LAND AND INCOME TAX AMENDMENT (NO. 2) BILL

EXPLANATORY NOTE

THIS Bill amends the Land and Income Tax Act 1954 and its amendments, including the Income Tax Assessment Act 1957.

Clause 1 relates to the Short Title.

Clause 2 provides that, except where otherwise provided, the Bill will apply with respect to the tax on income derived in the income year that commenced on 1 April 1962 and in every subsequent year.

Clause 3: By section 24 of the principal Act an assessment may not be altered by the Commissioner so as to increase the amount thereof after the expiration of four years from the end of the year in which the assessment was made, except where the Commissioner is of opinion that a return was fraudulent or wilfully misleading or omits all mention of income of a particular nature or derived from a particular source. In the latter case he may alter the assessment at any time before the expiration of 10 years from the end of the year in which the assessment was made. At present, the Commissioner's opinion is not reviewable under the objection provisions of the Act.

This clause enables the Commissioner's opinion to be reviewed under those objection provisions in respect of alterations made to assessments after the passing of the Bill, and also in respect of certain alterations made to assessments before the passing of the Bill.

Subclause (5) provides that the Commissioner may not grant an extension of time for objection in any case where the ground of the objection relates to the reopening of an assessment outside the four-year period specified in section 24 and the time for objecting has expired before the date of introduction of the Bill.

Clause 4 provides for a special exemption from income tax of any amounts not exceeding in the aggregate £25 in any income year paid by a taxpayer by way of donations for certain purposes or by way of school fees. The exemption applies to the following payments:

(a) Payments to organisations in New Zealand not carried on for the private pecuniary profit of any individual, and the funds of which are applied wholly or principally for charitable, benevolent, philanthropic, or cultural purposes within New Zealand:

(b) Payments to special funds established in New Zealand by such organisations and public funds in New Zealand devoted exclusively for such purposes:

(c) Payments to—
(i) CORSO:
(ii) The Red Cross Society Incorporated:
(iii) The Lepers Trust Board Incorporated:
(iv) The Mission to Lepers (New Zealand):
(d) School fees paid in respect of the education of a child under 18 of the taxpayer at a registered private primary or secondary school or at a school for the deaf, the dumb, the blind, the mentally defective, the intellectually handicapped, the crippled, or the otherwise disabled or afflicted or handicapped.

In order to qualify for exemption, a donation must amount to £1 or more. The taxpayer must produce to the Commissioner a receipt evidencing the making of the donation or the payment of the fees.

Clause 5: Section 86 (1) (hh) of the principal Act exempts from payment of income tax gratuities up to £60 a year paid to members of the Territorial Force pursuant to regulations made under the Army Act 1950. It is intended in future that such gratuities will be payable pursuant to a determination of the Minister of Defence with the concurrence of the Minister of Finance, instead of pursuant to regulations. This clause makes a consequential amendment to section 86 (1) (hh), in order to preserve the present right of members of the Territorial Force to receive those gratuities free of tax.

Clause 6 authorises the spreading of income derived from an assignment of copyright or a grant of an interest in copyright in cases where the taxpayer was engaged on the making of the work for a period of more than 12 months.

Where the consideration for the assignment or grant consists of a lump sum payment the whole of which would be included in the taxpayer's assessable income for one income year, the taxpayer may spread that income over that income year and the preceding income year where the period for which the taxpayer was engaged on the work does not exceed 24 months, and over that income year and the two preceding income years where that period exceeds 24 months.

Provision is also made for the spreading over two income years of payments that are not lump sum payments. This is intended to meet the position where the taxpayer receives peak royalties in the period following the first publication of the work.

Clause 7 re-enacts in an amended form section 114A of the principal Act providing for a special depreciation allowance of 20 per cent in respect of plant and machinery, which may be claimed in addition to ordinary depreciation rates.

The new section extends the provisions for a further year so as to apply to plant and machinery acquired, installed, or extended before 1 April 1964, instead of 1 April 1963, and also extends the provisions so as to apply to buildings for the accommodation of employees of the taxpayer acquired on or after 1 April 1962 and before 1 April 1964.

Subsection (3) of the new section 114A contains new provisions relating to the spreading of special depreciation in respect of plant and machinery. In the case of plant and machinery acquired, installed, or extended before 1 April 1962, the depreciation is to be spread over five years as at present and at the present rates. In the case of plant and machinery acquired, installed, or extended on or after 1 April 1962 and before 1 April 1964, the taxpayer will

have an election. He may elect to have the depreciation spread over five years at the rates provided in the case of plant and machinery acquired, installed, or extended before 1 April 1962, or he may have the depreciation spread over a period of four years at the rate of 10 per cent, 5 per cent, 3 per cent, and 2 per cent for those years respectively.

In the case of buildings for the accommodation of employees of the taxpayer, the depreciation may be spread in the same manner as in the case of machinery acquired, installed, or extended on or after 1 April 1962.

By the amendment to section 116A of the principal Act made by *clause 8 (2)* of the Bill, a taxpayer who elects to receive an initial depreciation allowance in respect of a building under section 116A of the principal Act will not be entitled to a special depreciation allowance in respect of that building under the new section 114A.

Clause 8 extends the provisions of section 116A of the principal Act enabling a taxpayer to claim an initial depreciation allowance of 20 per cent, in addition to ordinary depreciation rates, on the cost of acquiring or erecting dwellings for the accommodation of employees. At present, the dwelling must be acquired or erected on or after 1 April 1961 and before 1 April 1963, and must be first used for the purposes of the taxpayer's business during that period. This clause extends that period for a further year, until 1 April 1964.

The clause also provides that a taxpayer who elects to receive an initial depreciation allowance under section 116A will not be entitled to claim a special depreciation allowance in respect of the same building under section 114A (as substituted by *clause 7* of the Bill).

