

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 16 August 1968

Words struck out by the Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Muldoon

LAND AND INCOME TAX AMENDMENT

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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:

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1. Short Title—This Act may be cited as the Land and Income Tax Amendment Act 1968, 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-eight, and in every subsequent year.

3. Meaning of “relative”—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “public authority”, the following definition:

“‘Relative’, in relation to any person, means any other person connected with the first-mentioned person by blood relationship, marriage, or adoption; and includes a trustee for a relative; and for the purposes of this definition—

“(a) Persons are connected by blood relationship if within the fourth degree of relationship:

“(b) Persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other:

“(c) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other:

“(d) Illegitimate relationship is equivalent to legitimate relationship:”.

(2) The principal Act is hereby consequentially amended—

(a) By omitting from the definition of the term “nominee” in subsection (5) of section 3 the words “and includes the husband or wife of that person and any relative of that person by blood, marriage, or adoption”, and substituting the words “and includes any relative of that person”:

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(b) By repealing the definition of the term “relative” in subsection (4) of section 105 (as substituted by section 4 (1) of the Finance Act (No. 2) 1967):

(c) By repealing subsection (3) of section 106:

5 (d) By repealing the definition of the term “relative” in subsection (3) of section 107:

(e) By repealing subsection (1) of section 139.

4. Meaning of expression “dividends” extended—Section 4 of the principal Act is hereby amended by inserting, after
10 subsection (1), the following subsection:

“(1A) Without limiting the generality of subsection (1) of this section, for the purposes of this Act the expression ‘dividends’, in relation to any shareholder in any proprietary company, shall be deemed to include any expenditure of the
15 company (other than a donation) the benefit of which is enjoyed by—

“(a) That shareholder; or

“(b) The spouse of that shareholder (the spouse not being a shareholder); or

20 “(c) Any trust under which that shareholder is a beneficiary; or

“(d) Any trust under which the spouse of that shareholder (the spouse not being a shareholder) is a beneficiary,—

25 not being expenditure which is deductible, pursuant to any provision of this Act, in calculating the assessable income of the company:

“Provided that where, pursuant to the foregoing provisions of this subsection, more than one shareholder of the company
30 is deemed to derive the same dividend, the dividend shall be apportioned rateably among those shareholders in proportion to the paid up value of the interest of each of those shareholders in the share capital of the company.”

5. Limitation of time for amendment of assessment—
35 (1) The principal Act is hereby further amended by repealing section 24, and substituting the following section:

“24. (1) When any person has made returns and has been assessed for land tax or income tax for any year, it shall not
40 be lawful for the Commissioner to alter the assessment so as to increase the amount thereof after the expiration of four years from the end of the year in which the assessment was made.

“(2) Notwithstanding the provisions of subsection (1) of this section, in any case where, in the opinion of the Commissioner, the returns so made are fraudulent or wilfully misleading or, in the case of returns of income, omit all mention of income which is of a particular nature or was derived from a particular source, and in respect of which a return is required to be made, it shall be lawful for the Commissioner to alter the assessment at any time so as to increase the amount thereof.” 5

(2) Section 4 of the Land and Income Tax Amendment Act 1955 is hereby consequentially repealed. 10

(3) Section 233 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) It shall be lawful for the Commissioner to make or amend an assessment of penal tax at any time.” 15

(4) Subsection (1) of section 24 of the principal Act (as substituted by subsection (1) of this section) shall apply to any assessment made on or after the first day of April, nineteen hundred and sixty-four, *(and in every subsequent year)* whether before or after the passing of this Act. 20

(5) Subsection (2) of the said section 24 and subsection (2) of this section shall apply to any assessment made on or after the first day of April, nineteen hundred and fifty-eight, *(and in every subsequent year)* whether before or after the passing of this Act. 25

(6) Subsection (3) of this section shall apply to any assessment of penal tax, or any amendment thereof, which relates to the deficient tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-eight, or for any subsequent year whether before or after the passing of this Act. 30

6. Rights of objection by taxpayers—Section 35 of the principal Act (as substituted by section 2 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by inserting in paragraph (f), after the words “Part VII”, the words “(except sections 181, 187, and 194)”. 35

7. Increased exemptions from land tax—(1) Section 54 of the principal Act is hereby amended by repealing paragraphs (a) and (b) of subsection (1), and substituting the following paragraphs: 40

“(a) Where that value does not exceed sixty thousand dollars, a deduction of sixty thousand dollars:

“**(b)** Where that value exceeds sixty thousand dollars, a deduction of sixty thousand dollars diminished at the rate of one dollar for every dollar of that excess, so as to leave no deduction when that value amounts to or exceeds one hundred and twenty thousand dollars.”

