

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:—

- Short Title. **1.** This Act may be cited as the Land and Income Tax Amendment Act, 1945, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal Act). 5
- See Reprint of Statutes, Vol. VII, p. 271
- Application of Act. **2.** Except as otherwise provided herein, 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-six, and for every subsequent year. 10
- Increasing special exemption in respect of wife. 1932-33, No. 40 **3.** Section four of the Land and Income Tax Amendment Act, 1932-33, is hereby amended as follows:—
- (a) By omitting from subsection one the words “ fifty pounds ”, and substituting the words “ one hundred pounds diminished at the rate of two pounds for every complete pound of the excess of the income derived by his wife during the income year over fifty pounds ”: 15
- (b) By adding to subsection one the following proviso:— 20
- “ Provided that in no case shall the special exemption allowable under this section in respect of any year result in a reduction of tax exceeding twenty-six pounds. ”: 25
- (c) By omitting from subsection two the words “ fifty pounds ”, and substituting the words “ one hundred pounds ”: 30
- (d) By adding the following subsection:—
- “ (3) For the purposes of this section the amount of any benefit payable to or in respect of a wife under the Social Security Act, 1938, shall be deemed not to be income derived by her. ” 35
- 1938, No. 7
- Increasing special exemption in respect of husband. 1933, No. 43 **4.** Section two of the Land and Income Tax Amendment Act, 1933, is hereby amended as follows:—
- (a) By omitting from subsection one the words “ fifty pounds ”, and substituting the words “ one hundred pounds diminished at the rate of two pounds for every complete pound of the excess of the income derived by her husband during the income year over fifty pounds ”: 40

(b) By adding to subsection one the following proviso:—

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“ Provided that in no case shall the special exemption allowable under this section in respect of any year result in a reduction of tax exceeding twenty-six pounds.”:

(c) By omitting from subsection two the words “ fifty pounds ”, and substituting the words “ one hundred pounds ”:

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(d) By adding the following subsection:—

“ (3) For the purposes of this section the amount of any benefit payable to or in respect of a husband under the Social Security Act, 1938, shall be deemed not to be income derived by him.”

1938, No. 7

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5. Section three of the Land and Income Tax Amendment Act, 1933, is hereby amended as follows:—

Increasing special exemption in respect of housekeeper. 1933, No. 43

(a) By omitting from subsection two the words “ fifty pounds ”, and substituting the words “ one hundred pounds ”:

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(b) By adding to the proviso to subsection two the words “ or result in a reduction of tax exceeding twenty-six pounds ”.

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6. (1) The following enactments are hereby repealed:—

Abolishing special exemption in respect of dependent children.

(a) Section seventy-five of the principal Act:

(b) Sections fourteen and fifteen of the Land and Income Tax Amendment Act, 1929:

(c) Section ten of the Land and Income Tax Amendment Act, 1939:

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(d) Section three of the Land and Income Tax Amendment Act, 1940.

See Reprint of Statutes, Vol. VII, p. 348 1939, No. 34 1940, No. 3

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(2) Section three of the Land and Income Tax Amendment Act, 1933 (which relates to the special exemption for a housekeeper), is hereby amended by

1933, No. 43

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omitting from subsection one the words “ in respect of whom the employer is entitled to a special exemption under section seventy-five of the principal Act ”, and substituting the words “ in respect of whom a family benefit is payable under the Social Security Act, 1938, or who at any time during the income year was or were under the age of eighteen years ”.

1938, No. 7

1939, No. 34

(3) Section eleven of the Land and Income Tax Amendment Act, 1939 (which relates to the special exemption for dependent relatives), is hereby amended by omitting from subsection two the words (“not being the wife, husband, child, stepchild, or grandchild of the taxpayer”), and substituting the words “(not being the wife or husband of the taxpayer)”. 5

Modifying special exemption in respect of dependent relatives.
1939, No. 34

7. Section eleven of the Land and Income Tax Amendment Act, 1939, is hereby amended by adding the following subsections:— 10

“(5) No special exemption shall be allowed under this section in respect of any relative if the Commissioner is satisfied that the relative has sufficient income or capital for his own support and that the contributions towards his support were not necessary. 15

“(6) In no case shall the special exemption or proportion thereof allowable under this section to any taxpayer in respect of any one relative in respect of any income year result in a reduction of tax exceeding twenty-six pounds.” 20

Extending exemption from income-tax of British war pensions.
1943, No. 9

8. Section seventy-eight of the principal Act is hereby amended by omitting from paragraph (f), as amended by section six of the Land and Income Tax Amendment Act, 1924, and section eight of the Finance Act (No. 2), 1943, the words “the Great War”, and substituting the words “any war”. 25

Exemption of trustees' income if not over £50.

