

# LAND AND INCOME TAX AMENDMENT BILL

## EXPLANATORY NOTE

THIS Bill amends the Land and Income Tax Act 1954.

*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 during the income year that commenced on 1 April 1961 and for every subsequent year.

*Clause 3* re-enacts in an amended form section 4 (3) of the principal Act, which provides that where a company has realised or written up capital assets, and the Commissioner is satisfied that the whole or any part of the realisation or writing up has been included in any payment or transaction that is a dividend under the other provisions of section 4, that profit or increase, or part thereof, is not to be treated as a dividend.

The new subsection makes it clear that the provision applies whether the realisation of assets is voluntary or involuntary (e.g., where insurance money is received following a fire, the result in such a case being the same in an economic sense as a sale of the asset).

The new subsection also extends the provision to cases where the company has made any other capital profit or capital gain, including a capital gain by way of gift, which is subsequently included in a payment or transaction that is a dividend.

*Clause 4* exempts from income tax pensions, annuities, and allowances paid by the Government of the Federal Republic of Germany as compensation to the victims of Nazi persecution. The exemption is to apply in respect of income so derived during the income year that commenced on 1 April 1959 and during subsequent years.

*Clause 5:* At present the first £30 of income from interest derived by individual taxpayers from deposits in the Post Office Savings Bank or in a trustee savings bank or in a National Savings Investment Account or from Government securities is exempt from income tax. This clause extends that exemption so as to apply it to interest derived from any source and to investment society dividends.

*Clause 6* enables 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. 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 purpose of the taxpayer's business during that period.

*Clause 7* re-enacts in an amended form section 119 of the principal Act relating to the tax-deductions allowable for certain farm-development expenditure.

*Subsection (1)* of the new section re-enacts the existing provisions of subsection (1) (a) of the present section as to the expenditure on development, such as eradicating pests, clearing timber, scrub, weeds, and stumps, and preparation of land for farming or agriculture, for all of which a deduction may be claimed without limitation as to amount, but allows the taxpayer to elect to spread the expenditure over a period of up to five years instead of claiming the full amount in the year incurred.

*Subsection (2)* of the new section re-enacts the existing provisions of subsection (1) (b) of the present section as to the expenditure on other development, such as drainage, farming access roads and tracks, irrigation, new fencing, and construction of landing strips, for which a deduction may be claimed, which is at present limited to a maximum of £300. This limit is raised to £400 in any year, and, in addition, the taxpayer will be allowed to carry forward expenditure in excess of that limit up to a maximum of four subsequent years, subject to an annual limit of £400 (inclusive of expenditure in subsequent years claimed as a deduction under this heading).

*Clause 8* extends the provisions of section 152 of the principal Act (relating to companies engaged in mining for certain minerals) to companies engaged in mining for bituminous shale.

*Clause 9:* The effect of this clause is to exempt from the payment of excess retention tax all companies that are not privately controlled companies as defined in the clause. That definition is contained in *subclause (1)*, and may be summarised as a company in which the public is not substantially interested and the shares of which are held by 20 or fewer persons or which is under the control of seven persons or fewer.

The exemption is to apply in respect of tax for the year of assessment that commenced on 1 April 1961 and for subsequent years.

*Clause 10* provides for a remission under section 172H of the principal Act of excess retention tax paid by companies which subsequently cease to be liable to pay such tax. That section enables a remission of tax paid in any year, if within the six succeeding years the company makes distributions exceeding the distributable portions of its income.

The provision will apply in cases where a company becomes exempt from the payment of excess retention tax by the operation of *clause 9* of this Bill, and also in cases where a company which is a privately controlled company ceases to be liable for excess retention tax as a result of a change in shareholding or control.

*Clause 11* amends subsections (8) and (9) of section 14 of the Income Tax Assessment Act 1957, which define the circumstances in which a relative (other than a wife or husband or child under 18) is a dependant of the taxpayer for the purposes of tax codes. At present no person is a relative for those purposes if his income (including any social security benefit) exceeds £234 a year. This clause increases that amount to £260 a year.