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(2) Section 54 of the principal Act is hereby further amended by repealing subsections (2) to (4).

(3) The following enactments are hereby consequentially repealed:

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(a) Section 10 of the Maori Purposes Act 1943:

(b) The Land and Income Tax Amendment Act 1957.

(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-eight, and for every subsequent year.

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8. Special exemption in respect of gifts of money—

(1) Section 84B of the principal Act (as inserted by section 4 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by omitting from paragraph (a) of subsection (4) (as substituted by section 22 (3) of the Land and Income Tax Amendment Act 1964) the words “paragraphs (a) to (i) of”.

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(2) This section shall be deemed to have come into force on the fifth day of September, nineteen hundred and sixty-seven (being the date of the passing of the Land and Income Tax Amendment Act (No. 2) 1967), and 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-seven, and in every subsequent year.

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9. Retiring allowances payable to employees—(1) The principal Act is hereby further amended by inserting, after section 88A (as inserted by section 12 of the Land and Income Tax Amendment Act 1964), the following section:

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“88B. (1) Subject to the provisions of this section, where any payment is made in a lump sum by way of a bonus, gratuity, or retiring allowance in respect of the full-time employment or service of a taxpayer on the occasion of his retirement from that employment or service, and the Commissioner is satisfied that the taxpayer did not retire from that employment or service before attaining the appropriate retiring age, the payment shall, notwithstanding the provisions of paragraph (b) of section 88 of this Act, be deemed to be assessable income of the taxpayer to the following extent only:

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“(a) Where the amount of the payment does not exceed the specified sum, five percent of the amount of the payment:

“(b) Where the amount of the payment exceeds the specified sum, the total of— 5

“(i) Five percent of so much of the amount of the payment as is equal to the specified sum; and

“(ii) The amount by which the amount of the payment exceeds the specified sum.

“(2) Where any payment of the kind referred to in subsection (1) of this section is made to a taxpayer, and a further payment of that kind is made to him on the occasion of his retirement from any subsequent employment or service, then, for the purposes of subsection (1) of this section, any period of employment or service, and any remuneration in respect thereof, before the date of his earlier retirement shall be disregarded in calculating the specified sum in relation to his subsequent retirement. 10 15

“(3) For the purposes of this section—

“‘Appropriate retiring age’ means— 20

“(a) Not less than sixty years of age in the case of a male taxpayer; or

“(b) Not less than fifty-five years of age in the case of a female taxpayer; or

“(c) Such earlier age as the Commissioner considers reasonable having regard to the nature of the taxpayer’s employment or service or the general terms of employment in the business or occupation in which the taxpayer was employed; or 25 30

“(d) The age at which the taxpayer retired in the case of retirement by reason of his or her serious illness or permanent disability:

New

“‘Employment or service’, includes any employment or service of the taxpayer which— 35

“(a) Was with any company which consisted wholly or substantially of the same shareholders or was under the control of the same persons as the company from whose employment or service the taxpayer retired; or 40

“(b) Was with the same employer, whether or not the business of the employer was the same; or

New

“(c) Was with the same business, whether or not a change of ownership of the business had occurred; or

“(d) Was, in the opinion of the Commissioner, substantially the same employment or service as that from which the taxpayer retired:

“‘Specified sum’ means—

“(a) In any case where the taxpayer has completed ten years or more of service in the employment or service, an amount equal to one-third of the total remuneration of the taxpayer from that employment or service in respect of his services in that employment or service in the period of three years immediately preceding the date of his retirement:

“(b) In any other case, an amount calculated in accordance with the following formula:

$$\frac{a}{10} \times b$$

Where—

a is the number of complete years of service of the taxpayer in that employment or service; and

b is an amount equal to one-third of the total remuneration of the taxpayer from that employment or service in respect of his services in that employment or service in the period of three years immediately preceding the date of his retirement.

