

Hon. Mr Tizard

LAND AND INCOME TAX AMENDMENT (NO. 3)

ANALYSIS

Title	2. Application
1. Short Title	3. Profits or gains from land transactions

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,
5 as follows:

1. Short Title—This Act may be cited as the Land and Income Tax Amendment Act (No. 3) 1974, and shall be read together with and deemed part of the Land and Income Tax Act 1954* (hereinafter referred to as the principal Act).

10 **2. Application**—This Act shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1974 and in every subsequent year.

15 **3. Profits or gains from land transactions**—(1) Section 88AA of the principal Act (as inserted by section 9 (1) of the Land and Income Tax Amendment Act 1973) is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

*Reprinted 1973, Vol. 3

- “(ca) All profits or gains, not being profits or gains which are included in the assessable income pursuant to any of the paragraphs (a), (b), (c), or (d) of this subsection, derived from the sale or other disposition of land where that land was sold or disposed of by the taxpayer within 10 years after the date on which it was acquired by him and, in the opinion of the Commissioner, the amount of those profits or gains was enhanced to a significant extent by reason of— 5
- “(i) Any zoning or change of zoning in relation to that land under the Town and Country Planning Act 1953, whether that zoning or change of zoning took place before or after the acquisition of that land by the taxpayer; or 10
- “(ii) The likelihood of any such zoning or change of zoning; or
- “(iii) Any consent granted in relation to that land pursuant to any provision of that Act or any decision of the Town and Country Planning Appeal Board in relation to that land pursuant to that Act, whether that consent was granted or that decision made before or after the acquisition of that land by the taxpayer; or 20
- “(iv) The likelihood of any such consent being granted or such decision made; or 25
- “(v) The removal of any condition, obligation, restriction, prohibition, or covenant imposed under that Act in relation to that land, whether that removal occurred before or after the acquisition of that land by the taxpayer; or 30
- “(vi) The likelihood of the removal of any such condition, obligation, restriction, prohibition, or covenant; or
- “(vii) The establishment, development, or extension, or the likelihood of the establishment, development, or extension, of any borough, urban area, industry, undertaking, public work, or project in proximity to that land; or 35
- “(viii) Any change or occurrence of a similar nature to any of the changes or occurrences referred to in any of the foregoing subparagraphs of this paragraph or the likelihood of any such change or occurrence in respect of or in relation to that land:” 40
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(2) Section 88AA of the principal Act (as so inserted) is hereby further amended by inserting in paragraph (e) of subsection (1), after the words “the paragraphs (a), (b), (c),”, the expression “(ca),”.

5 (3) Section 88AA of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsections:

10 “(2A) Paragraph (ca) of subsection (1) of this section shall not apply to the sale or other disposition of any land in any case where the Commissioner is satisfied that—

“(a) The land was acquired and used, or intended to be used, by the taxpayer primarily and principally—

15 “(i) For the purposes of a farming or agricultural business carried on by the taxpayer; or

“(ii) As a residence for that taxpayer and any member of his family living with him or for the purpose of erecting a dwelling house on that land to be occupied as a residence for that person and any member of his family living with him; and

20 “(b) Having regard to the circumstances of the sale or other disposition of the land and any other relevant matters, that land was acquired by the person to whom it was sold or otherwise disposed of primarily and principally for the purposes of—

25 “(i) In the case of land to which subparagraph (i) of paragraph (a) of this subsection applies, the use, on a continuing basis, of that land in any farming or agricultural business; or

30 “(ii) In the case of land to which subparagraph (ii) of the said paragraph (a) applies, as a residence for that person and any member of his family living with him or, as the case may be, erecting a dwellinghouse on that land to be occupied as a residence for himself and any member of his family living with him; and

35 “(c) In any case where the land was occupied primarily and principally for the purposes of any farming or agricultural business, the sale or disposition of the land by the taxpayer was due to circumstances or events (other than those referred to in any of the subparagraphs (i) to (viii) of paragraph (ca) of subsection (1) of this section) which arose after the land was acquired by the taxpayer.

40 “(2B) In calculating, for the purposes of paragraph (ca) of subsection (1) of this section, the amount of any profit or gain derived in any income year by any taxpayer, there shall

4 *Land and Income Tax Amendment (No. 3)*

be allowed as a deduction, in addition to all other deductions properly allowable under this Act, a deduction of an amount equal to the smaller of—

“(a) The aggregate of—

“(i) The sum of \$1,000: 5

“(ii) The sum of \$1,000 for each of such number (not exceeding 9) of complete consecutive periods of 12 months as are included in the period commencing on the date of the acquisition of that land by the taxpayer and ending with the date of that sale or other disposition: 10

“(b) The amount of that profit or gain before any deduction is allowed under this subsection:

“Provided that where any land acquired by a taxpayer is sold or otherwise disposed of in 2 or more lots, whether or not in the same income year, the aggregate of the amounts allowed as deductions under this subsection in respect of all income years in which the sales or other dispositions took place shall not in any case exceed the amount of the deduction that would have been allowed under this subsection if the land had been sold or otherwise disposed of in one lot on the day on which the last of those sales or other dispositions took place.” 15 20

(4) Section 88AA of the principal Act (as so inserted) is hereby further amended by repealing subsection (6), and substituting the following subsection: 25

“(6) For the purposes of this section—

“‘Disposition’, in relation to any land, includes compulsory acquisition under any Act by the Crown or by any public authority or by any local authority:

“‘Land’ includes— 30

“(a) Any estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and

“(b) Any option to acquire land or any such estate or interest in land,— 35
but does not include a mortgage.”

(5) This section shall apply to any profit or gain derived from any sale or other disposition made on or after the 23rd day of October 1974.