

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
7th October, 1941.*

*Hon. Mr. Nash*

## LAND AND INCOME TAX AMENDMENT

### ANALYSIS

Title.	5. Amending provisions as to proprietary companies. Repeal.
1. Short Title.	6. Proprietary income derived by trustees.
2. Application of Act.	7. Assessment of income derived by trustees for infant beneficiaries with vested interests.
3. Assessment of banking companies for income-tax, excess profits tax, social security charge, and national security tax. Repeals.	8. Modification of special provisions as to interest on debentures issued in substitution for shares.
4. Assessment of mercury-mining companies for income-tax.	

### A BILL INTITULED

AN ACT to amend the Land and Income Tax Act, 1923. Title.

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

1. This Act may be cited as the Land and Income Tax Amendment Act, 1941, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal Act). Short Title.
2. Except where otherwise specially provided, this Act shall apply with respect to the tax for the year of assessment commencing on the first day of April, nineteen hundred and forty-one, and for every subsequent year. See Reprint of Statutes, Vol. VII, p. 271 Application of Act.

Assessment of  
banking  
companies for  
income-tax,  
excess profits  
tax, social  
security charge,  
and national  
security tax.  
1932-33, No. 40

3. (1) For the purposes of this section the term "banking company" means a company that before the passing of this Act was assessable for income-tax under section nine of the Land and Income Tax Amendment Act, 1932-33.

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(2) Subject to the provisions of this section, every banking company shall, in respect of income derived by it during the income year ended on the thirty-first day of March, nineteen hundred and forty-one, or during any subsequent income year, be assessable and liable for income-tax, excess profits tax, social security charge, and national security tax in the same manner as if it were a company other than a banking company.

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(3) For the purposes of this section and Part VI of the principal Act and section one hundred and twenty-five of the Social Security Act, 1938, a banking company shall be deemed to be resident in New Zealand if its head office is in New Zealand, but not otherwise.

1938, No. 7

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(4) In the application of the principal Act to any banking company the following provisions shall apply:—

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(a) For the purposes of paragraph (a) of subsection one of section eighty of the principal Act, the value as at the beginning of the income year ended on the thirty-first day of March, nineteen hundred and forty-one, of the assets used by the company in the production of assessable income during that income year shall be deemed to be an amount equal to the price paid therefor by the company, decreased by a sum fixed by the Commissioner as being the amount that would have been allowed as a deduction in respect of the depreciation of those assets in the calculation of the assessable income of the company for previous company years if the company had been a company other than a banking company. For the purposes of the second proviso to the said paragraph (a), the sum so fixed by the Commissioner shall be deemed to have been allowed as a deduction accordingly in respect of depreciation occurring before the beginning of the income year ended on the thirty-first day of March, nineteen hundred and forty-one.

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- 5 (b) In calculating the assessable income of the company for the income year ended on the thirty-first day of March, nineteen hundred and forty-one, or for any subsequent income year, no deduction shall be made under paragraph (c) of subsection one of section eight of the principal Act except in respect of debts which are proved to the satisfaction of the Commissioner to have become bad after the thirty-first day of March, nineteen hundred and thirty-two, and to have been actually written off by the company in the income year. All amounts received during any such income year on account of any such bad debt or on account of any bad debt in respect of which a deduction has at any time been allowed under paragraph (c) of subsection one of section nine of the Land and Income Tax Amendment Act, 1932-33, shall be credited as income in the year in which they are or have been received, and shall be subject to tax accordingly. 1932-33, No. 40
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- 25 (c) If the date of the annual balance of the company's accounts is not the thirty-first day of March, the company shall be deemed to have elected with the consent of the Commissioner under section four of the Finance Act (No. 2), 1937, to furnish returns of income for the year ending on the date of the annual balance of its accounts. Notwithstanding anything to the contrary in subsection three of section five of the Finance Act (No. 2), 1937, but subject to subsection seven of that section, all returns of income made by the company in accordance with subsection two of that section for any period commencing on the first day of April, nineteen hundred and forty, shall be deemed to be returns of income derived during the year ended on the thirty-first day of March, nineteen hundred and forty-one, and the company shall be assessed and liable for income-tax accordingly. 1937, No. 36
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1940, No. 22

(5) For the purposes of the Excess Profits Tax Act, 1940, the assessable income derived by any banking company during any income year before the year ended on the thirty-first day of March, nineteen hundred and forty-one, shall be deemed to be such amount as may be fixed by the Commissioner as being the assessable income in respect of which the company would have been assessable for income-tax in respect of that income year if the company had been a company other than a banking company.

1938, No. 7

(6) In the application of the Social Security Act, 1938, to any banking company the following provisions shall apply:—

(a) Subsection five of section one hundred and twenty-five of that Act shall be construed as if the references to the thirty-first day of March, nineteen hundred and thirty-nine, were references to the thirty-first day of March, nineteen hundred and forty-one, and as if the word “chargeable” were inserted before the words “income of the company for the year ending on that date”.

(b) Subsection six of section one hundred and twenty-five of that Act shall be construed as if the references to the thirty-first day of March, nineteen hundred and thirty-nine, were references to the thirty-first day of March, nineteen hundred and forty-one, and as if the reference to the thirty-first day of March, nineteen hundred and thirty-eight, were a reference to the thirty-first day of March, nineteen hundred and forty.

(7) Dividends derived from a banking company that is resident in New Zealand and declared by the company at any time after the thirty-first day of March, nineteen hundred and forty-one, shall be exempt from social security charge and national security tax. Dividends derived from a banking company that is not resident in New Zealand and declared by the company at any time after the thirty-first day of March, nineteen hundred and forty-one, shall be exempt from social

security charge and national security tax if and so far as the Commissioner is satisfied that they have been paid out of income derived by the company from New Zealand after the thirty-first day of March, nineteen hundred and forty.