*Clause 12* repeals the special provisions of section 46 of the Income Tax Assessment Act 1957 relating to the payment of provisional tax by a taxpayer whose income for the preceding year derived otherwise than from source deduction payments consisted solely of interest and investment society dividends not exceeding £50. Such taxpayers will in future not be required to pay provisional tax in one payment, but may pay it in two instalments in accordance with section 47.

*Clause 13:* Section 4 (1) (c) of the Land and Income Tax Amendment Act 1960 provides that the rights of objection conferred by section 2 of that Act may be exercised in respect of excess retention tax for the year of assessment that commenced on 1 April 1960. This clause enables that right of objection to be exercised in respect of subsequent years also.

*Clause 14:* Section 4 of the Land and Income Tax Amendment Act 1960 includes provisions that objections received by the Commissioner before the passing of that Act should continue to be heard and determined by a Magistrate and that objections received after the passing of that Act should be heard and determined by a Board of Review. Section 5 of that Act includes provisions that objections received before the passing of that Act which by Part IV of the Income Tax Assessment Act 1957 were required to be dealt with by the Transitional Income Tax Appeal Authority should be heard and determined by that Authority and that such objections received after the passing of the 1960 Amendment Act should be heard and determined by a Board of Review.

The purpose of this clause is to enable several objections received from the same taxpayer, some before the passing of the 1960 Amendment Act and some afterwards, to be dealt with by the same tribunal in cases where the assessments are connected or have common grounds of objection or would, but for the passing of the 1960 Amendment Act, have been heard together. The Commissioner will be entitled to determine which tribunal shall deal with all the objections concerned, but, where any objection contains any ground that would not have been available to the objector under the law in force before the passing of the 1960 Amendment, they must all be heard and determined by a Board of Review. The clause is a machinery one to facilitate difficulties that have arisen in the transfer of jurisdiction from a Magistrate to a Board of Review. The enactment of the clause will also avoid duplication of hearings.

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*Hon. Mr Lake*

## LAND AND INCOME TAX AMENDMENT

### ANALYSIS

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### 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 1961, and shall be read together with and deemed part of the Land and Income Tax Act 1954\* (hereinafter referred to as the principal Act).
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-one, and in every subsequent year.

\*Reprinted 1959, Vol. 2, p. 959  
Amendment: 1960, No. 38

**3. Meaning of "dividends"**—(1) Section 4 of the principal Act is hereby amended by repealing subsection (3) (as added by subsection (4) of section 4 of the Land and Income Tax Amendment Act (No. 2) 1958 and amended by subsection (1) of section 3 of the Land and Income Tax Amendment Act 1959), and substituting the following subsection: 5

"(3) Where—

"(a) Any of the capital assets of a company have been realised, whether voluntarily or involuntarily, or a company has written up any of its capital assets, and the Commissioner is satisfied that the whole or part of any profit or increase arising from any such realisation or writing up in excess of the cost to the company of that asset (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing ordinary income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section; or 10 15

"(b) The Commissioner is satisfied that a company has otherwise made a capital profit or a capital gain, including a capital gain by way of gift, and that the whole or part of any such profit or gain (not being an amount that is required to be taken into account under any provision of this Act for the purpose of assessing ordinary income tax) is subsequently included in any payment or other transaction referred to in subsection (1) of this section,— 20 25

the expression 'dividends' shall, for the purposes of this Act, be deemed not to include that profit or increase or gain to the extent to which that profit or increase or gain exceeds any capital losses incurred in the income year (or, as the case may be, the accounting year of the company corresponding with that year) in which that profit or increase or gain was made or in any subsequent year (being losses not already taken into account under this subsection or in calculating the assessable income of the company for any year).” 30 35

(2) The following enactments are hereby repealed:

(a) Subsection (4) of section 4 of the Land and Income Tax Amendment Act (No. 2) 1958: 40

(b) Section 3 of the Land and Income Tax Amendment Act 1959.

