

"Provided that, for the purposes of paragraphs (b) and (c) of this definition, the term 'employee' shall be deemed to include a sharefarmer within the meaning of the Workers' Compensation Act 1956, and the term 'employer' shall be deemed to include a person by agreement with whom a sharefarmer within the meaning of that Act is entitled to receive a share of the returns or profits derived from the farming operations the subject-matter of the agreement:".

(2) Section 128 of the principal Act is hereby amended by adding the following subsection:

"(3) For the purposes of this section in relation to a superannuation fund—

" 'Employee' shall be deemed to include a sharefarmer within the meaning of the Workers' Compensation Act 1956:

" 'Employer' shall be deemed to include a person by agreement with whom a sharefarmer within the meaning of the Workers' Compensation Act 1956 is entitled to receive a share of the returns or profits derived from the farming operations the subject-matter of the agreement."

21. Meaning of "dividends"—(1) Section 4 of the principal Act is hereby amended by repealing subsection (3) (as substituted by section 3 (1) of the Land and Income Tax Amendment Act 1961), and substituting the following subsection:

"(3) Where—

"(a) Any capital asset of a company has been realised, whether voluntarily or involuntarily, and the Commissioner is satisfied that the whole or part of any profit arising from any such realisation in excess of the cost to the company of that asset (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing ordinary income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section; or

"(b) The Commissioner is satisfied that a company has otherwise made a capital profit or a capital gain,

including a capital gain by way of gift, and that the whole or part of any such profit or gain (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing ordinary income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section; or

"(c) A company has written up any capital asset (other than goodwill), and the Commissioner is satisfied that the whole or part of any increase arising from any such writing up in excess of the cost to the company of that asset (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing ordinary income tax) is subsequently included in any transaction referred to in paragraph (b) or paragraph (c) of subsection (1) of this section,—

the expression 'dividends' shall, for the purposes of this Act, be deemed not to include that profit or gain or increase to the extent to which that profit or gain or increase exceeds any capital losses incurred in the income year (or, as the case may be, the accounting year of the company corresponding with that year) in which that profit or gain or increase was made or in any subsequent year (being losses not already taken into account under this subsection or in calculating the assessable income of the company for any year):

"Provided that where any amount, being the whole or part of any increase arising from the writing up of any asset as referred to in paragraph (c) of this subsection, has been excluded from the term 'dividends' in accordance with the foregoing provisions of this subsection, the cost of that asset shall, for the purposes of this subsection, be deemed to be increased by that amount."

(2) Section 3 of the Land and Income Tax Amendment Act 1961 is hereby repealed.

22. Special exemption in respect of gifts of money and payments of school fees—(1) Section 84B of the principal Act (as inserted by section 4 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by adding to subsection (2) the following paragraph:

"(i) The Volunteer Service Abroad (Incorporated)."

(2) Section 84B of the principal Act (as so inserted) is hereby further amended by repealing paragraphs (a) and (b) of subsection (3), and substituting the following paragraphs:

"(a) A private primary school or private secondary school registered under the Education Act 1914; or

"(b) A school in New Zealand (whether public or private) for the deaf, the dumb, the blind, the mentally defective, the intellectually handicapped, the crippled, or the otherwise disabled or afflicted or handicapped."

(3) Section 84B of the principal Act (as so inserted) is hereby further amended by repealing subsection (4) (as substituted by section 4 of the Land and Income Tax Amendment Act (No. 2) 1963), and substituting the following subsection:

"(4) The deductions by way of special exemption provided for in this section—

"(a) In respect of any gifts made to any society, institution, association, organisation, trust, or fund of any of the kinds referred to in paragraphs (a) to (i) of subsection (2) of this section (not being gifts to which subparagraph (i) of paragraph (b) of this subsection applies), shall not, in the case of any taxpayer, in any income year exceed in the aggregate the sum of twenty-five pounds:

"(b) In respect of—

"(i) Any gifts that are made to any society, institution, association, organisation, trust, or fund of any of the kinds referred to in paragraphs (a) to (d) of subsection (2) of this section and that are made exclusively for the purposes of any school of any of the kinds referred to in subsection (3) of this section (not being a school carried on for the private pecuniary profit of any person); and

"(ii) Any fees to which subsection (3) of this section applies,—

shall not, in the case of any taxpayer, in any income year exceed in the aggregate the amount by which the sum of fifty pounds exceeds the aggregate amount of the deductions allowed in that year under paragraph (a) of this subsection."

(4) Section 4 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby repealed.

23. Special exemption in respect of life insurance premiums and superannuation and insurance fund contributions—(1) Section 85 of the principal Act is hereby amended by repealing subsection (3) (as substituted by section 10 (1) of the Land and Income Tax Amendment Act 1960), and substituting the following subsection:

"(3) The deductions by way of special exemption provided for in this section—

"(a) In the case of any taxpayer who is a contributor to the Government Superannuation Fund, or who is a member of a superannuation fund to which any person employing or engaging the taxpayer or contracting for the services of the taxpayer is liable to contribute in respect of the income year, shall not in any year exceed in the aggregate the sum of two hundred and fifty pounds or twenty per cent of the assessable income of the taxpayer, whichever is the less:

"(b) In the case of any taxpayer to whom paragraph (a) of this subsection does not apply, shall not in any year exceed in the aggregate the sum of three hundred and twenty-five pounds or twenty per cent of the assessable income of the taxpayer, whichever is the less."

(2) Section 10 of the Land and Income Tax Amendment Act 1960 is hereby repealed.