Clause 9 provides for the apportionment of substantial expenditure (deductible under the principal Act) that is incurred by farmers in topdressing hill-country marginal land. Under the clause the taxpayer is given the right to charge the whole or any portion of such expenditure in the year of expenditure or any of the succeeding four years. The taxpayer must deliver to the Commissioner with his election to spread the expenditure a certificate from the Marginal Lands Board certifying—

(a) As to the amount of the expenditure:

(b) That in the opinion of the Board the land in respect of which the expenditure was incurred is hill-country marginal land:

(c) That, in the opinion of the Board, the expenditure is substantial, having regard to the area and nature of the land and other relevant matters:

(d) That the topdressing was carried out with the Board's prior approval as to plan and manner of the topdressing or, in the case of expenditure carried out before the commencement of the provision, that it was carried out in a satisfactory manner.

The Board's certificate as to the matters referred to in paragraphs (b) to (d) of this note will be conclusive.

Clause 10 allows special deductions to be made in cases where the taxpayer has entered into a farm forestry agreement under the Farm Forestry Act 1962.

Subclause (1) provides that the Commissioner may allow as a deduction any expenditure incurred in planting or maintaining trees under such an agreement in excess of the amount of any advance made or to be made under the agreement, and may also allow as a deduction any interest paid under the agreement, and any payments made by way of reduction of principal of any such advance.

Paragraph (a) of *subclause (2)* amends section 91 (1A) of the principal Act, the effect of the amendment being that, on the sale of land with standing timber thereon planted or maintained under a farm forestry agreement, the sale will not be regarded as a sale of the timber for the purposes of that section.

The effect of *paragraph (b)* of *subclause (2)* is that on the sale by a taxpayer of timber from trees planted or maintained under a farm forestry agreement the taxpayer may spread the income derived from the sale over a period of five years, in the same manner as a taxpayer may under section 96 of the principal Act spread income derived from the sale of timber from trees planted to provide shelter or prevent erosion or for other agricultural or farming purposes.

Paragraph (c) of subclause (2) repeals section 96 (4) of the principal Act, and as a result a taxpayer may spread the income derived from the sale of timber from trees planted to provide shelter or prevent erosion or for other agricultural or farming purposes or from trees planted or maintained under a farm forestry agreement, whether or not the taxpayer's business includes the sale of timber.

The effect of *paragraph (d) of subclause (2)* is that the right of a farmer under section 120 of the principal Act to claim a deduction in respect of expenditure on tree planting will not apply in the case of trees planted or maintained under a farm forestry agreement.

Clause 11 makes provision for a special additional income tax deduction for specified classes of expenditure incurred primarily and principally in the promotion of exports. To qualify for a special deduction under the clause, the expenditure must, quite independently of the clause, qualify for a deduction under the principal Act.

The effect of the clause is that a taxpayer may deduct one and a half times the amount so spent, subject to the proviso that the taxpayer's net cost after taxation is to be not less than 5s. for every £1 spent. The concession will not apply to marketing authorities as defined in section 154A of the principal Act (that is, producer Boards).

The special deduction under this clause will apply to expenditure incurred during the period of three years from 1 April 1962 to 31 March 1965.

Clause 12: Section 143A of the principal Act provides that companies issuing notes pursuant to an offer made after 8 September 1960 and convertible into shares are not allowed to deduct the interest on the notes from their income, and the interest is to be treated as a dividend from the companies in the hands of the note-holders.

This clause amends that provision, and provides that where, after 28 June 1962, a New Zealand company officially listed on the stock exchange issues convertible notes which are convertible into shares within five years after the date of issue, the interest payable on the notes will be deductible up to the date of conversion, but in no case for a longer period than five years. Interest received by note holders during the period up to the date of conversion or, as the case may be, up to the end of that five-year period will be treated as interest and not as dividends.

Clause 13 extends the provisions of section 144B of the principal Act, which declares that bonus shares issued by companies from accumulated profits are non-assessable income in certain cases. By subsection (1) (f) of that section, one of the conditions that must be complied with is that the bonus issue must be made before 1 April 1963. This clause extends that date by two years to 1 April 1965.

Clause 14 re-enacts in an amended form section 170 of the principal Act, which provides for exemption from income tax of income (other than certain dividends) derived by a person resident in New Zealand from any other Commonwealth country, provided the income is chargeable with income tax in that other country. Income so exempted is treated as "non-assessable income" pursuant to the definition of that term in section 2 of the principal Act.

No provision at present exists for exemption or other relief from double taxation of income derived by New Zealand residents from non-Commonwealth countries, except where specified in an agreement for the avoidance of double taxation entered into pursuant to section 172 of the principal Act between the Government of New Zealand and the Government of the country from which the income was derived. The only such countries with which New Zealand has ratified such agreements are the United States of America and Sweden.

The new section 170 abolishes the exemption of income derived from other Commonwealth countries, and provides instead that a credit for the overseas income tax paid shall be allowed against the New Zealand income tax payable on income from overseas sources, whether or not it is derived from a Commonwealth country.

The new section will not apply in the case of income assessable to a life insurance company under the special method of ascertaining its income as specified in section 149 of the principal Act, nor will it apply in the case of income assessable to mineral and petroleum mining companies ascertained by the special methods set out in sections 152 and 153 of the principal Act.

The new section is to apply for the income year commencing on 1 April 1963 and subsequent years.

Clause 15 repeals section 222 of the principal Act. As a result, it will no longer be necessary for a person leaving New Zealand to obtain a taxation clearance. The clause is retrospective to 28 June 1962, the date of the Budget.

Clause 16 re-enacts in an amended form section 26 of the Income Tax Assessment Act 1957, which provides for adjustments where deductions have been made from income from employment paid to a pay-period taxpayer, and it transpires that those deductions were not in accordance with the special exemptions to which the taxpayer was entitled in respect of dependants or that he was entitled to additional exemptions for excess insurance or superannuation contributions.

This clause provides, not only for adjustments in the cases to which section 26 at present applies, but also includes new provisions applying where the deductions have been based on a special tax code certificate. The new section provides that the Commissioner may require a return of income to be filed in cases where the special tax code certificate was based on information that was incorrect or incomplete or misleading, or on the assumption that certain circumstances would continue to exist or that certain events would happen and the circumstances have changed or those events have not happened.

The new section allows a pay-period taxpayer whose tax deductions have been based on a special tax code certificate to elect to file a return and have his income assessed in the ordinary way under Part VI of the principal Act.