(3) Subsections (1) and (2) of this section shall be deemed to have come into force on the twenty-seventh day of August, nineteen hundred and fifty-nine, and shall not apply to pay- 45

ments or other transactions referred to in subsection (1) of section 4 of the principal Act that were made or carried out before that date.

5 (4) With respect to payments or other transactions referred to in subsection (1) of section 4 of the principal Act that were made or carried out before the twenty-seventh day of August, nineteen hundred and fifty-nine, subsection (3) of section 4 of the principal Act (as added by subsection (4) of section 4 of the Land and Income Tax Amendment Act 10 (No. 2) 1958) shall be deemed to have been amended as from the passing of the last-mentioned Act, by omitting the words "Where a company has realised or", and substituting the words "Where any of the capital assets of a company have been realised, whether voluntarily or involuntarily, or a 15 company has".

**4. Exemption from taxation of pensions, annuities, and allowances paid as compensation for National Socialist persecution**—(1) Section 86 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (hh) (as 20 inserted by section 9 of the Land and Income Tax Amendment Act 1959), the following paragraph:

“(hhh) Pensions, annuities, and allowances paid as or by way of compensation by a State of the Federal Republic of Germany under the laws of that 25 Republic relating to compensation of victims of National Socialist persecution:”.

(2) This section 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 fifty-nine, and in 30 every subsequent year.

**5. First £30 of interest and investment society dividends exempt from taxation**—(1) Section 86 of the principal Act is hereby further amended by repealing paragraph (ii) of subsection (1) (as substituted by subsection (1) of section 12 35 of the Land and Income Tax Amendment Act 1960), and substituting the following paragraph:

“(ii) Income derived by any person (not being a company, or a public authority, or a Maori authority, or an unincorporated body, or a trustee assessable and liable for income tax under paragraph (a) or paragraph (b) of section 155 of this Act) from interest (not being interest that is 40 exempt from income tax under any other provision of this section) or investment society dividends:

“Provided that the amount of the exemption under this paragraph in any income year shall not exceed thirty pounds of the aggregate of that income:”.

(2) Section 12 of the Land and Income Tax Amendment Act 1960 is hereby repealed. 5

**6. Initial depreciation allowance on accommodation for employees**—The principal Act is hereby further amended by inserting, after section 116, the following section:

“116A. (1) Where the Commissioner is satisfied that on or after the first day of April, nineteen hundred and sixty-one, and before the first day of April, nineteen hundred and sixty-three, any building— 10

“(a) Has been acquired or erected by or for a taxpayer engaged in any business in New Zealand, including a farming or agricultural business, for the purpose of providing accommodation for any person employed by the taxpayer in connection with that business; and 15

“(b) Has been used for that purpose,— 20  
the Commissioner may in his discretion, subject to the provisions of this section and to section 117 of this Act, allow as a deduction in calculating the assessable income derived by the taxpayer from the business in the income year in which the building is first so used an initial depreciation allowance 25  
of twenty per cent of the cost of the building.

“(2) The initial depreciation allowance authorised by this section shall be in addition to any deduction which may be allowed under section 113 of this Act.

“(3) Without limiting the discretion of the Commissioner under this section, it is hereby declared that the Commissioner may refuse in whole or in part to allow any deduction under this section in respect of any building— 30

“(a) In any case where he is not satisfied that such records as may be required by him have been kept by or on behalf of the taxpayer: 35

“(b) In any case where he is satisfied that the 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.” 40

7. Deduction of certain expenditure on land used for farming or agricultural purposes—The principal Act is hereby further amended by repealing section 119, and substituting the following section:

5 “119. (1) Subject to subsection (6) of this section, any taxpayer engaged in any farming or agricultural business on any land in New Zealand shall, in calculating the assessable income derived by him from that business in any income year, be entitled to deduct any expenditure incurred in that business  
10 during the income year, and not deductible otherwise than under this section, in—

“(a) The eradication or extermination of animal or vegetable pests on the land:

15 “(b) The felling, clearing, destruction, and removal of timber, stumps, scrub, or undergrowth on the land:

“(c) The destruction of weeds or plants detrimental to the land:

20 “(d) The preparation of the land for farming or agriculture, including the cultivation and grassing thereof, but excluding expenditure incurred in respect of any of the items specified in subsection (2) of this section:

“Provided that, instead of claiming a deduction for the income year of the total amount of the expenditure allowable  
25 as a deduction under the foregoing provisions of this subsection, the taxpayer shall, if he so elects by notice in writing (which election shall, subject to the second proviso to this subsection, be irrevocable) given to the Commissioner within the time within which he is required to furnish a return of his income  
30 for the income year or within such further time as the Commissioner in his discretion may allow in any case or class of cases, be entitled to apportion that total amount equally between the 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  
35 apportioned to any such year in calculating the assessable income derived by him from that business in that year:

“Provided also that, should the taxpayer cease to carry on that business before the commencement of any income year to  
40 which any part of that total amount has been so apportioned, that total amount shall be reapportioned equally between the income year in which it was incurred and the subsequent income years in which the taxpayer has continued to carry on that business, and any additional amount so apportioned  
45 to any such year shall be allowed as a further deduction in calculating the assessable income derived by him from that business in that year.



“(2) Subject to subsection (6) of this section, any taxpayer engaged in any farming or agricultural business on any land in New Zealand shall, in calculating the assessable income derived by him from that business, be entitled, to the extent and in the manner provided by subsections (3), (4), and (5) of this section, to deduct any expenditure incurred in that business in any income year commencing after the thirty-first day of March, nineteen hundred and sixty-one, and not deductible otherwise than under this section, in—

“(a) The draining of swamp or low-lying lands: 10

“(b) The construction of access roads or tracks to or on the land:

“(c) The construction of dams, stopbanks, irrigation or stream diversion channels, or other improvements for the purpose of conserving or conveying water for use on the land or for preventing or combating soil erosion: 15

“(d) The repair of flood or erosion damage:

“(e) The sinking of bores or wells for the purpose of supplying water for use on the land: 20

“(f) The construction of aeroplane landing strips to facilitate aerial topdressing of the land:

“(g) The construction on the land of fences, including the purchase of wire or wire netting for the purpose of making new or existing fences rabbit proof. 25

“(3) The maximum amount of expenditure of the kind referred to in subsection (2) of this section that is allowable as a deduction for any income year shall not exceed in the aggregate the sum of four hundred pounds in respect of any farming or agricultural business, whether the business is carried on by one person or by two or more persons in partnership or otherwise jointly or in common, whether as legal owners or as beneficial owners, and whether as trustees or otherwise, and whether or not the expenditure is incurred in the income year or is carried forward from any earlier income year under subsection (4) of this section. 30 35

“(4) In so far as the total of any expenditure of the kind referred to in subsection (2) of this section is not allowable as a deduction (having regard to the provisions of subsections (3) and (5) of this section) in calculating the assessable income derived by the taxpayer from the business in the income year in which the expenditure is incurred, the taxpayer shall, subject to those subsections, be entitled to carry 40

the expenditure forward and to deduct the same in calculating the assessable income derived by him from the business in the subsequent income years not exceeding four in which he continues to carry on the business.

5 “(5) In calculating the assessable income derived by the taxpayer from the business in any income year, deductions in respect of expenditure of the kind referred to in subsection (2) of this section shall, so far as they have not previously been allowed as a deduction and are allowable under sub-  
10 section (3) of this section, be allowed in the following order:

“(a) Firstly, a deduction shall be allowed of expenditure carried forward under subsection (4) of this section from any of the four income years immediately preceeding the income year and, if more than one  
15 such year, in the order in which those years fall commencing with the earliest:

“(b) Secondly, a deduction shall be allowed of expenditure incurred in the income year.