“(4) Where the Commissioner is satisfied that any taxpayer has ceased to be employed in any full-time employment or service by reason of redundancy or other similar circumstances, then, for the purposes of this section,—

“(a) Any payment made to him in a lump sum on the occasion and by reason of his ceasing to be so employed shall be deemed to be a retiring allowance paid on the occasion of his retirement from that employment or service; and

“(b) The taxpayer shall be deemed to have attained the appropriate retiring age on the date on which he ceased to be so employed and to have retired from that employment or service on that date.

Struck Out

“(5) This section shall not apply to any bonus, gratuity, or retiring allowance which—

“(a) Is paid by a company pursuant to its articles of association to any of its directors; or

“(b) Is paid by the employer to his or her spouse, or, where the employer is a proprietary company, to any shareholder or the spouse of any shareholder; or

“(c) Is paid by the employer to any relative (other than the spouse) of the employer, or, where the employer is a proprietary company, to any relative (other than the spouse) of any shareholder, unless the Commissioner is satisfied, in either case, that—

“(i) That relative was a bona fide full-time employee of that employer; and

“(ii) The determination of the amount of the payment was not influenced by the fact that the employee was a relative of that employer or of that shareholder, as the case may be.

New

“(5) This section shall not apply to any payment by way of a bonus, gratuity, or retiring allowance (being a payment to which, but for this subsection, this section would have applied) which—

“(a) Is made by a company pursuant to its articles of association to any of its directors; or

“(b) Is made to the spouse of the employer; or

“(c) Is made to any relative (other than the spouse) of the employer, or where the employer is a proprietary company, to any of its shareholders or to any relative of any of its shareholders:

“Provided that where the Commissioner is satisfied that the relative or shareholder, as the case may be, was a bona fide full-time employee of the employer, this section shall apply to so much of the payment as the Commissioner determines would be reasonable if the employee were not a relative or a shareholder, as the case may be, and the amount so determined shall be deemed to be the amount of that payment for the purposes of paragraphs (a) and (b) of subsection (1) of this section:

“Provided also that the provisions of subsection (4) of section 128B of this Act shall apply with respect to so much of the amount of that payment as exceeds the amount determined by the Commissioner pursuant to the first proviso to this paragraph.

“(6) This section shall not apply to—

“(a) Any gratuity granted or paid pursuant to the Navy Act 1954 to a member of the Royal New Zealand Navy:

5 “(b) Any gratuity granted or paid pursuant to the New Zealand Army Act 1950 to a member of the Regular Force:

10 “(c) Any gratuity granted or paid pursuant to the Royal New Zealand Air Force Act 1950 to a member of the Regular Air Force or of the Regular Section of the Women’s Royal New Zealand Air Force,—

being in each case a payment designated as a gratuity in the regulations, notice, order, instructions, or other instrument of authority pursuant to which it is payable.”

15 (2) Section 88 of the principal Act is hereby amended—

(a) By repealing the proviso to paragraph (b) of subsection (1):

20 (b) By repealing subsection (2) (as added by section 7 (1) of the Land and Income Tax Amendment Act (No. 2) 1965).

(3) Section 2 of the Income Tax Assessment Act 1957 is hereby amended by omitting from the definition of the term “extra emolument” in subsection (1) the words “paragraph (b) of section 88 of the principal Act to be income” wherever they occur, and substituting in each case the words “subsection (1) of section 88B of the principal Act to be assessable income.”

30 (4) Section 7 of the Land and Income Tax Amendment Act (No. 2) 1965 is hereby consequentially amended by repealing subsections (1) and (2).

New

35 (5) This section shall apply with respect to any bonus, gratuity, or retiring allowance paid on or after the nineteenth day of July, nineteen hundred and sixty-eight, to a taxpayer who retired (or, pursuant to paragraph (b) of subsection (4) of section 88B of the principal Act (as inserted by subsection (1) of this section) is deemed to have retired) on or after that date.