24. Superannuation benefits derived by residents of Cook Islands or Western Samoa exempt from income tax in certain cases—Section 86 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (l), the following paragraph:

"(ll) Income derived from any retiring allowance or other benefit paid—

"(i) From the Government Superannuation Fund to a person who was formerly a member of the Cook Islands Public Service or to a dependant of any such person, if that person or, as the case may be, that dependant is, at the time of receiving that allowance or benefit, resident in the Cook Islands (including Niue); or

"(ii) From the Government Superannuation Fund or the Western Samoan Superannuation Fund Account within the National Provident Fund to a person who was formerly a member of

the Western Samoan Public Service or to a dependant of any such person, if that person or, as the case may be, that dependant is, at the time of receiving that allowance or benefit, resident in Western Samoa:".

25. Power to exempt allowances in respect of employment or service—Section 90 of the principal Act is hereby amended by adding the following subsection:

"(3) For the purposes of this section, the expression 'allowance in respect of or in relation to the employment or service of any person' shall be deemed to include remuneration paid in respect of or in relation to the services of any person as Chairman or as a member of a local authority or statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 or in respect of or in relation to the services of any person as Chairman or as a member of any committee, board, council, or other body whatsoever to whom remuneration is paid pursuant to any other Act."

26. Spreading of excess income derived on sale of livestock where unduly low standard values adopted—Section 103 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

"(2A) Where the Commissioner is satisfied that the sale or other disposition of that livestock was made by reason of the retirement of the taxpayer (not being a company) from the business of farming, the Commissioner may, instead of amending under paragraph (a) of subsection (2) of this section the standard value adopted by the taxpayer in respect of that livestock,—

"(a) Upon application in that behalf made in writing by or on behalf of the taxpayer within twelve months after the date of the sale or other disposition or within such further period as the Commissioner in his discretion may allow in any case or class of cases; and

"(b) If required by the Commissioner, upon the taxpayer making arrangements to the satisfaction of the Commissioner for the payment of all income tax that is or may become payable—

apportion between the income year in which the sale or other disposition took place and any number of subsequent income years, not exceeding three, the amount of the excess of the

price realised for that livestock over the standard value last adopted by the taxpayer in respect of that livestock; and in every such case the part of that excess so apportioned to any income year shall be deemed to have been derived in that income year, and shall be assessable for income tax accordingly:

"Provided that any such apportionment may be at any time cancelled by the Commissioner, and thereupon the excess so apportioned or the part thereof on which income tax has not yet been paid shall become assessable for income tax as if derived during the income year in which the apportionment was so cancelled."

27. Excess income on sale of livestock where farmer forced to quit farm, or farming business adversely affected by fire, flood, etc.—(1) The principal Act is hereby further amended by repealing section 103A (as inserted by section 5 of the Land and Income Tax Amendment Act 1956), and substituting the following section:

"103A. (1) This section applies where—

"(a) Either—

"(i) Land upon which a taxpayer formerly carried on a farming business has become no longer available to him to carry on the farming business by reason of the expiry of a lease of the land or of the acquisition of the land by the Crown or a local authority as defined in section 2 of the Public Works Act 1928, whether the land was taken under that Act or otherwise acquired by the Crown or the local authority; or

"(ii) A farming business carried on by a taxpayer has been adversely affected by reason of any event, happening, or cause which is declared by the Minister of Finance to be an adverse event for the purposes of this section; and

"(b) The Commissioner is satisfied that, on account of any of the matters mentioned in paragraph (a) of this subsection, the taxpayer—

"(i) Was obliged to sell or otherwise dispose of livestock used by him in the farming business; or

"(ii) Having in an income year sold or otherwise disposed of livestock in the ordinary course of the farming business, was unable to acquire in that income year other livestock in replacement of the livestock so sold or otherwise disposed of; and

"(c) The price realised, or deemed for the purposes of this Act to have been realised, by the taxpayer for the livestock and taken into account in calculating the assessable income of the taxpayer was in excess of the standard value last adopted in respect of the livestock; and

"(d) The Commissioner is satisfied that the taxpayer has, in either the first or the second income year after the income year in which the livestock was sold or otherwise disposed of, acquired other livestock or retained progeny of his livestock for the purpose of—

"(i) Carrying on a farming business on other land in any case where subparagraph (i) of paragraph (a) of this subsection applies; or

"(ii) Replacing wholly or partly the livestock sold or otherwise disposed of in any case where subparagraph (ii) of paragraph (a) of this subsection applies.

"(2) In this section—

" 'Substituted livestock', in relation to any taxpayer, means—

"(a) Livestock which the Commissioner is satisfied the taxpayer has acquired as mentioned in paragraph (d) of subsection (1) of this section; or

"(b) Progeny of the taxpayer's livestock, being progeny which the Commissioner is satisfied the taxpayer has retained as mentioned in that paragraph:

" 'Assessable excess', in relation to any taxpayer, means the difference, referred to in paragraph (c) of subsection (1) of this section, between the price taken into account in calculating the assessable income of the taxpayer in respect of the livestock sold or otherwise disposed of by him and the standard value last adopted in respect of that livestock.

"(3) In any case to which this section applies the Commissioner, upon application in that behalf made in writing by or on behalf of the taxpayer not later than twelve months after the end of the income year in which the substituted livestock was acquired or, as the case may be, retained by the taxpayer, or within such further period as the Commissioner in his discretion may allow in any case or class of cases, may—

"(a) Determine that the assessable excess shall be deemed to be assessable income of the taxpayer in the income year in which the substituted livestock was acquired or, as the case may be, retained by the taxpayer, and in every such case the assessable excess shall be deemed to have been derived in that year:

"(b) Review any amendment made by him under section 103 of this Act to the standard value adopted by the taxpayer in respect of livestock.