“(6) Where any land together with the improvements  
20 thereon is sold by the taxpayer within five years from the date of his acquisition of that land, and the taxpayer has been allowed as a deduction in calculating his assessable income expenditure in respect of that land which, but for this section or the corresponding provisions of this Act that  
25 were in force before the commencement of this section, would not have been allowable as a deduction, the amount by which the selling price of the land and improvements exceeds the aggregate amount consisting of the original purchase price and any expenditure on improvements for which no deduction  
30 has been allowed under this section or the corresponding provisions of this Act as aforesaid in calculating his assessable income shall be deemed to be assessable income derived by the taxpayer in the year in which the property is sold, to the extent of the total deductions allowed under this section or  
35 the corresponding provisions of this Act as aforesaid since the acquisition of the land:

“Provided that, if the taxpayer so elects, the Commissioner may, notwithstanding anything to the contrary in section 24 of this Act, make a revised assessment or assessments in  
40 respect of any year in which a deduction has been allowed under this section or the corresponding provisions of this Act as aforesaid without allowing that deduction or without allowing such portion thereof as he thinks fit, and may recover the additional amount of tax accordingly.”

**8. Companies engaged in mining**—Section 152 of the principal Act (as amended by section 9 of the Land and Income Tax Amendment Act 1956, section 12 of the Land and Income Tax Amendment Act (No. 2) 1957, and section 19 of the Land and Income Tax Amendment Act 1960) is hereby further amended by inserting in subsection (1) after the word “feldspar”, the words “bituminous shale”. 5

**9. Excess retention tax payable by privately controlled companies only**—(1) The principal Act is hereby further amended by inserting, after section 172B (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958), the following section: 10

“172BB. (1) In this Part of this Act the expression ‘privately controlled company’ means a company that—

“(a) Is not a company in which the public are substantially interested; and 15

“(b) On the last day of its accounting year, is not a subsidiary of a public company and is a company of any one or more of the following classes:

“(i) A company all the issued shares of which are held by not more than twenty persons: 20

“(ii) A company in which more than half of the voting power is capable (having regard to the provisions of subsection (3) of this section) of being exercised by one person or by persons not more than seven in number: 25

“(iii) A company in which shares representing more than half of the paid-up capital, other than capital represented by shares bearing a fixed rate of dividend only, are held (having regard to the provisions of subsection (3) of this section) by one person or by persons not more than seven in number: 30

“(iv) A company in which not less than three-quarters of the voting power is capable (having regard to the provisions of subsection (4) of this section) of being exercised by one person or by persons not more than seven in number: 35

“(v) A company in which shares representing not less than three-quarters of the paid-up capital, other than capital represented by shares bearing a fixed rate of dividend only, are held (having regard to the provisions of subsection (4) of this section) by one person or by persons not more than seven in number: 40 45

“(vi) A company which is capable of being controlled by any means whatever by one person or by persons not more than seven in number.

“(2) In this section—

“‘Nominee’, of a person in relation to shares, means any other person who may be required to exercise his voting power in relation to those shares at the direction of, or holds those shares directly or indirectly on behalf of or for the benefit of, that first-mentioned person:

“‘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.

“(3) For the purposes of subparagraphs (ii) and (iii) of paragraph (b) of subsection (1) of this section, a person and his nominees shall be deemed to be one person.

“(4) For the purposes of subparagraphs (iv) and (v) of paragraph (b) of subsection (1) of this section, a person (whether or not he holds shares in the company concerned) and his relatives and (in relation to any shares in respect of which they are such nominees) his nominees, or nominees of any of his relatives, shall be deemed to be one person.

“(5) For the purposes of subsection (1) of this section—

“(a) A company is a company in which the public are substantially interested if 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) have, at any time during the accounting year of the company, been quoted in the official list of a stock exchange, unless shares carrying not less than three-quarters of the voting power in the company are, at the end of that accounting year, beneficially held by, or held directly or indirectly on behalf of or for the benefit of, one person, or persons not more than twenty in number:

“(b) A company is a subsidiary of a public company if, by reason of the beneficial ownership of the shares, the control of the first-mentioned company is in the hands of one or more companies none of which is a privately controlled company:

“(c) Shares of a company shall be deemed to be held indirectly on behalf of or for the benefit of a person (not being a company, trustee, or partnership) if, in the event of the payment of a dividend on those shares, that person would, otherwise than as a shareholder of the company, receive the whole or a part of that dividend if there were successive distributions of the relative parts of that dividend to and by each of any companies, trustees, or partnerships interposed between the company paying the dividend and that person.