40 **10. Standard values for maturing stocks of wine, brandy, and whisky**—Section 98 of the principal Act is hereby amended by inserting, after subsection (8), the following subsections:

45 “(8A) Notwithstanding anything to the contrary in subsection (4) of this section, where any taxpayer, or any person acting on behalf of the taxpayer, is the holder of a grape wine licence granted under Part IV of the Sale of Liquor Act 1962

or of a licence to distil spirits granted under Part I of the Distillation Amendment Act 1959, and the assets of the taxpayer include trading stock, being—

“(a) Wine; or

“(b) Brandy; or

“(c) Whisky—

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which is manufactured in New Zealand and is held as reserve stock for maturity purposes, the taxpayer may, with the concurrence of the Commissioner, adopt and fix a standard value in respect of that trading stock or in respect of any class of that trading stock: 10

“Provided that in any case where a standard value has been so fixed, the taxpayer may adopt or the Commissioner may require the adoption of the true value instead of the standard value, or the taxpayer may, with the concurrence of the Commissioner, adopt another standard value instead of the standard value fixed as aforesaid: 15

“Provided also that the adoption of a standard value, or the adoption of the true value instead of a standard value, or any alteration in the standard value as herein provided shall first take effect at the end and for the purposes of the income year or other period to which any return of assessable income relates. 20

“(8B) Notwithstanding anything to the contrary in the foregoing provisions of this section, the executor or administrator of any deceased taxpayer to whom at the date of his death subsection (8A) of this section applied shall, in the return of income for the period ending with the date of death of the deceased taxpayer, adopt as the value of all trading stock on hand at the date of death the value of that trading stock as determined for the purposes of the Estate and Gift Duties Act 1955, unless he elects in respect of any class of trading stock to which that subsection applied to adopt instead thereof a lower (*standard*) value, being— 25 30

“(a) The standard value last adopted by the deceased taxpayer under subsection (8A) of this section; or 35

“(b) A new standard value, being higher than the standard value referred to in paragraph (a) of this subsection,—

in which event the standard value so adopted in respect of any such class of trading stock shall be deemed to have been adopted with the concurrence of the Commissioner, and shall be taken into account for the purpose of calculating the assessable income derived by the deceased taxpayer for the period 40

ending with the date of his death and (subject to the provisions of subsection (8A) of this section) for the purpose of calculating the assessable income derived by the executor or administrator for any period or periods after the date of the
5 death of the deceased taxpayer. In any case in which a standard value is adopted under this subsection, the amount of income tax (if any) required to be allowed as a debt under section 9 of the Estate and Gift Duties Act 1955 in respect
10 of the income of the deceased taxpayer for the period ending with the date of his death shall be calculated in accordance with this subsection:

“Provided that no election may be made under this subsection unless the appropriate licence referred to in subsection (8A) of this section is held by or on behalf of the
15 executor or administrator.

“(8c) In any case where a deceased taxpayer to whom at the date of his death subsection (8A) of this section applied was at that date a member of a partnership whose trading stock comprised in whole or in part trading stock to which
20 that subsection applied, and the executor or administrator of the deceased taxpayer carries on the business in partnership with the surviving partner or partners, subsection (8B) of this section shall, with the necessary modifications, apply for the purpose of calculating the assessable income derived from the
25 partnership by the deceased taxpayer or by his executor or administrator:

“Provided that the executor or administrator may not elect to adopt any standard value unless that standard value was in force under subsection (8A) of this section for the purposes of
30 the partnership at the date of death of the taxpayer, or is adopted by the executor or administrator and the other partner or partners for the purposes of the partnership.”

11. Aggregation of incomes of husband and wife—(1) Section 104 of the principal Act (as substituted by section 14 (1)
35 of the Land and Income Tax Amendment Act 1960) is hereby amended by omitting from subparagraph (ii) of paragraph (a) of the definition of the term “aggregable income” in subsection (1) the words “subsection (6)”, and substituting the words “subsection (4)”.

40 (2) This section shall be deemed to have come into force on the twenty-fourth day of November, nineteen hundred and sixty-seven (being the date of the passing of the Finance Act (No. 2) 1967).

12. Expenditure or loss incurred in production of assessable income—The principal Act is hereby further amended by repealing section 111, and substituting the following section:

“111. In calculating the assessable income of any taxpayer, any expenditure or loss to the extent to which it—

“(a) Is incurred in gaining or producing the assessable income for any income year; or

“(b) Is necessarily incurred in carrying on a business for the purpose of gaining or producing the assessable income for any income year—

may, except as otherwise provided in this Act, be deducted from the total income derived by the taxpayer in the income year in which the expenditure or loss is incurred.”