Clause 17 provides that where the Commissioner has made a determination under section 65 of the Income Tax Assessment Act 1957 as to the entitlement of a transitional taxpayer to a remission of income tax derived in the transitional income year, or under section 66 of that Act as to whether the income derived by a taxpayer in the transitional income year was abnormal, he may, for the purpose of giving effect to any alteration made to that determination as a result of any objection being allowed by the Commissioner or by the Transitional Income Tax Appeal Authority or a Board of Review, amend any assessment at any time, notwithstanding that it is outside the four-year limit fixed by section 24 of the principal Act.

There are still matters relating to the transitional income year which have not yet been dealt with or finally disposed of, and it is likely that some of these matters will not be finally disposed of before the four-year period has expired.

Clause 18 provides that every objection which under the existing legislation would require to be heard and determined by the Transitional Income Tax Appeal Authority shall be heard and determined by a Board of Review unless the hearing had commenced before 1 September 1962. The only remaining objections to which this will apply are objections that were received by the Commissioner before 20 October 1960, the date of the passing of the Land and Income Tax Amendment Act 1960, because, by section 5 of that Act, jurisdiction to hear and determine objections received after that date was transferred to a Board of Review.

Hon. Mr Lake

LAND AND INCOME TAX AMENDMENT (No. 2)

ANALYSIS

A BILL INTITULED

An Act to amend the Land and Income Tax Act 1954

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 (No. 2) 1962, and shall be read together with and deemed part of the Land and Income Tax Act 1954* (hereinafter referred to as the principal Act).

*Reprinted 1959, Vol. 2, p. 959
Amendments: 1960, No. 38; 1961, No. 27; 1962, No. 4

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-two, and in every subsequent year.

3. Extending right of objection to alteration of assessments after expiry of four-year period—(1) Section 35 of the principal Act (as substituted by subsection (1) of section 2 of the Land and Income Tax Amendment Act 1960) is hereby amended by inserting in paragraph (f), after the words "Part II", the words "(except section 24)".

(2) Subsection (1) of this section shall apply with respect to any alteration made to any assessment after the passing of this Act.

(3) Notwithstanding anything to the contrary in the principal Act or in any corresponding former Act, a right of objection to any alteration made before the passing of this Act to any assessment pursuant to the provisions of section 24 of the principal Act, or to the corresponding provisions of any former Act, shall be deemed to have existed if—

(a) An objection to the altered assessment on any ground relating to section 24 of the principal Act or to the corresponding provisions of any former Act was, before the passing of this Act,—

(i) Made in accordance with the provisions of subsection (1) of section 29 of the principal Act or the corresponding provisions of any former Act; or

(ii) Accepted by the Commissioner under subsection (2) of that section or under the corresponding provisions of any former Act,—

and that objection has not lapsed or, as the case may be, the hearing thereof has not been completed before the passing of this Act; or

(b) The time limited in accordance with the provisions of subsection (1) of section 29 of the principal Act, or the corresponding provisions of any former Act, for the making of an objection to the altered assessment had not expired before the fifteenth day of November, nineteen hundred and sixty-two.

(4) For the purposes of this section, the expression "assessment" means an assessment that has been made under the provisions of the Land and Income Tax Act 1923, or of the

Social Security Act 1938, or of the principal Act, whether it was made before or after the passing of the Land and Income Tax Amendment Act 1960.

(5) Where an alteration has been made to any assessment before the fifteenth day of November, nineteen hundred and sixty-two, and the time limited in accordance with the provisions of subsection (1) of section 29 of the principal Act, or the corresponding provisions of any former Act, for the making of an objection to the altered assessment has expired before that date, the Commissioner shall not accept under subsection (2) of that section, or under the corresponding provisions of any former Act, any objection to the altered assessment on any ground relating to section 24 of the principal Act or to the corresponding provisions of any former Act.

4. Special exemption in respect of gifts of money and payments of school fees—The principal Act is hereby further amended by inserting, after section 84A (as inserted by section 24 of the Land and Income Tax Amendment Act (No. 2) 1958), the following section:

"84B. (1) For the purposes of this section, the term 'gift' includes a subscription paid to a society, institution, association, organisation, trust, or fund, only if the Commissioner is satisfied that that subscription does not confer any rights arising from membership in that or any other society, institution, association, organisation, trust, or fund.

"(2) For the purpose of assessing ordinary income tax, every taxpayer, other than an absentee or a company or a public authority or a Maori Authority or an unincorporated body, shall, subject to the provisions of this section, be entitled to a deduction by way of special exemption from his assessable income of the amount of any gift (not being a testamentary gift) of money of the amount of one pound or more made by him in the income year to any of the following societies, institutions, associations, organisations, trusts, or funds (being in each case a society, an institution, an association, an organisation, a trust, or a fund in New Zealand), namely:

"(a) A society, institution, association, organisation, or trust which is not carried on for the private pecuniary profit of any individual and the funds of which are, in the opinion of the Commissioner, applied wholly or principally to any charitable, benevolent, philanthropic or cultural purposes within New Zealand:

"(b) A public institution maintained exclusively for any one or more of the purposes within New Zealand specified in paragraph (a) of this subsection:

"(c) A fund established and maintained exclusively for the purpose of providing money for any one or more of the purposes within New Zealand specified in paragraph (a) of this subsection, by a society, institution, association, organisation, or trust which is not carried on for the private pecuniary profit of any individual:

"(d) A public fund established and maintained exclusively for the purpose of providing money for any one or more of the purposes within New Zealand specified in paragraph (a) of this subsection:

"(e) The Council of Organisations for Relief Services Overseas (CORSO):

"(f) The Red Cross Society Incorporated:

"(g) The Lepers Trust Board Incorporated:

"(h) The Mission to Lepers (New Zealand).