“(6) In any case where the Commissioner is satisfied that, because of special circumstances existing on the last day of its accounting year in the constitution or control of a company (being a company which would, but for this subsection, be a privately controlled company), it is unreasonable that the company should be treated as a privately controlled company in respect of that accounting year, the Commissioner may in his discretion, upon application in that behalf made in writing by or on behalf of the company within the prescribed period in relation to that accounting year or within such further period as the Commissioner in his discretion may allow in any case or class of cases, declare that the company shall not be a privately controlled company in respect of that accounting year for the purposes of this Part of this Act, and every such declaration shall have effect according to its tenor.

“(7) Nothing in section 3 of this Act shall apply for the purposes of this section.”

(2) Section 172B of the principal Act (as inserted as aforesaid) is hereby amended by inserting, after the definition of the expression “prescribed period”, the following definition:

“‘Privately controlled company’ means a privately controlled company within the meaning of section 172BB of this Act:”.

(3) Section 172c of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended by omitting the words “This Part of this Act shall apply to every company, except companies of the following classes:”, and substituting the words “This Part of this Act shall apply to every company which is a privately controlled company at the end of its accounting year, except companies of the following classes:”.

(4) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and sixty-one, and for every subsequent year.

**10. Remission of excess retention tax previously paid by companies ceasing to be liable to pay excess retention tax—**

(1) Section 172H of the principal Act (as substituted by section 27 of the Land and Income Tax Amendment Act 1959) is hereby amended by omitting from subsection (1) the words “Subject to section one hundred and seventy-two 1 of this Act”, and substituting the words and figures “Subject to section 172I of this Act and to subsection (1A) of this section,”.

(2) Section 172H of the principal Act (as substituted as aforesaid) is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Where this Part of this Act has applied to a company in respect of the distribution of the income derived by the company in any of the six accounting years immediately preceding an accounting year (in this subsection referred to as the current accounting year), but has not applied to the company in respect of the distribution of the income derived by the company in all of those preceding accounting years (whether or not this Part of this Act applies to the company in respect of the distribution of the income derived by the company in the current accounting year) and paragraphs (b) and (c) of subsection (1) of this section apply, this Part of this Act (except any provision requiring actual payment of excess retention tax) shall be deemed to have continued to have applied to the company for every year of assessment in which it has not applied to the company, for the purpose (and for that purpose only) of enabling excess retention tax assessed to the company and not previously remitted under the said subsection (1) to be remitted under that subsection:

“Provided that where this subsection applies, the excess calculated in accordance with paragraph (a) of the said subsection (1) in respect of any accounting year (being the current accounting year or any of those preceding accounting years) shall be reduced or, as the case may be, extinguished by deducting therefrom the total or so much of that total as is equal to the amount of that excess, of the amounts of any insufficient distribution not liable to be assessed under this Part of this Act of the income derived by the company in each of the six accounting years immediately preceding that accounting year to the extent that those amounts have not previously been taken into account in reducing or extinguishing the excess calculated in accordance with the said paragraph (a) in respect of any earlier year of the last-mentioned preceding accounting years; and for that purpose the amounts

of those insufficient distributions, if more than one, shall be applied in reducing or extinguishing the excess in respect of that accounting year in the order in which the last-mentioned preceding accounting years fall, commencing with the nearest of those years to that accounting year:

“Provided also that where this subsection applies, the expression ‘the excess referred to in paragraph (a) of this subsection’ in the said subsection (1) shall, in respect of the excess of the current accounting year, be deemed to be an amount equal to the amount of the excess in respect of the current accounting year calculated in accordance with paragraph (a) of the said subsection (1) but reduced in accordance with the first proviso to this subsection.”

(3) This section shall apply with respect to the tax assessed for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-nine, and for every subsequent year.