13. Deduction for depreciation not conditional on amount of provision in taxpayer’s accounts—(1) The principal Act is hereby further amended by omitting the words “or that sufficient depreciation has been provided for in the taxpayer’s accounts” from each of the following provisions of that Act:

(a) Subsection (2) of section 113 (as amended by section 10 (b) of the Land and Income Tax Amendment Act (No. 2) 1967):

(b) Subsection (3) of section 113B (as inserted by section 8 of the Land and Income Tax Amendment Act (No. 2) 1963):

(c) Subsection (3) of section 113D (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1967):

(d) Paragraph (b) of subsection (4) of section 114A (as substituted by section 7 of the Land and Income Tax Amendment Act (No. 2) 1962).

(2) Section 10 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing paragraph (b).

14. Special depreciation allowance on plant and machinery, on certain facilities installed in hotels, and on certain buildings—(1) Section 114A of the principal Act (as substituted by section 7 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by omitting from paragraph (a) and from paragraph (b) of subsection (1) (as amended by section 12 (1) of the Land and Income Tax Amendment Act (No. 2) 1967), and also from subsection (1A) (as inserted by section 28 (4) of the Land and Income Tax

Amendment Act 1964 and amended by section 12 (1) of the Land and Income Tax Amendment Act (No. 2) 1967), and also from subsection (1B) (as inserted by section 12 (2) of that last-mentioned Act) the words “nineteen hundred and
5 sixty-nine”, and substituting in each case the words “nineteen hundred and seventy”.

(2) Section 12 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing subsection (1).

10 **15. Special depreciation allowance on certain buildings erected, altered, or extended by companies engaged in killing and processing stock for export**—(1) Section 114A of the principal Act (as so substituted) is hereby further amended by
15 inserting, after subsection (1B) (as inserted by section 12 (2) of the Land and Income Tax Amendment Act (No. 2) 1967), the following subsection:

“(1BB) Where the Commissioner is satisfied that any company engaged in New Zealand in the business of killing and processing stock for export has, on or after the first day of
20 April, nineteen hundred and sixty-eight, and before the first day of April, nineteen hundred and seventy-two, erected a new building wholly or principally to provide, for the purposes of that business, storage for meat or meat products in a frozen state, he may, in his discretion, subject to section 117 of this
25 Act, in calculating the assessable income derived by the company from that business allow, in addition to the depreciation allowed as a deduction under section 113 of this Act, such deduction by way of special depreciation in accordance with this section as he thinks fit.”

30 (2) Section 114A of the principal Act (as so substituted) is hereby further amended by inserting in subsection (6) (as substituted by section 12 (5) of the Land and Income Tax Amendment Act (No. 2) 1967), after the definition of the term “private”, the following definition:

35 “‘Stock’ has the same meaning as in the Meat Act 1964:”.

(3) Section 114A of the principal Act (as so substituted) is hereby further amended by inserting in the definition of the term “the relevant provision of this section” and also in the definition of the term “the specified terminating date” in sub-
40 section (6) (as so substituted), after the words “or subsection (1B)” in each definition, the words “or subsection (1BB)”.

16. Alternative special depreciation allowance on certain buildings—(1) Section 114A of the principal Act (as so substituted) is hereby further amended by adding to subsection (3) the following paragraph:

“(c) Notwithstanding the provisions of paragraph (b) of this subsection, where the asset consists of— 5

“(i) Any building that has been acquired or erected on or after the first day of April, nineteen hundred and sixty-two, by a taxpayer engaged in any business in New Zealand, including any farming or agricultural business, for the purpose of providing accommodation for any person employed by the taxpayer in connection with that business, and which has been used for that purpose; or 10

“(ii) Any new building (not being a building to provide accommodation for any person) that has been erected on or after the first day of April, nineteen hundred and sixty-four, by a taxpayer engaged in any farming or agricultural business in New Zealand and is to be used wholly for the purposes of that business, and which has been used for those purposes,— 15 20

the whole of the deduction shall, where the taxpayer so elects, be allowed in respect of the income derived by the taxpayer from the business during the income year in which the building is first so used.” 25