"(4) If any question arises as to—

"(a) Whether—

"(i) A taxpayer was obliged to sell or otherwise dispose of livestock; or

"(ii) A taxpayer, having in an income year sold or otherwise disposed of livestock in the ordinary course of a farming business, was unable to acquire in that income year other livestock in replacement of the livestock so sold or otherwise disposed of—

on account of any of the matters mentioned in paragraph (a) of subsection (1) of this section; or

"(b) Whether any livestock acquired by a taxpayer or any progeny retained by a taxpayer is substituted livestock for the purposes of this section,—

it shall be determined by the Commissioner.

"(5) The Minister of Finance may declare to be an adverse event for the purposes of this section any event, happening, or cause which in his opinion has adversely affected farms or livestock generally in any district or locality, including, but without limiting the generality of the power of the Minister, fire, flood, drought, or other natural causes, and sickness or disease among livestock.

"(6) No relief shall be given under this section in respect of any loss or damage for which compensation may be claimed under section 6 of the Finance Act 1954."

(2) The following enactments are hereby repealed:

(a) Section 5 of the Land and Income Tax Amendment Act 1956:

(b) Section 12 of the Land and Income Tax Amendment Act 1959:

(c) So much of the Schedule to the Land and Income Tax Amendment Act 1960 as relates to section 103A of the principal Act.

(3) This section shall apply with respect to the tax on income derived in the income year that commenced on the first day of April, nineteen hundred and sixty-three, and in every subsequent year.

28. Special depreciation allowance on plant and machinery and buildings—(1) Section 114A of the principal Act (as substituted by section 7 of the Land and Income Tax Amendment Act (No. 2) 1962 and amended by section 9 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby further amended by omitting from paragraph (a) of subsection (1), and also from paragraph (b) of that subsection, the words "nineteen hundred and sixty-five", and substituting in each case the words "nineteen hundred and sixty-six".

(2) Section 114A of the principal Act (as so substituted) is hereby further amended as from its commencement by inserting in subsection (1), after the words "any business", the words "in New Zealand".

(3) Section 114A of the principal Act (as so substituted) is hereby further amended as from its commencement—

(a) By inserting in subsection (1), and also in paragraphs (a) and (b) of subsection (3), after the words "derived by the taxpayer", the words "from the business":

(b) By inserting in paragraph (b) of subsection (3), after the words "derived by him", the words "from the business".

(4) Section 114A of the principal Act (as so substituted) is hereby further amended by inserting, after subsection (1), the following subsection:

"(1A) Where the Commissioner is satisfied that any taxpayer engaged in any farming or agricultural business in New Zealand has on or after the first day of April, nineteen hundred and sixty-four, and before the first day of April, nineteen hundred and sixty-six, erected any new building (not being a building to provide accommodation for any person) to be used wholly for the purposes of that business, the Commissioner may, in his discretion, subject to section 117 of this Act, in calculating the assessable income derived by the taxpayer from the business, allow, in addition to the depreciation allowed as a deduction under section 113 of this Act, such deduction by way of special depreciation in accordance with this section as he thinks fit."

(5) Section 114A of the principal Act (as so substituted) is hereby further amended by omitting from paragraph (c) of subsection (4) the words "any such building", and substituting the words "any building to which paragraph (b) of subsection (1) of this section applies".

(6) Section 114A of the principal Act (as so substituted) is hereby further amended by repealing subsection (6), and substituting the following subsection:

"(6) For the purposes of this section—

" 'New' means not having previously been either used by any person or acquired or held by any person for use by that person:

" 'Building' includes an extension to an existing building and an alteration or improvement of a capital nature to an existing building:

" 'Plant and machinery' includes a motorcar or station wagon, as defined in subsection (1) of section 2 of the Transport Act 1962, which is a passenger-service vehicle as defined in that subsection; but does not include any other motorcar or station wagon."

(7) Section 9 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby repealed.

29. Additional depreciation allowance on certain capital expenditure in erecting, altering, or extending buildings for use as meat export slaughterhouses or meat-packing houses—The principal Act is hereby further amended by inserting, after section 114A (as substituted as aforesaid), the following section:

"114B. (1) For the purposes of this section—

" 'Meat export slaughterhouse' has the same meaning as in the Meat Act 1939; and includes an export slaughterhouse within the meaning of the Meat Act 1964:

" 'Meat-packing house' has the same meaning as in the Meat Act 1939; and includes an export packing house within the meaning of the Meat Act 1964:

" 'New' means not having previously been either used by any person or acquired or held by any person for use by that person.

"(2) Where the Commissioner is satisfied that—

"(a) Any taxpayer engaged in the business of operating a meat export slaughterhouse or a meat-packing house in New Zealand has on or after the first day

of April, nineteen hundred and sixty-three, and before the first day of April, nineteen hundred and sixty-six, incurred expenditure of a capital nature in—

"(i) Erecting a new building that is to be used wholly for the purposes of that business; or

"(ii) Altering or extending an existing building that is used wholly for the purposes of that business; and

"(b) That expenditure was incurred for the purpose of satisfying the standards of hygiene and inspection required in respect of meat or meat products exported from New Zealand—

the Commissioner may, in his discretion, subject to section 117 of this Act, in calculating the assessable income derived by the taxpayer from the business, allow, in addition to the depreciation allowed as a deduction under section 113 of this Act, such deduction by way of depreciation in accordance with this section as he thinks fit.