9. Section one hundred and two of the principal Act is hereby amended by inserting in paragraph (b), after the words “special exemption”, the words “and that no tax shall be payable if the income does not exceed fifty pounds, and that the amount of tax payable in any case shall, where necessary, be reduced so as not to exceed the amount by which the income exceeds fifty pounds”. 30

Increasing personal allowance of absentees where incomes of husband and wife are aggregated.
1939, No. 34

10. (1) Section thirteen of the Land and Income Tax Amendment Act, 1939, is hereby amended as follows:— 35

(a) By repealing the definition of the term “absentee” in subsection one:

(b) By omitting from subsection five the words “other than an absentee”, and also the words “In computing for the purposes of an aggregate assessment the taxable income of an absentee, the Commissioner shall allow, 40

instead of the special exemption provided for by section seventy-four of the principal Act (as amended by section seven of this Act), a special exemption of one hundred pounds.” :

5 (c) By omitting from paragraph (a) of subsection six the words “ other than an absentee ”.

(2) 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, and for
10 every subsequent year.

11. (1) Where any taxpayer sells any patent rights at any time after the thirty-first day of March, nineteen hundred and forty-six, any sum received by him or owing to him in respect of the sale at any time after
15 that date, after deducting the appropriate amount specified in subsection *two* of this section (so far as that amount has not been otherwise allowed as a deduction from his assessable income for that or any other income year), shall be deemed to be assessable income
20 and shall be deemed to be derived by the taxpayer during the income year in which the sum is received by or becomes owing to him, or, at the option of the taxpayer, shall be deemed to be derived as to one-sixth part thereof during that income year and as to one-
25 sixth part thereof during each of the five succeeding income years. Every such sum shall be deemed to be earned income.

Sums received from sale of patent rights to be assessable income.

(2) The total amount that may be deducted from any such sum shall—

30 (a) Where the taxpayer actually devised the invention to which the patent relates, be the amount of the expenditure incurred by the taxpayer in connection with the devising of the invention, or (where the sale does not include the
35 whole of the patent rights in respect of the invention) such proportion of that expenditure as the Commissioner thinks just:

(b) Where the taxpayer acquired the patent rights, be an amount bearing to the total cost of the
40 patent rights to the taxpayer the same proportion as the unexpired term of the patent rights at the date of the sale bears to the unexpired term thereof at the date of their acquisition by the taxpayer.

"Patent rights" defined.

Deduction for sums expended on purchase of patent rights.

(3) For the purposes of this Act the expression "patent rights" means the right to do or authorize the doing of anything which would, but for that right, be an infringement of a patent.

12. (1) Notwithstanding anything to the contrary in section eighty of the principal Act, the Commissioner, in calculating the assessable income derived by any taxpayer during any income year, may allow such deduction as he thinks fit in respect of any sum expended by the taxpayer on the purchase of any patent rights used by him in the production of his assessable income for that income year. 5 10

(2) In ascertaining the amount that may be deducted under this section in respect of any income year, the total amount payable by the taxpayer in respect of the purchase of any patent rights shall be apportioned by the Commissioner over the term of the patent rights unexpired at the date of the purchase, and the amount deducted in respect of any income year shall not in any case exceed the amount apportioned to that year. 15 20

(3) Where, at any time before the expiry of any patent rights purchased by a taxpayer, the patent rights have come to an end without being subsequently revived or have been sold by the taxpayer, an amount bearing to the total sum expended by the taxpayer on the purchase of the patent rights the same proportion as the unexpired term of the patent rights at the date of their so coming to an end or being sold bears to their unexpired term at the date of their purchase by the taxpayer (so far as that amount has not been otherwise allowed as a deduction from his assessable income for that or any other income year), shall be allowed as a deduction from the assessable income derived by the taxpayer during the income year in which the patent rights have so come to an end or been sold. 25 30 35

(4) All references in this section to "the taxpayer", in relation to any taxpayer who has died after expending any sum on the purchase of any patent rights, 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. 40

13. (1) In calculating the assessable income derived by any taxpayer during any income year, the Commissioner may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer during that year in connection with the grant, maintenance, or extension of a patent used by him in the production of his assessable income for that year.