"(3) For the purpose of assessing ordinary income tax, every taxpayer, other than an absentee, shall, subject to the provisions of this section, be entitled to a deduction by way of special exemption from his assessable income of the amount of any fees paid by him in the income year in respect of the education of a person who is under the age of eighteen years at the beginning of the income year, and is a child, stepchild, or foster-child of the taxpayer, at—

"(a) A private primary school or private secondary school registered under the Education Act 1914 and conducted by a society, institution, association, organisation, or trust which is not carried on for the private pecuniary profit of any individual; or

"(b) A public school in New Zealand for the deaf, the dumb, the blind, the mentally defective, the intellectually handicapped, the crippled, or the otherwise disabled or afflicted or handicapped; or any school in New Zealand for any such persons conducted by a society, institution, association, organisation, or trust which is not carried on for the private pecuniary profit of any individual.

"(4) The deductions by way of special exemption provided for in this section shall not, in the case of any taxpayer, in any income year exceed in the aggregate the sum of twenty-five pounds.

"(5) No deduction by way of special exemption shall be allowed under this section in respect of any gift or, as the case may be, any fees, unless the taxpayer furnishes to the Commissioner in support of his claim for the deduction a receipt evidencing to the satisfaction of the Commissioner the making of the gift or, as the case may be, the payment of the fees by the taxpayer."

5. Income derived from Territorial Force gratuities—Section 86 of the principal Act is hereby amended by omitting from paragraph (hh) of subsection (1) (which paragraph was inserted by section 9 of the Land and Income Tax Amendment Act 1959) the words "regulations made under".

6. Spreading of income derived from the assignment of or grant of an interest in copyright—The principal Act is hereby further amended by inserting, after section 97, the following section:

"97A. (1) For the purposes of this section—

" 'Author' includes a joint author:

" 'Lump sum payment' includes an advance on account of royalties:

" 'First publication', in relation to a work, means the first occasion on which the work or a reproduction of it is published, performed, or exhibited.

"(2) Where—

"(a) A taxpayer being an author of a literary, dramatic, musical, or artistic work assigns the copyright therein wholly or partially, or grants any interest in the copyright by licence; and

"(b) The taxpayer was engaged on the making of the work for a period of more than twelve months,—

the following provisions of this section shall apply.

"(3) To the extent that the consideration for the assignment or grant consists of a lump sum payment the whole amount of which would, but for this section, be included in calculating the taxpayer's assessable income for any one income year, the Commissioner may, upon application made in writing by or on behalf of the taxpayer not later than six years after the end of that income year, apportion the amount of the payment equally between that income year and—

"(a) The income year immediately preceding that income year, in any case where the period for which the taxpayer was engaged on the making of the work did not exceed twenty-four months:

"(b) The two income years immediately preceding that income year, in any case where the period for which the taxpayer was engaged on the making of the work exceeded twenty-four months,—

and in every such case the amount so apportioned to any such income year shall be deemed to have been derived in that year.

"(4) To the extent that the consideration for the assignment or grant consists of any payments, being payments to which subsection (3) of this section does not apply, of or on account of royalties or otherwise that have been received by the taxpayer within two years after the first publication of the work and the whole amount of which would, but for this section, be included in calculating the taxpayer's assessable income for any one income year, the Commissioner may, upon application made in writing by or on behalf of the taxpayer not later than eight years after the first publication of the work, apportion the amount of those payments equally between that income year and the income year immediately preceding that income year, and in every such case the amount so apportioned to any such income year shall be deemed to have been derived in that year.

"(5) Notwithstanding anything to the contrary in section 24 of this Act, the Commissioner may, for the purpose of giving effect to this section, amend any assessment or assessments of the taxpayer at any time."

7. Special depreciation allowance on plant and machinery, and on accommodation for employees—(1) The principal Act is hereby further amended by repealing section 114A (as inserted by section 15 of the Land and Income Tax Amendment Act 1960), and substituting the following section:

"114A. (1) Where the Commissioner is satisfied that any taxpayer engaged in any business has—

"(a) On or after the first day of April, nineteen hundred and sixty, and before the first day of April, nineteen hundred and sixty-four, acquired, installed, or extended any plant or machinery to be used wholly for the purposes of that business; or

"(b) On or after the first day of April, nineteen hundred and sixty-two, and before the first day of April, nineteen hundred and sixty-four, acquired or erected any building in order to provide accommodation for any person employed by the taxpayer in connection with that business,—

the Commissioner may, in his discretion, subject to section 117 of this Act, in calculating the assessable income derived by the taxpayer, 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.

"(2) The amount of any deduction allowed under this section in respect of any asset shall not exceed in the aggregate twenty per cent of the cost of the asset.

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

"(a) Where the asset consists of plant or machinery that has been acquired, installed, or extended by the taxpayer before the first day of April, nineteen hundred and sixty-two, the amount of the deduction shall be allowed in respect of the income derived by the taxpayer during the period of five years from the date on which he has commenced to use the asset in the production of assessable income, at the following rates :

"(i) Six per cent in respect of the first year:

"(ii) Five per cent in respect of the second year:

"(iii) Four per cent in respect of the third year:

"(iv) Three per cent in respect of the fourth year:

"(v) Two per cent in respect of the fifth year:

"(b) Where the asset consists of plant or machinery that has been acquired, installed, or extended by the taxpayer on or after the first day of April, nineteen hundred and sixty-two, or of a building, the amount of the deduction shall be allowed in respect of the income derived by the taxpayer during the period of five years from the date on which he has commenced to use the asset in the production of assessable income, at the rates specified in paragraph (a) of this subsection, or, if the taxpayer so elects, in respect of the income derived by him during the period of four years from the date on which he has commenced to use the asset in the production of assessable income, at the following rates:

"(i) Ten per cent in respect of the first year:
"(ii) Five per cent in respect of the second year:
"(iii) Three per cent in respect of the third year:
"(iv) Two per cent in respect of the fourth year:

"(4) Without limiting the discretion of the Commissioner under this section, it is hereby declared that he may refuse in whole or in part to allow any deduction under this section in any case where—

"(a) He is of the opinion that the cost of any plant or machinery acquired, installed, or extended is not of sufficient magnitude to warrant a depreciation allowance under this section:

"(b) He is not satisfied that complete and satisfactory accounts have been kept by or on behalf of the taxpayer or that sufficient depreciation has been provided for in the taxpayer's accounts:

"(c) He is satisfied that any such building has been acquired or erected for the accommodation of the taxpayer or the wife or husband or a child of the taxpayer, or, in the case of a company, for the accommodation of a shareholder of the company or the wife or husband or a child of a shareholder of the company.