**11. Dependants for purposes of tax codes**—(1) Section 14 of the Income Tax Assessment Act 1957 is hereby amended by omitting from paragraph (a) of subsection (8) and also from paragraph (b) of that subsection and from paragraph (a) of subsection (9) the words “two hundred and thirty-four pounds”, and substituting in each case the words “two hundred and sixty pounds”.

(2) This section shall come into force on the first day of April, nineteen hundred and sixty-two.

**12. Payment of provisional tax on interest and investment society dividends not exceeding £50**—(1) The Income Tax Assessment Act 1957 is hereby amended by repealing section 46 (as amended by section 49 of the Land and Income Tax Amendment Act (No. 2) 1958 and by paragraph (b) of subsection (2) of section 19 of the Land and Income Tax Amendment Act (No. 2) 1959).

(2) Section 47 of the Income Tax Assessment Act 1957 (as substituted by subsection (1) of section 19 of the Land and Income Tax Amendment Act (No. 2) 1959) is hereby consequentially amended by omitting from subsection (1) the words “In the case of every taxpayer to whom section forty-six of this Act does not apply, the provisional tax”, and substituting the words “Provisional tax”.

(3) Section 49 of the Land and Income Tax Amendment Act (No. 2) 1958 and paragraph (b) of subsection (2) of section 19 of the Land and Income Tax Amendment Act (No. 2) 1959 are hereby consequentially repealed.

(4) This section shall come into force on the first day of April, nineteen hundred and sixty-two.

**13. Application of enlarged rights of objection to assessments of excess retention tax**—Section 4 of the Land and Income Tax Amendment Act 1960 is hereby amended as from the passing of that Act by repealing paragraph (c) of subsection (1), and substituting the following paragraph:

“(c) Excess retention tax for the year of assessment that commenced on the first day of April, nineteen hundred and sixty, and for every subsequent year; and”.

**14. Transitional provisions for hearing and determining objections**—(1) Section 4 of the Land and Income Tax Amendment Act 1960 is hereby further amended as from the passing of that Act by inserting, after subsection (6), the following subsections:

“(6A) Where—

“(a) An objection to an assessment of tax (including an amended assessment) has been received by the Commissioner before the passing of this Act and a further objection (on any of the same grounds or on additional or other grounds) to that assessment or to any other assessment amending that assessment is received by the Commissioner after the passing of this Act; or

“(b) An objection to an assessment of tax (including an amended assessment) in respect of any year has been received by the Commissioner before the passing of this Act and an objection by the same objector to an assessment of tax (including an amended assessment) in respect of any other year is received by the Commissioner after the passing of this Act and there is any ground of objection common to those objections, whether or not any such objection contains any ground not common to the other or others; or

“(c) After an investigation by the Commissioner of the liability of a taxpayer for tax in respect of more than one year, whether or not the years are successive, either or both of the following circumstances are present:



“(i) An objection to an assessment of tax (including an amended assessment) in respect of any of those years has been received by the Commissioner before the passing of this Act and a further objection (on any of the same grounds or on additional or other grounds) to any assessment so objected to or to any other assessment amending any assessment so objected to is received by the Commissioner after the passing of this Act: 5

“(ii) An objection to an assessment of tax (including an amended assessment) in respect of any but not all of those years has been received by the Commissioner before the passing of this Act, and an objection to an assessment of tax (including an amended assessment) in respect of any of the years not objected to before the passing of this Act is received by the Commissioner after the passing of this Act; or 10 15

“(d) In any other case an objection has been received by the Commissioner before the passing of this Act and any other objection by the same objector is received by the Commissioner after the passing of this Act, and the Commissioner is of the opinion that but for the passing of this Part of this Act those objections, whether relating to the same assessment or to different assessments, would be heard together by a Magistrate,— 20 25

the Commissioner, in his discretion, may, except in respect of an objection that is referred directly to the Supreme Court, determine that all those objections shall be heard and determined by a Magistrate or that they shall all be heard and determined by a Board of Review: 30

“Provided that, where any such objection contains any ground that would not have been available to the objector if sections 2 and 3 of this Act and this section had not been passed and the Commissioner exercises his discretion under this subsection, he shall, except as aforesaid, determine that all those objections shall be heard and determined by a Board of Review. 35

“(6B) Where, pursuant to subsection (6A) of this section, the Commissioner determines that an objection shall be heard and determined by a Magistrate, every such objection shall, for the purposes of subsections (2), (3), and (4) of this section, be deemed to have been received by the Commissioner 40

before the passing of this Act, but nothing in the proviso to subsection (4) of this section shall apply to any such objection.

