

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 December, 1944

Hon. Mr. Nash

LAND AND INCOME TAX AMENDMENT

ANALYSIS

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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

5 of the same, as follows:—

1. This Act may be cited as the Land and Income Tax Amendment Act, 1944, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal

10 Act).

2. (1) There shall from time to time be appointed an officer of the Public Service to be called the Second Deputy Commissioner of Taxes (hereinafter referred to as the Second Deputy Commissioner) who shall,

Short Title.

See Reprint of Statutes, Vol. VII, p. 271

Second Deputy Commissioner of Taxes.

under the control of the Commissioner, perform such general official duties as he is called upon to perform under the principal Act or by the Commissioner.

(2) On the occurrence from any cause of a vacancy in the office of Deputy Commissioner (whether by reason of death, resignation, or otherwise) and in case of the absence from duty of the Deputy Commissioner (from whatever cause arising) and so long as such vacancy or absence continues, the Second Deputy Commissioner shall have and may exercise all the powers, duties, and functions of the Deputy Commissioner. For the purposes of this section the powers, duties, and functions of the Deputy Commissioner shall be deemed to include such of the powers, duties, and functions of the Commissioner as the Deputy Commissioner may for the time being be authorized to exercise.

(3) The fact of the Second Deputy Commissioner exercising any power, duty, or function as aforesaid shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him so to do.

(4) The person who at the commencement of this Act holds office as the Chief Assessor in the Land and Income Tax Department shall be deemed to have been appointed as the Second Deputy Commissioner under this section.

Superintendents.

3. (1) There shall from time to time be appointed as many officers of the Public Service, to be called Superintendents, as may be found necessary for the administration of the principal Act.

(2) A Superintendent shall, subject to the control of the Commissioner, perform such general official duties as he is called upon to perform under the principal Act or by the Commissioner.

(3) With the approval of the Minister of Finance, the Commissioner may from time to time, either generally or particularly, by writing under his hand delegate to any Superintendent all or any of the powers and functions of the Commissioner.

(4) Subject to any general or special directions given or conditions imposed from time to time by the Commissioner, a Superintendent to whom any powers or functions are so delegated may exercise and perform them in the same manner and with the same effect as if they had been directly conferred on him by this Act and not by delegation.

(5) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation unless and until the contrary is proved.

(6) Any delegation under this section may be made to a specified person or to specified persons holding the office of Superintendent, or to all persons for the time being holding that office, or to any class or classes of such persons.

(7) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Commissioner by whom any such delegation has been made ceasing to hold office it shall continue to have effect as if made by the person for the time being holding office as Commissioner and, in the event of any Superintendent to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding the office of that Superintendent or for the time being exercising the functions of that office.

(8) The delegation by the Commissioner of any powers or functions under this section shall not prevent the personal exercise of those powers or functions by the Commissioner.

4. (1) For the purposes of the principal Act the expression "charitable purpose" shall be deemed to include every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community.

Extended definition of "charitable purpose".

(2) The principal Act is hereby consequentially amended as follows:—

(a) By repealing the definition of the terms "charity" and "charitable" in section two:

- (b) By omitting from paragraph (i) of subsection one of section sixty-nine the words "charitable, educational, religious, or scientific purposes of a public nature", and substituting the words "charitable purposes": 5
- (c) By omitting from subsection two of section seventy the words "religious, charitable, or educational purposes", and substituting the words "charitable purposes":
- (d) By omitting from paragraph (j) of section seventy-eight (as inserted by subsection two of section five of the Land and Income Tax Amendment Act, 1940) the words "charitable, religious, educational, or scientific purposes of a public nature", and substituting the words "charitable purposes": 10 15
- (e) By omitting from paragraph (k) of section seventy-eight the words "charitable, religious, educational, or scientific purposes of a public nature", and substituting the words "charitable purposes": 20
- (3) This section shall apply with respect to the tax for the year of assessment that ended on the thirty-first day of March, nineteen hundred and forty-two, or for any subsequent year. 25
- Increasing personal allowance of absentees from £50 to £200. 1936, No. 34
5. (1) Section seventy-four of the principal Act is hereby amended as follows:—
- (a) By omitting from subsection one (as set out in paragraph (a) of subsection one of section six of the Land and Income Tax Amendment Act, 1936) the words "or an absentee": 30
- (b) By repealing subsections three and four (as set out in subsection three of section seven of the Land and Income Tax Amendment Act, 1939). 35
- (2) Section seven of the Land and Income Tax Amendment Act, 1939, is hereby consequentially amended by repealing subsection three.
- (3) This section shall apply with respect to the tax for the year of assessment ending on the thirty-first day of March, nineteen hundred and forty-six, or for any subsequent year. 40
- 1939, No. 34

6. (1) For the purposes of this section the expression "deferred maintenance", in relation to any taxpayer, means such maintenance of assets used by the taxpayer in the production of his assessable income as is necessary by reason of the fact that the taxpayer has been prevented from maintaining those assets in a proper and reasonable manner by conditions arising out of the present war, whether arising before or after the termination of the war.

Deductions
from assessable
income for
deferred
maintenance.

10 (2) Notwithstanding anything to the contrary in section eighty of the principal Act, the Commissioner, in calculating the assessable income of any taxpayer for any income year, may, subject to the provisions of this section, allow such deduction as he thinks fit in
15 respect of deferred maintenance. No deduction shall be allowed under this section of any amount less than one hundred pounds.