"(5) All references in this section to 'the taxpayer', in relation to any taxpayer who has died after acquiring, erecting, installing, or extending any asset, shall be deemed to be references to his personal representatives and to the trustees of his estate and (so far as the Commissioner thinks just and equitable) to the beneficiaries of the taxpayer's estate.

"(6) In this section the expression 'plant and machinery' includes a motorcar or station wagon, as defined in subsection (1) of section 2 of the Transport Act 1949, which is a passenger-service vehicle as defined in that subsection; but does not include any other motorcar or station wagon."

(2) Section 15 of the Land and Income Tax Amendment Act 1960 is hereby repealed.

8. Initial depreciation allowance on accommodation for employees—(1) Section 116A of the principal Act (as inserted by section 6 of the Land and Income Tax Amendment Act 1961) is hereby amended by omitting from subsection (1) the words "nineteen hundred and sixty-three", and substituting the words "nineteen hundred and sixty-four".

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

"(2A) Where the taxpayer elects to receive an initial depreciation allowance under this section in respect of any building, he shall not be entitled to any special depreciation allowance in respect of that building under section 114A of this Act."

9. Apportionment of substantial expenditure incurred in topdressing hill-country marginal land—The principal Act is hereby further amended by inserting, after section 119, the following section:

"119A. (1) For the purposes of this section—

" 'Board' means the Marginal Lands Board established under the Marginal Lands Act 1950:

" 'Marginal land' has the same meaning as in the Marginal Lands Act 1950:

" 'Topdressing' has the same meaning as in the Marginal Lands Act 1950.

"(2) Any taxpayer engaged in any farming or agricultural business on any land in New Zealand consisting wholly or in part of hill-country marginal land who has in any income year incurred in that business any substantial expenditure, deductible under this Act, in topdressing the whole or any part of that hill-country marginal land shall, if he so elects by notice in writing (which election shall, subject to subsection (3) of this section, be irrevocable) given to the Commissioner within the time within which he is required to furnish a return of his income for that income year, or within such further time as the Commissioner in his discretion may allow in any case or class of cases, instead of claiming a deduction for that income year of the total amount of that expenditure, be entitled to apportion that total amount, in such parts as he specifies in the notice, between that income year and any number of subsequent income years, not exceeding four, in which the taxpayer continues to carry on that business and to deduct the part so apportioned to any such year in calculating the assessable income derived by him from that business in that year.

"(3) Where any taxpayer who has made an election under subsection (2) of this section ceases to carry on that business before the commencement of any income year to which any part of the total amount of expenditure as aforesaid has been so apportioned, so much of that total amount as has not previously been allowed as a deduction shall, as the taxpayer elects, either—

"(a) Be allowed as a deduction in calculating the assessable income derived by the taxpayer from that business in the year in which he ceased to carry on that business; or

"(b) Be apportioned equally between the income year in which that total amount was incurred and the subsequent income years in which the taxpayer has continued to carry on that business, and any amount or, as the case may be, additional amount so apportioned to any such year shall be allowed as a deduction or, as the case may be, a further deduction in calculating the assessable income derived by him from that business in that last-mentioned year.

"(4) No notice under this section shall have any effect for the purposes of this section, unless and until the taxpayer delivers to the Commissioner in support of the notice a certificate of the Board certifying—

"(a) As to the total amount of the expenditure incurred by the taxpayer in the income year as aforesaid; and

"(b) That the land in respect of which that expenditure was incurred is, in the opinion of the Board, hill-country marginal land; and

"(c) That that expenditure is, in the opinion of the Board, substantial, having regard to the area and the nature of the land, and any other matters that the Board considers relevant; and

"(d) That the topdressing was carried out to the satisfaction of the Board in accordance with a programme approved by the Board before the commencement of the work, or, in any case where the topdressing was commenced before the commencement of this section, that the topdressing was carried out in a manner satisfactory to the Board.

"(5) Any such certificate of the Board shall, as to any matter specified in paragraph (b) or paragraph (c) or paragraph (d) of subsection (4) of this section, be conclusive evidence thereof for the purposes of this section, and any decision of the Board as to whether or not it will issue any such certificate shall be conclusive for the purposes of this Act.

"(6) The Board may, in the performance of its functions under this section, exercise the same powers of delegation as are conferred upon it by section 6 of the Marginal Lands Act 1950 in respect of its powers under that Act, and the provisions of that section shall, with the necessary modifications, apply accordingly.

"(7) Where the Board delegates any function under this section to any Marginal Lands Committee or to any officer or officers of the Department of Lands and Survey, any reference in this section to the Board in relation to the function so delegated shall be deemed to be a reference to the Committee or officer or officers to which or to whom the function has been so delegated. The fact that any such Committee or officer or officers gives or refuses to give any certificate under this section shall be sufficient evidence of the authority of the Committee or officer or officers to do so.

10. Provisions in respect of farm forestry agreements under Farm Forestry Act 1962—(1) The principal Act is hereby further amended by inserting, after section 120, the following section:

"120A. The Commissioner may, in calculating the assessable income of any taxpayer, allow as a deduction—

"(a) Any expenditure incurred by the taxpayer during the income year in planting or maintaining trees under a farm forestry agreement under the Farm Forestry Act 1962, other than expenditure in respect of which an advance has been or is to be made under such an agreement:

"(b) Any payment made by the taxpayer during the income year by way of interest payable in respect of an advance made under such an agreement:

"(c) Any payment made by the taxpayer during the income year by way of reduction of principal in respect of an advance made under such an agreement."

(2) The principal Act is hereby further amended—

(a) By adding to the proviso to subsection (1A) of section 91 (which subsection was inserted by subsection (1) of section 26 of the Land and Income Tax Amendment Act (No. 2) 1958) the words "or of trees planted or maintained under a farm forestry agreement under the Farm Forestry Act 1962":

(b) By inserting in subsection (1) of section 96, after the words "or occupied by the taxpayer,", the words "or from trees planted or maintained under a farm forestry agreement under the Farm Forestry Act 1962":

(c) By repealing subsection (4) of section 96:

(d) By inserting in subsection (1) of section 120, after the words "maintaining trees", the words "(not being trees planted or maintained under a farm forestry agreement under the Farm Forestry Act 1962)".