5 “(6c) Where, pursuant to subsection (6A) of this section, the Commissioner determines that any objection shall be heard and determined by a Board of Review, every such objection shall, for the purposes of subsections (2), (3), and (4) of this section, be deemed to have been received by the Commissioner after the passing of this Act:

10 “Provided that the Commissioner, in his discretion, may allow the objector a period not exceeding six months after the date on which notice of the disallowance of the objection is given to the objector by or on behalf of the Commissioner within which to give notice in writing to the Commissioner requiring the objection to be heard and determined by a Board of Review.

15 “(6d) A determination of the Commissioner under subsection (6A) of this section shall be final and conclusive, and there shall be no right of objection to any such determination.”

20 (2) Section 5 of the Land and Income Tax Amendment Act 1960 is hereby amended as from the passing of that Act by inserting, after subsection (3), the following subsections:

25 “(3A) Where an objection to which this section applies has been received by the Commissioner before the passing of this Act and any other objection by the same objector, being an objection to which this section applies, is received by the Commissioner after the passing of this Act, and the Commissioner is of the opinion that but for the passing of this section those objections, whether relating to the same determination of the Commissioner or to different determinations, would be heard together by the Transitional Income Tax Appeal Authority, the Commissioner, in his discretion, may determine that all those objections shall be heard and determined by the Transitional Income Tax Appeal Authority or that they shall all be heard and determined by a Board of Review.

30 “(3B) Where, pursuant to subsection (3A) of this section, the Commissioner determines that an objection shall be heard and determined by the Transitional Income Tax Appeal Authority, every such objection shall, for the purposes of subsections (2) and (3) of this section, be deemed to have been received by the Commissioner before the passing of this Act, but nothing in the proviso to subsection (3) of this section shall apply to any such objection.

“(3c) Where, pursuant to subsection (3A) of this section, the Commissioner determines that any objection shall be heard and determined by a Board of Review, 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. 5

“(3d) A determination of the Commissioner under subsection (3A) of this section shall be final and conclusive, and there shall be no right of objection to any such determination.” 10

(3) Where, in accordance with subsection (6A) of section 4 of the Land and Income Tax Amendment Act 1960 (as inserted by subsection (1) of this section), the Commissioner has determined, whether before or after the passing of this Act, that any objections referred to in the said subsection (6A) shall be heard and determined by a Board of Review, the period of six months specified in regulation 5 of the Board of Review Regulations 1961 for filing a case with the Registrar of the Board shall commence on the later of the following dates: 15

- (a) The date of the determination of the Commissioner: 20
- (b) The date of the receipt by the Commissioner of the notice by the objector requiring those objections to be heard and determined by a Magistrate or a Board of Review, as the case may be, or where there is more than one such notice in respect of those objections or any of them, the date of the receipt by the Commissioner of the last of those notices received by him. 25

(4) Every determination of the Commissioner made before the passing of this Act that would have been valid if subsection (6A) of section 4 of the principal Act (as inserted by subsection (1) of this section) or, as the case may be, subsection (3A) of section 5 of the principal Act (as inserted by subsection (2) of this section) had been enacted when the determination was made shall be deemed to have been made pursuant to the said subsection (6A) or, as the case may be, the said subsection (3A), and the subsection applicable shall apply and be deemed to have applied accordingly. 30 35

(5) Subsection (3) of this section shall be deemed to have come into force on the seventh day of April, nineteen hundred and sixty-one, being the date on which the Board of Review Regulations 1961 came into force. 40