(3) Application for a deduction under this section shall be made by or on behalf of the taxpayer in such
20 form and in such manner as the Commissioner may from time to time prescribe.

(4) Every such application shall be made before the end of the income year to which the application relates or within such further time as the Commissioner in his
25 discretion allows in any case or class of cases.

(5) Every taxpayer who applies for a deduction under this section shall deposit with the Commissioner, or as he directs, the amount of the deduction applied for. Every amount so deposited shall be paid into the
30 Public Account to the credit of the Consolidated Fund.

(6) Where the Commissioner refuses the application or allows the deduction of an amount less than the amount deposited, the amount of the deposit or the amount by which it exceeds the amount of the deduction
35 allowed, as the case may be, shall forthwith be refunded to the taxpayer, without interest.

(7) Upon application in that behalf made to the Secretary to the Treasury by or on behalf of the taxpayer or his personal representatives the whole or any
40 part of any deposit made under this section shall be refunded without interest:

Provided that, unless the Minister of Finance in any case otherwise determines,—

(a) No refund shall be made under this section before the expiration of one year after the date of the making of the deposit: 5

(b) No refund shall be made of any amount that is less than fifty pounds or the balance of the deposit, whichever is the less.

(8) Every amount refunded under the *last preceding* subsection shall be deemed to be assessable income 10 derived by the taxpayer or by his personal representatives during the income year in which the refund is made:

Provided that where the application for the refund is made by the personal representatives of a deceased 15 taxpayer within six months after the date of the granting of probate of his will or letters of administration of his estate, or within such further time as the Commissioner in his discretion allows, and a request in that behalf is made in the application, the amount of 20 the refund shall be deemed to be assessable income derived by the taxpayer immediately before his death.

(9) Every amount refunded under subsection *seven* of this section,—

(a) If the amount of the deposit was allowed as a 25 deduction from earned income, shall be deemed to be earned income:

(b) If the amount of the deposit was allowed as a deduction from unearned income, shall be 30 deemed to be unearned income:

(c) If the amount of the deposit was allowed as a deduction partly from earned income and partly from unearned income, shall be deemed to be partly earned income and partly 35 unearned income, in the same proportions.

(10) All moneys payable under this section by way of refund shall, without further appropriation than this section, be paid by the Minister of Finance out of the Consolidated Fund.

(11) Any public authority, any corporation sole, any 40 company or other incorporated body, any unincorporated body of persons, any trustee or trustees (including any statutory trustee or trustees or board

of trustees), or any other person may, unless expressly prohibited by any Act or by any instrument of trust, make applications for deductions and make deposits under this section.

5 (12) Where the amount of any deposit made under this section or any part thereof has been borrowed by the taxpayer, the Commissioner, in calculating the assessable income of the taxpayer for any income year, may allow as a deduction the amount of any interest 10 that the Commissioner is satisfied is payable in respect of any period during that year on the moneys so borrowed or on so much thereof as does not exceed the amount of the deposit during that period.

(13) This section shall apply with respect to the 15 tax for the year of assessment ending on the thirty-first day of March, nineteen hundred and forty-five, or for any subsequent year.

7. Section eight of the Finance Act (No. 3), 1934, is hereby amended as from the passing thereof 20 by inserting, after subsection two, the following subsection:—

“(2A) All interest or discount to which any taxpayer becomes entitled under this section on any payments made in respect of the said year shall be deemed to be 25 assessable income derived by the taxpayer during the said year.”

Declaring interest or discount on income-tax paid in advance to be assessable income. 1934, No. 31

8. (1) In any case where the Commissioner is satisfied that tax has been paid in excess of the amount properly payable he shall refund the amount paid in 30 excess if written application for the refund is made by or on behalf of the taxpayer—

Excess tax may be repaid within four years after year of assessment.

(a) In any case where the assessment of the tax has not been altered, within four years after the end of the year in which the assessment 35 was made; or

(b) In any case where the original assessment has been altered (whether once or more than once), within four years after the end of the year in which the original assessment was 40 made.

(2) In any case where an assessment has been altered so as to increase the amount of tax payable and the Commissioner is satisfied that by reason of that alteration tax has been paid in excess of the amount

properly payable, he shall refund the amount so paid in excess by reason of that alteration if written application for the refund is made by or on behalf of the taxpayer within four years after the end of the year in which the alteration was made, notwithstanding that the application may be made after the time allowed by subsection *one* of this section. 5

Repeal.

(3) This section is in substitution for section one hundred and sixty-eight of the principal Act, and that section is hereby accordingly repealed. Where an application for a refund under the said section one hundred and sixty-eight has been made before the passing of this Act but not earlier than the first day of April, nineteen hundred and forty-four, the application shall be deemed to have been made under this section. 10
Notwithstanding its repeal, the said section one hundred and sixty-eight shall be deemed to continue in force so far as may be necessary for the purposes of any application for a refund made thereunder before the said first day of April, nineteen hundred and forty-four. 15 20

Forms, &c.,
may be
prescribed by
Commissioner.

9. Section two of the principal Act is hereby amended by adding to the definition of the term "prescribed" the words "or by the Commissioner".