11. Deduction of export-market development expenditure—The principal Act is hereby further amended by inserting, after section 129, the following section:

"129A. (1) For the purposes of this section—

" 'Associated company', in relation to a taxpayer, means a company that is, at any time during the income year, a company—

"(a) The operations of which are controlled, or are able to be controlled, either directly or indirectly, by that taxpayer; or

"(b) Which controls, or is able to control, either directly or indirectly, the operations of that taxpayer; or

"(c) The operations of which are controlled, or are able to be controlled, either directly or indirectly, by a person who controls or is able to control, or by persons who control or are able to control, either directly or indirectly, the operations of that taxpayer:

" 'Export' does not include the export of goods by way of gift or the taking or sending of goods out of New Zealand with the intention that the goods will at some later time be brought or sent back to New Zealand:

" 'Export-market development expenditure' means prescribed outgoings incurred primarily and principally for the purpose of seeking opportunities, or creating or increasing demand, for—

"(a) The export from New Zealand of goods that have been manufactured, produced, assembled, processed or packed, or graded and sorted, in New Zealand; or

"(b) The supply, for reward, of services outside New Zealand in relation to construction projects, courses of educational training, or the furnishing of technical advice or assistance; or

"(c) The grant or assignment, for reward, of rights exercisable outside New Zealand in connection with patents of inventions, trade marks, designs, or copyright,—

but does not include—

"(d) Outgoings incurred in promoting the sale of goods (not being goods referred to in paragraph (a) of this definition) manufactured or produced outside New Zealand if the parts or materials from which the goods are manufactured or produced include, to a substantial extent, parts or materials not of New Zealand origin; or

"(e) So much of any outgoings incurred by a person as—

"(i) Has been, or is to be, paid or reimbursed to him by another person; or

"(ii) Is incurred in or in connection with services or doing any thing for which he has been, or is to be, paid by another person:

" 'Permanent employee', in relation to a taxpayer, means a person who—

"(a) Is a full-time employee of the taxpayer; and

"(b) By reason of his experience and service with the taxpayer and any other relevant matters, is, in the opinion of the Commissioner, fit and qualified to undertake the duties in relation to export market development assigned to him by the taxpayer:

" 'Prescribed agent', in relation to a taxpayer, means—

"(a) In the case of a taxpayer not being a company or an unincorporated body, the taxpayer himself:

"(b) In the case of a taxpayer being a company, a director thereof:

"(c) In the case of a taxpayer being an unincorporated body, a member of the governing body thereof:

"(d) In any case, an employee of the taxpayer:

" 'Prescribed outgoings' means outgoings incurred by a taxpayer by way of—

"(a) Expenses of, or payments to an agent for the purposes of,—

"(i) The carrying out of market research or the obtaining of market information; or

"(ii) Advertising or other means of securing publicity or soliciting business (including business of a person other than the taxpayer where that business will be beneficial to the business of the taxpayer),—

not being amounts paid or payable to—

"(iii) A person ordinarily employed in New Zealand by the taxpayer or an associated company in respect of services performed by that person in New Zealand or in the course of a visit from New Zealand to a place or places outside New Zealand; or

"(iv) A director or a member of the governing body where the taxpayer is a company or an unincorporated body; or

"(v) A director of an associated company; or

"(vi) An associated company carrying on business in New Zealand:

"(b) Expenses (including costs of delivery) directly attributable to providing, without charge, samples or technical information to a person outside New Zealand; or

"(c) Expenses directly attributable to the making of investigations and the preparation of information, designs, estimates, or other material for the purposes of submitting a tender for—

"(i) The supply of goods that are not of the same kind and specification as goods that are being regularly produced or supplied by the tenderer; or

"(ii) The supply of services outside New Zealand in relation to construction projects, courses of educational training, or the furnishing of technical advice or assistance,—

but does not include—

"(d) Expenses (other than fares and expenses for accommodation and sustenance) in respect of travel or entertainment in respect of or in relation to a visit from New Zealand to a place or places outside New Zealand by the taxpayer or by a prescribed agent of the taxpayer ordinarily employed or carrying out duties in New Zealand; or

"(e) Except to the extent provided in paragraph (c) of this definition, expenses of the preparation or submission of tenders or quotations; or

"(f) Expenses of advertising in New Zealand in relation to the supply of services outside New Zealand; or

"(g) Commission or other remuneration in respect of particular sales of goods, supplies of services, or grants or assignments of rights; or

"(h) Amounts paid or payable by way of charge, levy, or other contribution under any Act or to an authority constituted by or under any Act:

" 'Relative', in relation to any person, means any of the following:

"(a) Any parent, grandparent, brother, sister, uncle, aunt, nephew, niece, or lineal descendant of that person or of his or her spouse:

"(b) The spouse of that person or of any other person specified in paragraph (a) of this definition:

" 'The tax saving', in relation to any amount of outgoings in respect of which a deduction has been allowed or is allowable under this section, means—

"(a) In relation to the income year from the assessable income of which the deduction has been allowed or is allowable, the amount by which the income tax payable by the taxpayer under this Part of this Act (including this section) for the year of assessment is less than the amount that would have been payable but for the allowance of—

"(i) The deduction under this section in respect of that amount of outgoings; and

"(ii) The deduction allowed or allowable in respect of that income year under this Act, otherwise than under this section, in respect of the same amount of outgoings:

"(b) In relation to a subsequent income year, the amount, if any, by which the income tax payable by the taxpayer under this Part of this Act (including this section) for the year of assessment is less than the amount that would have been payable but for the taking into account of the deductions referred to in paragraph (a) of this definition in ascertaining, for the purposes of section 137 of this Act, the amount of a loss incurred in a former year.