(2) The following enactments are hereby consequentially repealed:

(a) Section 116A of the principal Act (as inserted by section 6 of the Land and Income Tax Amendment Act 1961): 30

(b) Section 6 of the Land and Income Tax Amendment Act 1961:

(c) Section 8 of the Land and Income Tax Amendment Act (No. 2) 1962: 35

(d) Section 30 of the Land and Income Tax Amendment Act 1964:

(e) Section 15 of the Land and Income Tax Amendment Act (No. 2) 1967. 40

(3) The principal Act is hereby consequentially amended—

(a) By omitting from subsection (8) of section 117C (as inserted by section 13 of the Land and Income Tax Amendment Act (No. 2) 1963) the words “or section 116A”: 45

(b) By omitting from paragraph (a) of section 119F (as inserted by section 23 of the Land and Income Tax Amendment Act 1965) the words “and initial depreciation under section 116A of this Act”.

5 **17. Investment allowance on plant, machinery, and**
buildings for use in redevelopment projects in the West Coast,
South Island—(1) Section 117c of the principal Act (as
inserted by section 13 of the Land and Income Tax Amend-
ment Act (No. 2) 1963) is hereby amended by omitting from
10 paragraph (a) and from paragraph (b) of subsection (2)
(which paragraphs were substituted by section 33 (2) of the
Land and Income Tax Amendment Act 1964 and amended
by section 16 (1) of the Land and Income Tax Amendment
Act (No. 2) 1967) the words “nineteen hundred and sixty-
15 nine” wherever they occur, and substituting in each case the
words “nineteen hundred and seventy”.

(2) Section 16 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing subsection (1).

20 **18. Deduction of certain expenditure on land used for**
farming or agricultural purposes—(1) Section 119D of the
principal Act (as inserted by section 16 (1) of the Land and
Income Tax Amendment Act (No. 2) 1963) is hereby
amended by omitting from paragraph (b) of subsection (1)
25 (as amended by section 17 (1) of the Land and Income Tax
Amendment Act (No. 2) 1967), and also from paragraph (c)
of that subsection (as inserted by section 22 (2) of the Land
and Income Tax Amendment Act 1965 and amended by
section 17 (1) of the Land and Income Tax Amendment Act
30 (No. 2) 1967), and also from paragraph (d) of that sub-
section (as inserted by section 21 (2) of the Land and Income
Tax Amendment Act 1966 and amended by section 17 (1)
of the Land and Income Tax Amendment Act (No. 2) 1967),
the words “nineteen hundred and sixty-nine”, and substitut-
35 ing in each case the words “nineteen hundred and seventy”.

(2) Section 17 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing subsection (1).

40 **19. Deduction of certain expenditure by rock oyster**
farmers—(1) The principal Act is hereby further amended by
inserting, after section 119F (as inserted by section 23 of the
Land and Income Tax Amendment Act 1965), the following
section:

“119G. (1) Subject to section 119E of this Act, any taxpayer engaged in the business of rock oyster farming in New Zealand shall, in calculating the assessable income derived by him from that business, be entitled to deduct any expenditure incurred in that business in any income year commencing after the thirty-first day of March, nineteen hundred and sixty-eight, and ending not later than the thirty-first day of March, nineteen hundred and seventy (hereinafter in this section referred to as the terminating date), and not deductible otherwise than under this section, in—

“(a) The acquisition and preparation of spatting sticks; or

“(b) The construction and erection of posts, rails, or other structures for the holding of spatting sticks during spat catching and maturing; or

“(c) The construction of fences:

“Provided that, instead of claiming a deduction for the income year in which the expenditure is incurred of the total amount of the expenditure allowable as a deduction under the foregoing provisions of this subsection, the taxpayer shall, if he so elects by notice in accordance with subsection (3) of this section (which election shall, subject to subsection (4) of this section, be irrevocable), be entitled to allocate, in such manner as he specifies in the notice, the whole or any part of that total amount to any one or more of the five income years (being a year or years in which the taxpayer continues to carry on that business) next succeeding the income year in which the expenditure is incurred and to deduct the amount so allocated to any such income year in calculating the assessable income derived by him from that business in that year; and any amount so allocated shall not be allowed as a deduction in calculating the assessable income derived by the taxpayer from that business in the income year in which the expenditure is incurred.