Deduction for patent expenses.

(2) Where a patent has been granted in respect of any invention, the Commissioner, in calculating the assessable income derived during any income year by any taxpayer who has used the patent in the production of his assessable income for that year and who, whether alone or in conjunction with any other person, actually devised the invention, may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer in connection with the devising of the invention (not being expenditure in respect of which, or of assets representing which, a deduction is otherwise allowable).

14. In calculating the assessable income derived by any taxpayer during any income year, the Commissioner may allow such deduction as he thinks fit in respect of any expenditure incurred by the taxpayer during that year in connection with scientific research directly relating to the trade or business carried on by the taxpayer, except so far as the expenditure relates to an asset in respect of which a deduction for depreciation is allowable under paragraph (a) of subsection one of section eighty of the principal Act.

Deduction for scientific research.

15. (1) Where the Commissioner is satisfied that any premises, plant, or machinery has been acquired, erected, installed, or extended by a taxpayer on or after the first day of April, nineteen hundred and forty-five, and not later than the thirty-first day of March, nineteen hundred and forty-eight, the Commissioner may, in his discretion, in calculating the assessable income derived by the taxpayer, allow, in addition to the depreciation allowed as a deduction under paragraph (a) of subsection one of section eighty of the principal Act, such deduction by way of special depreciation in accordance with this section as he thinks just.

Special depreciation allowance on buildings and plant.

(2) The amount of any deduction allowed under this section in respect of any premises, plant, or machinery shall not exceed in the aggregate thirty per centum of the cost of the premises, plant, or machinery.

(3) Unless in any case the Commissioner otherwise 5
determines, the amount of any deduction allowed under
this section in respect of any premises, plant, or
machinery shall be allowed in respect of the income
derived by the taxpayer during the period of five years 10
from the date on which the taxpayer has commenced
to use the premises, plant, or machinery in the
production of assessable income, at the following
rates:—

(a) Ten per centum in respect of the first year:

(b) Eight per centum in respect of the second year: 15

(c) Six per centum in respect of the third year:

(d) Four per centum in respect of the fourth year:

(e) Two per centum in respect of the fifth year.

(4) The second proviso to paragraph (a) of sub-
section one of section eighty of the principal Act is 20
hereby extended to apply with respect to every deduc-
tion allowed under this section in respect of any
premises, plant, or machinery.

(5) Without limiting the discretion of the Com-
missioner under this section, it is hereby declared that 25
he may refuse in whole or in part to allow any deduc-
tion under this section in any case where he is not
satisfied that complete and satisfactory accounts have
been kept by or on behalf of the taxpayer and that
sufficient depreciation has been provided for in the 30
taxpayer's accounts.

(6) All references in this section to "the taxpayer",
in relation to any taxpayer who has died after
acquiring, erecting, installing, or extending any 35
premises, plant, or machinery, 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.

(7) This section shall apply with respect to the tax 40
for the year of assessment commencing on the first day
of April, nineteen hundred and forty-six, and for
every subsequent year.

16. (1) Section eighty of the principal Act is hereby amended as follows:—

Amending provisions as to allowances for repairs and depreciation.

5 (a) By adding to the second proviso to paragraph (a) of subsection one the words "For the purpose of giving effect to the provisions of this proviso the Commissioner may at any time alter any assessment, notwithstanding anything to the contrary in section sixteen of this Act":

10 (b) By adding to paragraph (a) of subsection one the following additional proviso:—

15 "Provided further that where the Commissioner is satisfied that any repairs or alterations of any premises, plant, or machinery do not increase the capital value of the premises, plant, or machinery, or that the repairs or alterations increase that value by an amount less than the cost of the repairs or alterations, he may allow such deduction as he thinks just:"

20 (2) The amendment made by paragraph (a) of the last preceding subsection shall apply with respect to any assessment, whether made before or after the passing of this Act. The amendment made by paragraph (b) of that subsection shall apply with respect to the tax for the year of assessment commencing on the first day of April, nineteen hundred and forty-six, and for every subsequent year.

30 (3) Without limiting the discretion of the Commissioner under paragraph (a) of subsection one of section eighty of the principal Act, it is hereby declared that he has power and has always had power to refuse in whole or in part to allow any deduction under that paragraph in any case where he is not satisfied that complete and satisfactory accounts have been kept by or on behalf of the taxpayer and that sufficient depreciation has been provided for in the taxpayer's accounts.