"(2) Subject to the succeeding provisions of this section, where a taxpayer (other than a marketing authority as defined in section 154A of this Act) has after the thirty-first day of March, nineteen hundred and sixty-two, and before the first day of April, nineteen hundred and sixty-five, incurred in any income year any export-market development expenditure that is allowable as a deduction under this Act otherwise than under this section, a deduction shall be allowed under this section of an amount equal to half of the amount of that expenditure in calculating the assessable income derived by the taxpayer in the income year.

"(3) Where two or more persons who are prescribed agents of the taxpayer and are relatives of each other travel outside New Zealand at the same time, the following provisions shall apply with respect to the entitlement of the taxpayer to deductions under this section in respect of fares and expenses in respect of accommodation and sustenance in relation to that travel:

"(a) If the taxpayer himself is one of those persons, such a deduction shall not be allowed in respect of any other of those persons who is not a permanent employee of the taxpayer:

"(b) If the taxpayer himself is not one of those persons, but any of those persons is a permanent employee of the taxpayer, such a deduction shall not be allowed in respect of any of those persons who is not a permanent employee of the taxpayer:

"(c) If none of those persons is either the taxpayer himself or a person who is a permanent employee of the taxpayer, such a deduction shall not be allowed in respect of any of those persons other than such one of them as the taxpayer, by notice in writing to the Commissioner, nominates.

"(4) Subsection (3) of this section shall not operate to exclude a deduction in respect of a person if the Commissioner is satisfied that there are special circumstances by reason of which the deduction should be allowed.

"(5) Where the amount of any outgoing constituting or forming part of any export-market development expenditure exceeds the amount that, in the opinion of the Commissioner, would reasonably be expected to be payable, in the ordinary course of business, for the goods, services, or rights in respect of which the outgoing was incurred, the Commissioner may, for the purposes of this section, treat the outgoing as being reduced by the amount of the excess.

"(6) The amount of the deduction otherwise allowable to a taxpayer under this section in respect of any amount of outgoings incurred in the income year shall be reduced to such extent (if any) as is necessary to ensure that the amount of the tax saving for the income year in relation to that amount of outgoings does not exceed three-quarters of that amount of outgoings.

"(7) Where the taxpayer has incurred a loss in the income year in respect of which a deduction under this section has been allowed or is allowable in relation to an amount of outgoings, the deduction otherwise allowable to the taxpayer under section 137 of this Act in respect of a subsequent income year shall be reduced to such extent (if any) as is necessary to ensure that the amount of the tax saving for that subsequent income year in relation to that amount of outgoings, together with the tax saving for any previous year or years in relation to the same amount of outgoings, does not exceed three-quarters of that amount of outgoings.

"(8) For the purposes of Part VIA of this Act, the total income of a company in respect of any accounting year shall be deemed to be the amount that would have been the total income if this section had not been enacted.

"(9) The deduction allowable under this section in respect of an outgoing shall be in addition to the deduction allowable in respect of that outgoing under this Act otherwise than under this section.

"(10) Nothing in section 3 of this Act shall apply for the purposes of this section."

12. Convertible notes—Section 143A of the principal Act (as inserted by subsection (1) of section 17 of the Land and Income Tax Amendment Act 1960) is hereby amended by adding the following subsections:

"(4) Subsection (3) of this section shall not apply with respect to any convertible note that is issued or given by a New Zealand company after the twenty-eighth day of June, nineteen hundred and sixty-two, if—

"(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 quoted in the official list of a stock exchange in New Zealand; and

"(b) The total amount in respect of which the convertible note has been issued or given is required, not later than five years after the date on which the company has issued or given the convertible note, to be, pursuant to the terms of issue of the convertible note, converted into, or redeemed or paid by the issue of, shares or stock in the capital of the company.

"(5) No deduction shall be allowed, in calculating the assessable income of any company, in respect of—

"(a) Any interest payable on the whole or any part of the amount in respect of which the company has issued or given a convertible note to which subsection (4) of this section applies, after—

"(i) The date on which, pursuant to the terms of issue of the convertible note, the amount in respect of which the convertible note has been issued or given is required to be converted into, or to be redeemed or paid by the issue of, shares or stock in the capital of the company; or

"(ii) The expiration of five years after the date on which the company has issued or given the convertible note,—

whichever is the sooner; or

"(b) Any expenditure or loss incurred at any time in connection with a convertible note to which subsection (4) of this section applies, or in borrowing any money in respect of which any such convertible note is issued or given.

"(6) Notwithstanding anything in subsection (2) of this section, the period of five years referred to in paragraph (b) of subsection (4) and in subparagraph (ii) of paragraph (a) of subsection (5) of this section shall be deemed not to include any interval between the time when the person entitled first became entitled to have the convertible note issued or given to him and the commencement of the period for which interest under the convertible note commences to become payable, if and to the extent that that interval is, in the opinion of the Commissioner, necessary for the completion of formalities preliminary to the issue of the convertible note."

13. Bonus shares issued from profits derived before 1 April 1957—Section 144B of the principal Act (as inserted by subsection (1) of section 22 of the Land and Income Tax Amendment Act 1959) is hereby amended by omitting from paragraph (f) of subsection (1) the words "nineteen hundred and sixty-three", and substituting the words "nineteen hundred and sixty five".

14. Credits in respect of income tax paid in a country or territory outside New Zealand—(1) The principal Act is hereby further amended by repealing section 170, and substituting the following section:

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

" 'Income tax' means,—

"(a) In respect of any country or territory outside New Zealand, any tax which, in the opinion of the Commissioner, is substantially of the same nature as income tax imposed under this Part of this Act; but does not include—

"(i) Any additional tax for late payment of tax or any interest or any penalty or additional tax imposed under the penal provisions of the laws of that country or territory:

"(ii) Any amount in respect of tax which under the law of that country or territory a company paying a dividend has deducted, or was authorised to deduct, from the dividend and which the person deriving the dividend was not personally liable to pay:

"(b) In respect of New Zealand, income tax imposed under this Part of this Act; but does not include any additional tax for late payment of tax or any interest or any penalty or additional tax imposed under this Act:

" 'Income' does not include—

"(a) Income assessable for ordinary income tax under section 149 of this Act:

"(b) Income assessable for income tax under section 152 or section 153 of this Act.