“(2) Where the Commissioner is satisfied that—

“(a) Before the terminating date a taxpayer has—

“(i) Incurred; or

“(ii) Entered into, or taken such preliminary steps as are necessary for the purpose of entering into, a binding contract requiring him to incur— a substantial part of the expenditure referred to in subsection (1) of this section included in a development plan in relation to the business of the taxpayer; and

“(b) On or after the terminating date the taxpayer has incurred such expenditure, being expenditure incurred in pursuance of that development plan; and

5 “(c) The period commencing on the terminating date and ending with the date on which that expenditure was incurred did not exceed such period as, in the opinion of the Commissioner, is reasonable in the circumstances of the particular case,—

10 that expenditure shall be deemed for the purposes of this section to have been incurred before the terminating date.

“(3) Every notice under the proviso to subsection (1) of this section by which the whole or any part of the expenditure is allocated to any one of the five income years next succeeding
15 the income year in which the expenditure was incurred shall be in writing, and shall be given to the Commissioner within the time limited within which the taxpayer is required to furnish a return of his income for the year to which the expenditure is so allocated, or within such further time as the
20 Commissioner, in his discretion, may allow in any case or class of cases:

“Provided that where any part of the total amount of the expenditure is not claimed as a deduction for the year in which the expenditure is incurred and is not allocated to any one or
25 more of the four immediately succeeding income years by an election under that proviso, that part shall be deducted from the income of the fifth income year following the year in which the expenditure was incurred.

“(4) Where any taxpayer who has made an election or
30 elections under the proviso to subsection (1) of this section ceases to carry on that business before the expiry of the fifth income year following the income year in which the expenditure as aforesaid was incurred, the total amount of that expenditure or, as the case may be, so much of that total
35 amount as has not previously been allowed as a deduction shall, as the taxpayer (or, where the taxpayer is deceased, his personal representative) elects, either—

“(a) Be allowed as a deduction in calculating the assessable
40 income derived by the taxpayer from that business in the income year in which he ceased to carry on that business; or

“(b) Be allocated equally to the income year in which that total amount was incurred and the succeeding income years in which the taxpayer has continued to carry on that business, and any amount or, as the case may be, additional amount so allocated to any such year shall be allowed as a deduction, or, as the case may be, a further deduction, in calculating the assessable income derived by him from that business in that last-mentioned year.

“(5) Every reference in this section to expenditure incurred in any income year shall, where the taxpayer furnishes a return of income under section 8 of this Act for an accounting year ending with an annual balance date other than the thirty-first day of March, be deemed to be a reference to expenditure incurred in the accounting year corresponding with that income year, and in every such case the provisions of this section shall, with any necessary modifications, apply accordingly.

“(6) For the purposes of this section the term ‘development plan’, in relation to the business of a taxpayer, means a plan, project, or scheme which—

“(a) In the opinion of the Commissioner, has been entered into by the taxpayer for the purpose of the development or expansion of that business, being development or expansion involving expenditure of any of the kinds referred to in subsection (1) of this section; and

“(b) Upon application in that behalf made in writing by or on behalf of the taxpayer before the terminating date, has been approved in writing by the Commissioner as a development plan for the purposes of this section.”

(2) Section 119E of the principal Act (as inserted by section 17 (1) of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by inserting after the words “section 119D” wherever they occur, the words “or section 119G”.

(3) Section 119E of the principal Act (as so inserted) is hereby further amended by adding, as subsection (2), the following subsection:

“(2) For the purposes of this section the term ‘land’ includes lease-land within the meaning of the Rock Oyster Farming Act 1964.”

20. Deduction for premium paid in respect of a lease of land—The principal Act is hereby further amended by inserting, after section 121, the following section:

121A. (1) In this section—

5 “‘Lease’ has the same meaning as in section 2 of this Act; and includes a licence:

“‘Lessee’ includes a licensee; and also includes the assignee of a lease:

“‘Premium’, in relation to a lease of land, includes—

10 “(a) Any payment in the nature of a fine or foregift:

“(b) Any payment in respect of goodwill attaching to the land:

15 “(c) Any payment, other than rent, in consideration of the grant, transfer, or renewal of the lease:

“‘Term of the lease’, in relation to a lease of indefinite duration, means the minimum period it has to run.