"(3) The amount of any deduction allowed under this section in respect of any capital expenditure shall not exceed in the aggregate thirty per cent of the amount of that expenditure.

"(4) Unless in any case the Commissioner otherwise determines, the amount of any deduction allowed under this section in respect of any capital expenditure shall be allowed as follows:

"(a) Twenty per cent in respect of the income year in which the expenditure was incurred:

"(b) Ten per cent in respect of the income year immediately succeeding the income year in which the expenditure was incurred."

30. Initial depreciation allowance on buildings—(1) Section 116A of the principal Act (as inserted by section 6 of the Land and Income Tax Amendment Act 1961 and amended by section 10 (1) of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby further amended by omitting from subsection (1) the words "nineteen hundred and sixty-five", and substituting the words "nineteen hundred and sixty-six".

(2) Section 116A of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (1), the following subsection:

"(1A) Where the Commissioner is satisfied that on or after the first day of April, nineteen hundred and sixty-four, and before the first day of April, nineteen hundred and sixty-six, any new building (not being a building to provide accommodation for any person)—

"(a) Has been erected by or for a taxpayer engaged in any farming or agricultural business in New Zealand and is to be used wholly for the purposes of that business; and

"(b) Has been used for those purposes,—

the Commissioner may in his discretion, subject to the provisions of this section and to section 117 of this Act, allow as a deduction in calculating the assessable income derived by the taxpayer from the business in the income year in which the building is first so used an initial depreciation allowance of twenty per cent of the cost of the building."

(3) Section 116A of the principal Act (as so inserted) is hereby further amended—

(a) By omitting from subsection (3) the words "in respect of any building":

(b) By omitting from paragraph (b) of subsection (3) the words "the building", and substituting the words "any building to which subsection (1) of this section applies".

(4) Section 116A of the principal Act (as so inserted) is hereby further amended by adding the following subsection:

"(4) For the purposes of this section—

"'New' means not having previously been either used by any person or acquired or held by any person for use by that person:

"'Building' includes an extension to an existing building and an alteration or improvement of a capital nature to an existing building."

(5) Section 10 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby repealed.

31. Investment allowance on plant and machinery for use for manufacturing purposes—Section 117A of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by omitting from paragraph (a) of subsection (6), and also from subparagraph (ii) of paragraph (b) of subsection (7), and also from paragraph (d), paragraph (e), paragraph (f), and subparagraph (i) of paragraph (g) of subsection (7), the words "nineteen hundred and sixty-five", and substituting in each case the words "nineteen hundred and sixty-six".

32. Investment allowance on plant and machinery for use for farming or agricultural purposes—(1) Section 117B of the principal Act (as inserted by section 12 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended as from its commencement by adding to paragraph (a) of subsection (3) the following subparagraph:

"(iii) Exclusively for the purpose of spreading fertiliser or lime on land:".

(2) Section 117B of the principal Act (as so inserted) is hereby further amended as from its commencement by adding to subparagraph (ii) of paragraph (a) of subsection (3) the word "or".

33. Investment allowance on plant, machinery, and buildings for use in redevelopment projects in the West Coast, South Island—(1) Section 117C of the principal Act (as inserted by section 13 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by adding to subsection (1) the following definition:

" 'Secondhand' means having previously been either used by any person or acquired or held by any person for use by that person."

(2) Section 117C of the principal Act (as so inserted) is hereby further amended by repealing paragraphs (a) and (b) of subsection (2), and substituting the following paragraphs:

"(a) Any plant or machinery, being—

"(i) New plant or machinery owned by the taxpayer that has been acquired or installed by the taxpayer after the eleventh day of July, nineteen hundred and sixty-three, and before the first day of April, nineteen hundred and sixty-seven; or

"(ii) Secondhand plant or machinery owned by the taxpayer that has been acquired or installed by the taxpayer on or after the first day of April, nineteen hundred and sixty-four, and before the first day of April, nineteen hundred and sixty-seven,—

that is for use in the redevelopment region by the taxpayer, primarily and principally and directly, in and for the purposes of any redevelopment project carried on by the taxpayer or, primarily and

principally and directly, in performing services involving the use of that plant or machinery in and for the purposes of any redevelopment project carried on by any other person:

"(b) Any building, being—

"(i) A new building in the redevelopment region owned by the taxpayer or any extension of an existing building in that region owned by the taxpayer that has been erected or, as the case may be, extended by the taxpayer after the eleventh day of July, nineteen hundred and sixty-three, and before the first day of April, nineteen hundred and sixty-seven; or

"(ii) A secondhand building in that region owned by the taxpayer that has been acquired by the taxpayer on or after the first day of April, nineteen hundred and sixty-four, and before the first day of April, nineteen hundred and sixty-seven,—

that is for use by the taxpayer, primarily and principally and directly, in and for the purposes of any redevelopment project carried on by the taxpayer or, primarily and principally and directly, in performing services involving the use of that building or, as the case may be, that extension, in and for the purposes of any redevelopment project carried on by any other person."

(3) Section 117c of the principal Act (as so inserted) is hereby further amended—

(a) By omitting from subsection (4) and also from subsection (7) the word "new" wherever it occurs:

(b) By omitting from subsection (5) the words "in the erection of a new building to which this section applies or in an extension to which this section applies of an existing building", and substituting the words "in the acquisition or erection of a building to which this section applies or in an extension to which this section applies of an existing building".

(4) Section 117c of the principal Act (as so inserted) is hereby further amended as from the commencement of that section by omitting from subsection (6) the words "corresponding to the year", and substituting the words "corresponding with that year".