"(2) Subject to the provisions of this section, where a person who is resident in New Zealand derives income from a country or territory outside New Zealand, income tax paid in that country or territory in respect of that income shall be allowed as a credit against income tax payable in New Zealand in respect of that income.

"(3) The provisions of Part VIIB of this Act, as far as they are applicable and with the necessary modifications, shall, for the purposes of subsection (2) of this section, apply as if the provisions of that subsection were an agreement as defined in subsection (1) of section 203C of this Act made between the Government of the country or territory outside New Zealand and the Government of New Zealand."

(2) Section 2 of the principal Act is hereby amended—

(a) By omitting from paragraph (c) of the definition of the term "non-assessable income" (which paragraph was substituted by subsection (2) of section 3 of the Land and Income Tax Amendment Act (No. 2) 1959) the words "or section one hundred and seventy":

(b) By repealing paragraph (d) of the same definition.

(3) Section 25 of the Land and Income Tax Amendment Act 1959 is hereby repealed.

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

15. Persons leaving New Zealand—(1) Section 222 of the principal Act (as amended by section 13 of the Land and Income Tax Amendment Act 1956) is hereby repealed.

(2) Section 13 of the Land an Income Tax Amendment Act 1956 is hereby consequently repealed.

(3) This section shall be deemed to have come into force on the twenty-eighth day of June, nineteen hundred and sixty-two.

16. Adjustments where tax deductions are not in accordance with special exemptions for dependants or have been made on the basis of a special tax code certificate, or for excess insurance and superannuation contributions—(1) The Income Tax Assessment Act 1957 is hereby amended by repealing section 26 (as substituted by section 40 of the Land and Income Tax Amendment Act 1959), and substituting the following section:

"26. (1) Where in any year—

"(a) A tax deduction has been made from a payment of income from employment made to a pay-period taxpayer; and

"(b) Either,—

"(i) The amount of the tax deduction was determined on the basis that some person was a dependant of the taxpayer and it transpires that in that year the taxpayer, on an assessment of ordinary income tax under Part VI of the principal Act, would not have been entitled to a special exemption in respect of that person, or would have been entitled only to a portion of a special exemption; or

"(ii) The amount of the tax deduction was determined wholly or in part on the basis of a special tax code certificate issued under section 18 of this Act, and the Commissioner is satisfied that the special tax code certificate was issued on the basis of information that was incorrect or incomplete or misleading or on the assumption that certain circumstances would continue to exist or that certain events would happen, and those circumstances have changed or those events have not happened,—

the taxpayer shall furnish to the Commissioner, at such time as the Commissioner may require, a return of the income derived by him in that year, and the amount of income tax for which the taxpayer is liable in respect of that income shall be the amount of income tax that is payable under an assessment made under Part VI of the principal Act.

"(2) Where in any year—

"(a) Either—

"(i) A tax deduction has been made from a payment of income from employment made to a pay-period taxpayer, and the amount of the tax deduction was determined on the basis that some

person was not a dependant of the taxpayer, and it transpires that in that year the taxpayer, on an assessment of ordinary income tax under Part VI of the principal Act, would have been entitled to a special exemption in respect of that person; or

"(ii) A tax deduction has been made from a payment of income from employment made to a pay-period taxpayer, and the amount of the tax deduction was determined wholly or in part on the basis of a special tax code certificate issued under section 18 of this Act; or

(iii) A pay-period taxpayer, on an assessment of ordinary income tax under Part VI of the principal Act, would have been entitled to deductions by way of special exemption under section 85 of the principal Act in excess of the amounts of the regular current contributions to a superannuation fund subtracted in that year from the taxpayer's salary or wages under section 10 of this Act; and

"(b) The taxpayer has, not later than the end of the next succeeding year or within such further period as the Commissioner in his discretion may allow in any case or class of cases, furnished to the Commissioner a return of the income derived by him in the first-mentioned year,—

the amount of income tax for which the taxpayer is liable in respect of that income shall be the amount of income tax that is payable under an assessment made under Part VI of the principal Act."

(2) The following enactments are hereby repealed:

(a) Section 40 of the Land and Income Tax Amendment Act 1959:

(b) Section 14 of the Land and Income Tax Amendment Act (No. 2) 1959:

(c) Subsection (3) of section 10 of the Land and Income Tax Amendment Act 1962.

17. Extension of time for amendment of assessments in certain cases—The Income Tax Assessment Act 1957 is hereby further amended by inserting, after section 72, the following section:

"72A. Notwithstanding anything to the contrary in section 24 of the principal Act, where the Commissioner has made a determination under section 65 or section 66 of this Act, he may, for the purpose of giving effect to any alteration made by him to that determination pursuant to the provisions of section 69 or section 72 of this Act, amend any assessment or assessments of the taxpayer at any time."

18. Board of Review to exercise jurisdiction of Transitional Income Tax Appeal Authority—(1) Section 5 of the Land and Income Tax Amendment Act 1960 (as amended by subsection (2) of section 14 of the Land and Income Tax Amendment Act 1961) is hereby further amended by inserting, after subsection (3D), the following subsection:

"(3E) Notwithstanding anything to the contrary in this section, where any objection to which this section applies has been received by the Commissioner before the passing of this Act (or is deemed, pursuant to the provisions of subsection (3B) of this section, to have been received by the Commissioner before the passing of this Act) and the hearing of the objection has not commenced before the first day of September, nineteen hundred and sixty-two, every such objection shall be heard and determined by a Board of Review, and for that purpose the following provisions shall apply:

"(a) Every such objection shall, for the purposes of subsections (2) and (3) of this section, be deemed to have been received by the Commissioner after the passing of this Act; and

"(b) Where, in respect of any such objection, a notice has been given under section 69 of the Income Tax Assessment Act 1957 requiring that the objection be heard and determined by the Transitional Income Tax Appeal Authority, every such notice shall be deemed to be a notice requiring that the objection be heard and determined by a Board of Review."

(2) This section shall be deemed to have come into force on the first day of September, nineteen hundred and sixty-two.

WELLINGTON, NEW ZEALAND: Printed under authority of the New Zealand Government, by R. E. OWEN, Government Printer—1962