(8) Section ninety-two, subsection four of section one hundred and sixteen, and subsection five of section one hundred and eighteen of the principal Act, sections eighteen and nineteen of the Appropriation Act, 1926, section nine of the Land and Income Tax Amendment Act, 1932-33, and section twelve of the Land and Income Tax Amendment Act, 1935, are hereby repealed.

Repeals.  
See Reprint of Statutes, Vol. VII, pp. 311, 321, 322, 310  
1932-33, No. 40  
1935, No. 32

(9) Section ten of the Finance Act, 1932-33, and subsection eight of section forty-six of the National Expenditure Adjustment Act, 1932, are both hereby amended by omitting therefrom all words after the words "from the assessable income of such person for that year".

1932-33, No. 42  
1932, No. 8

(10) Subsection two of section one hundred and twenty-five of the Social Security Act, 1938, and subsection three of section two of the Social Security Amendment Act, 1940, are both hereby amended by omitting the words "or section nine of the Land and Income Tax Amendment Act, 1932-33".

1938, No. 7  
1940, No. 5

4. Section ninety-seven of the principal Act is hereby amended by inserting in subsection one, after the word "gold-mining", the word "mercury-mining".

Assessment of mercury-mining companies for income-tax.

5. (1) Section twenty-three of the Land and Income Tax Amendment Act, 1939, is hereby amended by repealing paragraph (f) of subsection one, and substituting the following paragraphs:—

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

"(f) The residual taxable income of any proprietary company for any income year shall be deemed to be the amount by which the taxable income of the company for that income year exceeds the total amount of the income-tax, excess profits tax, social security charge, and national security tax payable by the company in respect of income derived by it during that year:

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“Provided that in the application of this section to any shareholder that is a company the residual taxable income of the proprietary company for any income year shall be deemed to be the amount by which the taxable income of the proprietary company for that income year exceeds the amount of the excess profits tax (if any) payable by that company in respect of income derived by it during that year:”

“(ff) The total income of any proprietary company for any income year shall be deemed to be the total amount of the residual taxable income and non-assessable income of the company for that income year:”

Repeal. (2) Section nine of the Excess Profits Tax Act, 1940, No. 22 1940, is hereby consequentially amended by repealing subsection two.

1939, No. 34 (3) Section twenty-three of the Land and Income Tax Amendment Act, 1939, is hereby further amended as follows:—

(a) By omitting from paragraph (i) of subsection one the word “taxable”, and substituting the words “residual taxable income”:

(b) By omitting from paragraph (c) of subsection three, as amended by paragraph (d) of section nine of the Land and Income Tax Amendment Act, 1940, all words after the words “deducted from the tax payable by the shareholder”, and substituting the words “(so far as that tax exceeds the tax that would be payable by him if this section had not been passed) a sum equal to the income-tax (not including excess profits tax) payable by the company in respect of that income”:

Repeal. (4) Section nine of the Land and Income Tax Amendment Act, 1940, is hereby consequentially amended by repealing paragraph (d).

Proprietary income derived by trustees. 6. Section twenty-three of the Land and Income Tax Amendment Act, 1939, as amended by paragraph (e) of section nine of the Land and Income Tax Amendment Act, 1940, is hereby further amended as from the passing thereof by adding the following subsection:—

“(7) With respect to the proprietary income derived by a trustee from a proprietary company during any income year, the following provisions shall apply:—

5 “(a) The whole or any part of the proprietary income may for the purposes of this section be allocated by the Commissioner to such one or more of the beneficiaries under the trust, and if to more than one in such proportions, as the Commissioner deter-  
10 mines. The Commissioner shall make the allocation in such manner as he deems just and equitable, having regard to the respective interests of the beneficiaries under the trust:

15 “(b) If and so far as the proprietary income of the trustee is so allocated to any beneficiary, it shall be deemed for the purposes of this section and of section one hundred and two of the principal Act to be also pro-  
20 prietary income derived by the beneficiary as a beneficiary entitled in possession to the receipt thereof under the trust during the same income year, and for the purposes of this section the beneficiary shall be deemed to be a shareholder of the proprietary  
25 company accordingly:

“ (c) If and so far as the proprietary income of the trustee is not allocated by the Com-  
30 missioner to any beneficiary, it shall for the purposes of this section and of section one hundred and two of the principal Act be deemed not to be also proprietary income derived by any beneficiary as aforesaid.”

7. Section one hundred and two of the principal Act  
35 is hereby amended by adding to paragraph (b) thereof (as amended by paragraph (b) of section twenty-seven of the Land and Income Tax Amendment Act, 1939) the following additional proviso:—

“ Provided also that where the income of the trustee  
40 is also income derived by any beneficiary who is an infant but whose interest in that income is vested, the beneficiary shall for the purposes of this section be

Assessment of income derived by trustees for infant beneficiaries with vested interests.

1939, No. 34

deemed to be entitled in possession to the receipt of that income under the trust during the same income year: ”.

Modification  
of special  
provisions as to  
interest on  
debentures  
issued in  
substitution for  
shares.  
1940, No. 19

8. Section eleven of the Finance Act (No. 2), 1940, shall not apply or be deemed to have applied at any time since its passing with respect to any issue of debentures if more than one-fourth of the debentures (computed by reference to the amount thereof) were transferred for a consideration in money or money's worth before the passing of that section. 5 10