(5) Section 117c of the principal Act (as so inserted) is hereby further amended as from the commencement of that section by adding the following subsection:

"(10) Where a deduction has been allowed under this section to any person in respect of any plant or machinery or, as the case may be, any building or extension of a building, no further deduction shall be allowed under this section to the same or any other person in respect of that same plant or machinery or, as the case may be, that same building or extension of a building."

34. Deduction of expenditure incurred in the purchase and application of fertiliser and lime—(1) Section 119c of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended—

(a) By omitting from paragraph (a) of the definition of the term "the tax saving" in subsection (1), the words "In relation to the income year ending with the thirty-first day of March, nineteen hundred and sixty-four", and substituting the words "In relation to the income year from the assessable income of which the deduction has been allowed or is allowable":

(b) By omitting from paragraph (b) of the same definition the words "the income year ending with the thirty-first day of March, nineteen hundred and sixty-four", and substituting the words "a former year":

(c) By omitting from paragraph (a) of subsection (2) the words "the income year ending with the thirty-first day of March, nineteen hundred and sixty-four", and substituting the words "an income year (being the income year ending with the thirty-first day of March, nineteen hundred and sixty-four, or the income year ending with the thirty-first day of March, nineteen hundred and sixty-five)":

(d) By omitting from subsection (3), and also from paragraph (a) of subsection (4), and also from subsection (6), the words "the income year ending with the thirty-first day of March, nineteen hundred and sixty-four", and substituting in each case the words "an income year".

(2) Section 119c of the principal Act (as so inserted) is hereby further amended as from its commencement by repealing paragraph (b) of subsection (2), and substituting the following paragraph:

"(b) The aggregate cost of that fertiliser and lime is in excess of—

"(i) Where the taxpayer has carried on that business on that land during the whole of any one or more of the five income years immediately preceding that income year, the average annual aggregate cost of fertiliser and lime applied to that land by the taxpayer during such of those preceding income years as are years in which the taxpayer has so carried on that business on that land during the whole of the year; or

"(ii) In any other case, the aggregate cost of fertiliser and lime applied to that land during the income year immediately preceding that income year,—".

(3) Section 119C of the principal Act (as so inserted) is hereby further amended as from its commencement by adding the following subsection:

"(7) Where the Commissioner is satisfied that, by reason of the annual balance date of the taxpayer's accounts or for any other reason, the taxpayer is under an unfair disadvantage for the purposes of this section, the Commissioner may make such adjustment as in his opinion is equitable for the purpose of meeting the special circumstances of any case or class of cases."

35. Deduction of export-market development and tourist-promotion expenditure—(1) Section 129A of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by omitting from subsection (2) the words "nineteen hundred and sixty-five", and substituting the words "nineteen hundred and sixty-six".

(2) Section 18 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby consequentially amended by omitting from subsection (4) the words "nineteen hundred and sixty-five", and substituting the words "nineteen hundred and sixty-six".

36. Deduction by reference to export of goods—(1) Section 129B of the principal Act (as inserted by section 20 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended as from its commencement—

(a) By omitting from the definition of the term "gross receipts for the income year" in subsection (1) the words "in relation to a taxpayer and an income year", and substituting the words "in relation to an income year and to a taxpayer carrying on in New Zealand any business or businesses in which goods are sold or otherwise disposed of":

(b) By omitting from paragraph (a) of that definition the words "carrying on business in New Zealand", and substituting the words "carrying on that business or, as the case may be, those businesses".

(2) Section 129B of the principal Act (as so inserted) is hereby further amended as from its commencement by repealing subsection (5), and substituting the following subsection:

"(5) Subject to the provisions of this section, where there is, in relation to an income year and to a taxpayer carrying on in New Zealand any business or businesses in which goods are sold or otherwise disposed of, an increase in export sales for the income year (being the income year that commenced on the first day of April, nineteen hundred and sixty-three, or any of the four income years next succeeding that income year), a deduction shall be allowed under this section in respect of the income derived by the taxpayer in the income year from that business or, as the case may be, those businesses of an amount calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

a is the increase in export sales for the income year:

b is the gross receipts for the income year:

c is the assessable income (after the allowance of all deductions under this Act otherwise than under this section) derived by the taxpayer in the income year from any business or businesses carried on by him in New Zealand in which goods are sold or otherwise disposed of, otherwise than from the sources specified in subparagraphs (i) to (vi) of paragraph (a) of the definition of the term 'gross receipts for the income year' in subsection (1) of this section."

37. Set-off of losses against future profits—(1) Section 137 of the principal Act is hereby amended by omitting from subsection (3) the words "two-thirds" wherever they occur, and substituting in each case the words "forty per cent".

(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 sixty-four, and for every subsequent year.

38. Excessive remuneration by proprietary company to shareholder, director, or relative—Section 139 of the principal Act is hereby amended by adding to subsection (2) the following proviso:

"Provided that this subsection shall not apply in any case where the Commissioner is satisfied—

"(a) That the person to whom the sum is paid or credited as aforesaid is an adult employed substantially full-time in the business of the company and participating in the administration or management of the company; and

"(b) That the determination by the company of the amount so paid or credited to that person was not influenced by the fact that he is a relative of a shareholder or director of the company."

39. Convertible notes—Section 143A of the principal Act (as inserted by section 17 (1) of the Land and Income Tax Amendment Act 1960 and amended by section 12 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby further amended by repealing paragraph (a) of subsection (4), and substituting the following paragraph:

"(a) The shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) are—

"(i) Quoted in the official list of a stock exchange in New Zealand; or

"(ii) Held by or on behalf of persons not less than two hundred and fifty in number; and".