40 17. (1) Where it appears to the Commissioner that the income derived by any taxpayer has been or may be unduly increased upon the sale or other disposition of any live-stock by reason of the adoption by the taxpayer of a standard value in respect of the live-stock that was less than the true value thereof, the Commissioner, upon application in that behalf made in writing

Relief from income-tax, social security charge, and national security tax where unduly low standard values of live-stock adopted.

by or on behalf of the taxpayer not later than the thirtieth day of June, nineteen hundred and forty-six, may, for the purpose of calculating income-tax, social security charge, and national security tax or any one or more of those taxes, reduce the assessable income of the taxpayer for any income year or years by such amount and upon or subject to such conditions as he thinks just and equitable, and may amend accordingly any assessment or assessments of the income of the taxpayer. 5

1944, No. 28

Serial number
1945/35

(2) With the approval of the Minister of Finance, but not otherwise, the Commissioner may at any time, notwithstanding anything to the contrary in section eight of the Land and Income Tax Amendment Act, 1944, or in Regulation 19A of the Social Security Contribution Regulations 1939, refund without further appropriation than this section any income-tax, social security charge, or national security tax paid by any taxpayer in excess of the amount payable in respect of the assessable income of the taxpayer as reduced under this section in respect of that tax. 10 15 20

(3) This section shall apply with respect to the tax for any year of assessment, whether before or after the passing of this Act.

Repeal.

1940, No. 3

(4) This section is in substitution for section seven of the Land and Income Tax Amendment Act, 1940, and that section is hereby accordingly repealed. 25

Losses may
be carried
forward
although not
incurred in
business.

18. (1) Section eighty-one of the principal Act is hereby amended as follows:—

(a) By omitting from subsection three the words “in any business carried on by him”: 30

(b) By repealing the second proviso to subsection three, as added by section seven of the Land and Income Tax Amendment Act, 1930, and substituting the following proviso:— 35

“Provided also that—

“(a) Where, if a profit had been made from the transaction in which the loss was incurred, the amount of the profit would not have been assessable income, no relief shall be given under this section in respect of that loss: 40

5 “(b) Where, if a profit had been made as
 aforesaid, the amount of the profit
 would have been assessable as
 earned income, the amount of the
10 loss carried forward to any year
 shall be deducted from or set off
 against the taxpayer’s earned in-
 come assessable for that year so far
 as that earned income extends, and
 any balance of the loss in excess
 of that earned income shall be
 deducted from or set off against
 his unearned income assessable for
 that year:

15 “(c) Where, if a profit had been made as
 aforesaid, the amount of the profit
 would have been assessable as un-
 earned income, the amount of the
20 loss carried forward to any year
 shall be deducted from or set off
 against the taxpayer’s unearned
 income assessable for that year so
 far as that unearned income ex-
 tends, and any balance of the loss
25 in excess of that unearned income
 shall be deducted from or set off
 against his earned income assess-
 able for that year.”

30 (2) Section seven of the Land and Income Tax Repeal.
Amendment Act, 1930, is hereby consequentially
repealed.

 19. (1) The Commissioner shall from time to time Publication of
publish in the *Gazette* a list of persons who at any names of tax
time after the passing of this Act,— evaders.

35 (a) Have been convicted under paragraph (b) of
 section one hundred and forty-nine of the
 principal Act of wilfully making any false
 return, or of giving any false information or
40 misleading or attempting to mislead the Com-
 missioner in relation to any matter or thing
 affecting their own or any other person’s
 liability to taxation; or

1938, No. 7

- (b) Have been charged with penal tax under section one hundred and fifty-two of the principal Act; or
- (c) Have been charged with penal charge under section one hundred and twenty-one of the Social Security Act, 1938. 5
- (2) Every list published under this section shall specify—
 - (a) The name, address, and occupation or description of the taxpayer: 10
 - (b) Such particulars of the offence or evasion as the Commissioner thinks fit:
 - (c) The year or years in which the offence or evasion occurred:
 - (d) The amount or estimated amount of the income not disclosed or of the tax or charge evaded: 15
 - (e) The amount (if any) of the penal tax or penal charge imposed.
- (3) A copy of every list published under this section shall be laid before both Houses of Parliament. 20