40. Repealing provisions as to payments to shareholders and debenture holders—Section 144 of the principal Act is hereby repealed.

41. Bonus shares issued from accumulated profits—(1) Section 144B of the principal Act (as inserted by section 22 (1) of the Land and Income Tax Amendment Act 1959) is hereby amended by repealing paragraph (d) of subsection (1).

(2) Section 144B of the principal Act (as so inserted) is hereby further amended by omitting from paragraph (b) of subsection (3) (as added by section 18 (2) of the Land and Income Tax Amendment Act 1960) the words "paragraphs (c), (d), (e), and (f)", and substituting the words "paragraphs (c), (e), and (f)".

42. Subsequent distribution of capital of bonus shares—(1) Section 144C of the principal Act (as inserted by section 22 (1) of the Land and Income Tax Amendment Act 1959) is hereby repealed.

(2) Section 172B of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958 and amended by section 22 (4) of the Land and Income Tax Amendment Act 1959) is hereby consequentially amended—

(a) By repealing paragraph (b) of the definition of the term "dividends", as defined in relation to a company declaring or distributing a dividend:

(b) By omitting from the definition of the term "dividends", as defined in relation to a company deriving a dividend, the words "and includes any amount that is deemed to be a dividend under section 144C of this Act".

43. Assessment of shareholders of cooperative dairy companies and milk marketing companies—(1) Section 146 of the principal Act is hereby amended by inserting in paragraph (b) of subsection (5), after the words "assessable income", the words "(other than as a dividend)".

(2) Section 146A of the principal Act (as inserted by section 32 (1) of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended by inserting in paragraph (b) of subsection (3), after the words "assessable income", the words "(other than as a dividend)".

(3) Any assessment heretofore made on a shareholder of a cooperative dairy company or of a cooperative milk marketing company pursuant to the principal Act and any regulations made for the purposes of paragraph (b) of subsection (5) of section 146 or paragraph (b) of subsection (3) of section 146A of the principal Act, so far as the assessment was based on a classification of an amount to which either of those paragraphs applies as assessable income, other than as a dividend, shall be deemed to have been validly and lawfully made as if this section had then been in force.

44. Companies engaged in mining—Section 152 of the principal Act (as amended by section 9 of the Land and Income Tax Amendment Act 1956, section 12 of the Land and Income Tax Amendment Act (No. 2) 1957, section 19 (1) of the Land and Income Tax Amendment Act 1960, and section 8 of the Land and Income Tax Amendment Act 1961) is hereby further amended by inserting in subsection (1), after the words "bituminous shale", the words "halloysite, kaolin, asbestos".

45. Companies exempt from excess retention tax—Section 172c of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended as from its commencement by inserting, after paragraph (c), the following paragraph:

"(cc) A company to which section 152 or section 153 of this Act applies:".

46. Special allowance for excess retention tax purposes of income required for development expenditure—(1) Section 172KK of the principal Act (as inserted by section 22 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by omitting from paragraph (a) of subsection (1), and also from paragraph (a) and paragraph (b) of subsection (2), the words "acquisition of productive plant or machinery or the erection or installation of newly acquired productive plant or machinery or the acquisition or erection or extension of buildings necessary to house any such productive plant or machinery", and substituting in each case the words "acquisition, erection, installation, or extension of fixed assets".

(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 sixty-four, and for every subsequent year.

47. Power of Commissioner to grant relief from excess retention tax in special circumstances—(1) The principal Act is hereby further amended by inserting in Part VIA, after section 172M (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958), the following section:

"172N. Where by reason of—

"(a) The inclusion in the income of a company for an accounting year of any stock reserve or other reserve that was created or set aside before that accounting year; or

"(b) An alteration in the basis of valuation of any trading stock of a company for an accounting year; or

"(c) A company being precluded, by virtue of the limitations imposed by section 137 of this Act, from deducting from or setting off against its income for an accounting year a loss incurred in a former year; or

"(d) A company having incurred in an accounting year expenditure that is not deductible under this Act; or

"(e) A company having incurred a loss in an accounting year subsequent to an accounting year in respect of which a liability for excess retention tax has arisen; or

"(f) The shareholders of a company having incurred a loss of capital on the liquidation of the company; or

"(g) The smallness of the amount of excess retention tax payable by a company in respect of an accounting year; or

"(h) Any other like factor,—

the Commissioner is of the opinion that the company should be released wholly or in part from its liability to pay excess retention tax upon the amount of the insufficient distribution of the income derived by the company in an accounting year or that the assessment or payment of that tax should be deferred, the Commissioner may accordingly grant such release or, as the case may be, deferment as he considers equitable to meet the special circumstances of any such case."

(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 sixty-four, and for every subsequent year.

48. Power of Commissioner in respect of small amounts—The principal Act is hereby further amended by inserting, after section 223A (as inserted by section 36 of the Land and Income Tax Amendment Act (No. 2) 1958), the following section:

"223B. Notwithstanding anything to the contrary in this Act, the Commissioner may, in his discretion, refrain from either issuing a notice of assessment or collecting or refunding tax in any case where, as the case may be—

"(a) The balance of any tax payable does not exceed one pound; or

"(b) The tax paid or deducted exceeds the amount of the tax for which the taxpayer is liable by an amount not exceeding five shillings."

PART III

AMENDMENTS TO INCOME TAX ASSESSMENT ACT 1957

49. Application—This Part of this Act, except section 50, shall apply with respect to the provisional tax payable in respect of the income of the income year that commenced on the first day of April, nineteen hundred and sixty-four, and of every subsequent year.

50. Pay-period taxpayers and certain other taxpayers receiving withholding payments—(1) Section 22 of the Income Tax Assessment Act 1957 is hereby amended by omitting from subparagraph (i) of paragraph (a) of subsection (1) the words "one thousand and forty pounds", and substituting the words "one thousand three hundred pounds".

(2) Section 26A of the Income Tax Assessment Act 1957 (as inserted by section 41 of the Land and Income Tax Amendment Act 1959) is hereby amended by omitting from paragraph (a) of subsection (1) the words "one thousand and forty pounds", and substituting the words "one thousand three hundred pounds".

(3) Section 27A of the Income Tax Assessment Act 1957 (as substituted by section 7 (1) of the Land and Income Tax Amendment Act 1962) is hereby amended by repealing paragraph (b) of the proviso to subsection (1).

51. Non-resident withholding income not to be included in provisional income—The Income Tax Assessment Act 1957 is hereby further amended by inserting, after section 40, the following section:

"40A. Every reference in this Part of this Act, other than in this section, to assessable income, or to income, or to income other than source deduction payments shall be read as not including non-resident withholding income as defined in section 2 of the principal Act."

52. Payment of provisional tax—(1) Section 47 of the Income Tax Assessment Act 1957 (as substituted by section 19 (1) of the Land and Income Tax Amendment Act (No. 2) 1959) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Where—

"(a) The taxpayer furnishes an annual return of income under section 8 of the principal Act for an accounting year ending with an annual balance date after the thirty-first day of March and before the first day of October; and

"(b) The taxpayer is engaged in any farming or agricultural business on any land in New Zealand; and

"(c) The Commissioner is satisfied—

"(i) That more than half of the taxpayer's assessable income regularly consists of income derived from that business; and

"(ii) That not less than half of the taxpayer's gross cash income is regularly received by him after the seventh day of February,—

the Commissioner may permit the taxpayer to pay the provisional tax in three instalments, which shall be due and payable respectively on the seventh day of August and the seventh day of February in the income year and the seventh day of May in the next succeeding income year."

(2) Section 47 of the Income Tax Assessment Act (as so substituted) is hereby further amended by omitting from subsection (2) the word "half", and substituting the words "one-third of".

(3) Section 47 of the Income Tax Assessment Act 1957 (as so substituted) is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) The amount of any instalment that is payable after the Commissioner has given notice to the taxpayer under subsection (2) of section 45 of this Act shall be the amount specified in that behalf in the notice. The amount to be so specified—

"(a) Where the taxpayer is one to whom subsection (1A) of this section applies in the income year, shall be—

"(i) Where two instalments are payable, half of the balance remaining of the provisional tax after deducting from the tax the amount of the first instalment:

"(ii) Where only one instalment is payable, the balance remaining of the provisional tax after deducting from the tax the total amount of the first and second instalments:

"(b) Where the taxpayer is not one to whom subsection (1A) of this section applies in the income year, shall be the balance remaining of the provisional tax after deducting from the tax the amount of the first instalment."

53. Interim returns—(1) Section 48 of the Income Tax Assessment Act 1957 (as substituted by section 50 (1) of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended by repealing paragraph (b) of subsection (2) (as amended by section 19 (2) (c) of the Land and Income Tax Amendment Act (No. 2) 1959), and substituting the following paragraph:

"(b) On the due date for payment of every instalment of provisional tax in respect of the income of the income year until the required return is furnished, shall pay an instalment of the provisional tax as follows:

"(i) In the case of a taxpayer to whom subsection (1A) of section 47 of this Act applies in the income year, each such instalment shall be one-third of the amount of the provisional tax which he was liable to pay in respect of his income for the preceding year:

"(ii) In the case of a taxpayer to whom subsection (1A) of section 47 of this Act does not apply in the income year, the first of such instalments shall be one-third and the second of such instalments shall be two-thirds of the amount of the provisional tax which he was liable to pay in respect of his income for the preceding year."

(2) Section 19 of the Land and Income Tax Amendment Act (No. 2) 1959 is hereby amended by repealing paragraph (c) of subsection (2).

54. Estimated assessable income—(1) Section 49 of the Income Tax Assessment Act 1957 (as substituted by section 21 (1) of the Land and Income Tax Amendment Act (No. 2) 1959) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

"(1) Where any taxpayer believes that the income derived by him (otherwise than from source deduction payments) in the income year will be less than the income so derived by him in the preceding year, the taxpayer may, before the expiration of one month after the due date for payment of any instalment of provisional tax, make an estimate of—

"(a) The amount of the taxpayer's assessable income in relation to ordinary income tax for the income year; and

"(b) Where the taxpayer is one to whom section 44 of this Act applies in the income year, the respective amounts of source deduction payments, income other than source deduction payments, and income that is exempt from social security income tax comprised in that estimated assessable income; and

"(c) Where the taxpayer is one to whom section 44 of this Act does not apply in the income year, the amount of the taxpayer's non-assessable income for the income year,—

and furnish to the Commissioner a statement showing the amounts so estimated and the amount of the provisional tax payable in accordance with subsection (2) of this section:

"Provided that, where the taxpayer has made an estimate of amounts in accordance with the foregoing provisions of this subsection, he may, at any time before the expiration of one month after the due date for payment of the final instalment of provisional tax, make one or more revised estimates of those amounts, and furnish to the Commissioner an amended statement or, as the case may be, amended statements accordingly.

"(2) Subject to subsection (3) of this section, where a taxpayer duly furnishes to the Commissioner, in accordance with the provisions of subsection (1) of this section, a statement or, as the case may be, an amended or a further amended statement, the amount estimated or, as the case may be, the amount last re-estimated by the taxpayer under paragraph (a) of that subsection shall be deemed to be the provisional income of the taxpayer for the income year, and the amount of provisional tax payable by the taxpayer in respect of the income year shall be—

"(a) Where the taxpayer is one to whom section 44 of this Act applies in the income year, the amount that is ascertained accordingly pursuant to the provisions of that section if the provisional income is deemed to be comprised of the respective

amounts of source deduction payments, income other than source deduction payments, and income that is exempt from social security income tax, as estimated or, as the case may be, last re-estimated by the taxpayer under paragraph (b) of subsection (1) of this section; and

"(b) Where the taxpayer is one to whom section 44 of this Act does not apply in the income year, an amount equal to the income tax that, subject to section 44B of this Act, would have been assessable in respect of the income of the preceding year if the assessable income in relation to ordinary income tax derived by the taxpayer in the preceding year had been equal to the amount estimated or, as the case may be, last re-estimated by the taxpayer under paragraph (a) of subsection (1) of this section, and if the non-assessable income derived by the taxpayer in the preceding year had been equal to the amount estimated or, as the case may be, last re-estimated by the taxpayer under paragraph (c) of that subsection."

(2) Section 49 of the Income Tax Assessment Act 1957 (as so substituted) is hereby further amended by inserting in subsection (3), before the words "Where the Commissioner", the words "Subject to the right of the taxpayer to re-estimate in accordance with the foregoing provisions of this section,".

55. Additional tax where income underestimated—(1) The Income Tax Assessment Act 1957 is hereby further amended by repealing section 50, and substituting the following section:

"50. (1) Where, in respect of the income of any income year, any taxpayer has furnished—

"(a) A statement in accordance with the provisions of subsection (1) of section 49 of this Act, and the Commissioner has not, in consequence thereof, made an estimate under subsection (3) of that section; or

"(b) An amended or a further amended statement in accordance with the provisions of subsection (1) of that section, and the Commissioner has not, in consequence of the amended statement last furnished, made an estimate under subsection (3) of that section,—

the taxpayer shall, subject to subsection (3) of this section, be liable to pay to the Commissioner, by way of additional tax, an amount calculated in accordance with subsection (2)

of this section, if the amount estimated or, as the case may be, the amount last re-estimated by the taxpayer under paragraph (a) of subsection (1) of section 49 of this Act is less than the assessable income in relation to ordinary income tax derived by the taxpayer in the preceding year and is also less than eighty per cent of the assessable income in relation to ordinary income tax derived by the taxpayer in the income year.

"(2) The amount of additional tax payable under this section shall be an amount equal to ten per cent of the amount by which—

"(a) The amount of income tax that would be payable in respect of an assessable income equal to eighty per cent of the residue of the assessable income derived by the taxpayer in the income year after subtracting therefrom the total of any source deduction payments comprised in that assessable income, exceeds—

"(b) The amount of provisional tax calculated under subsection (2) of section 49 of this Act on the basis of—

"(i) The amounts set forth in the statement furnished by the taxpayer under subsection (1) of section 49 of this Act; or

"(ii) Where the taxpayer has furnished an amended or a further amended statement under that subsection, the amounts set forth in the amended statement last furnished thereunder.

"(3) Where the Commissioner is satisfied that the taxpayer has become liable to pay additional tax under this section by reason of his income for any income year being affected by circumstances of which he was not aware when he furnished to the Commissioner a statement under subsection (1) of section 49 of this Act, or, where he furnished one or more amended statements, the last amended statement, the Commissioner may in his discretion remit the additional tax or any part thereof.

"(4) Additional tax payable under this section shall for all purposes be deemed to be of the same nature as the income tax that is assessed to the taxpayer in respect of the income of the income year, and shall be recovered accordingly.

"(5) The Commissioner may, in respect of any person who is chargeable with additional tax under this section, make an assessment of that additional tax, and that person shall be liable to pay the additional tax so assessed, except so far as he establishes on objection that the assessment is excessive or that he is not chargeable with the additional tax so assessed.

"(6) An assessment made under this section shall be subject to objection in the same manner as an assessment of income tax levied under section 77 of the principal Act, and the provisions of Part III of that Act shall apply, so far as may be, to an objection to an assessment made under this section as if the terms 'income tax' and 'tax' used in that Part included additional tax under this section.

"(7) Subject to subsections (5) and (6) of this section and the other provisions of this Act, the principal Act shall apply with respect to all additional tax payable under this section as if it were additional tax under section 208 of that Act."

(2) The following enactments are hereby repealed:

(a) Section 46 of the Land and Income Tax Amendment Act 1959:

(b) Paragraph (d) of subsection (2) of section 17 of the Land and Income Tax Amendment Act (No. 2) 1959.

56. Repealing provisions as to estimated final tax—(1) The following enactments are hereby repealed:

(a) Section 54 of the Income Tax Assessment Act 1957:

(b) Section 51 of the Land and Income Tax Amendment Act (No. 2) 1958.

(2) The Income Tax Assessment Act 1957 is hereby further amended—

(a) By omitting from subsection (1) of section 57 the words "including any amount paid as estimated final tax, but", and also the words "and estimated final tax":

(b) By omitting from section 58 the words "or estimated final tax".

This Act is administered in the Inland Revenue Department.