20 “(2) Where any taxpayer is the lessee of land used by him in the production of his assessable income in any income year, the Commissioner may, in calculating the assessable income of the taxpayer in that income year, allow a deduction of so much of any premium paid on the grant, or, as the case may be, the renewal of the lease, as would be apportioned to that
25 income year or, where the land was not so used by the taxpayer for the whole of the income year, the part of that income year for which the land was so used, if the amount of that premium were apportioned evenly over the term of the lease:

30 “Provided that where the taxpayer is not the person to whom the lease or renewal of the lease was granted, the deduction allowed under this section shall not exceed so much of any premium paid by the taxpayer on the acquisition of the lease as would be apportioned to that income year, or, where the land was not so used by the taxpayer for the whole
35 of the income year, the part of the income year for which the land was so used, if the amount of that premium were apportioned evenly over the remaining term of the lease.”

21. Deduction of Chatham Islands dues—The principal Act is hereby further amended by inserting, after section 123,
40 the following section:

“123A. (1) The Commissioner may, in calculating the assessable income of any taxpayer from any business, allow a deduction in respect of any amount (being an amount that is not deductible otherwise than under this section) of dues

under the Chatham Islands Dues Regulations 1951 paid in the income year by the taxpayer in respect of any goods used by him in connection with that business.

“(2) Dues allowed as a deduction under subsection (1) of this section shall not be taken into account in calculating the cost of goods for the purpose of allowing any other deduction under this Act in respect of those goods.” 5

22. Retiring allowances payable by employers—(1) The principal Act is hereby further amended by inserting, after section 128A (as inserted by section 23 of the Land and Income Tax Amendment Act 1966), the following section: 10

“128B. (1) The Commissioner may, in calculating the assessable income derived in any income year by any taxpayer from any business, allow a deduction in respect of the amount of any payment (being a payment which is not deductible otherwise than under this section) made in a lump sum by the taxpayer in that income year by way of a bonus, gratuity, or retiring allowance to any full-time employee of that business on the occasion of the retirement of that employee, where the Commissioner is satisfied that the employee did not retire from that employment before attaining the appropriate retiring age (as defined in subsection (3) of section 88B of this Act). 15 20

“(2) Where the Commissioner is satisfied that any employee of a taxpayer has ceased to be employed in the full-time employment or service of the taxpayer by reason of redundancy or other similar circumstances, then, for the purposes of this section,— 25

“(a) Any payment made to the employee in a lump sum on the occasion and by reason of his ceasing to be so employed shall be deemed to be a retiring allowance paid on the occasion of his retirement; and 30

“(b) The employee shall be deemed to have attained the appropriate retiring age on the date on which he ceased to be so employed and to have retired on that date. 35

Struck Out

“(3) Notwithstanding the provisions of subsection (1) of this section or of the proviso to paragraph (d) of section 112 of this Act or of any other section of this Act, no deduction shall be allowed in respect of any bonus, gratuity, or retiring allowance which— 40

“(a) Is paid to the spouse of the taxpayer, or, where the taxpayer is a proprietary company, to any shareholder or the spouse of any shareholder; or 45

Struck Out

5 “(b) Is paid to any relative (other than the spouse) of the taxpayer, or, where the taxpayer is a proprietary company, to any relative (other than the spouse) of any shareholder, unless the Commissioner is satisfied in either case, that—

“(i) That relative was a bona fide full-time employee of the taxpayer; and

10 “(ii) The determination of the amount of the payment was not influenced by the fact that the employee was a relative of the taxpayer or of that shareholder, as the case may be.”

New

15 “(3) Notwithstanding the provisions of subsection (1) of this section or of the proviso to paragraph (d) of section 112 of this Act or of any other section of this Act, no deduction shall be allowed in respect of any payment by way of a bonus, gratuity, or retiring allowance (being a payment which, but for this subsection, would have been allowable as a deduction under this section) which—

20 “(a) Is made to the spouse of the taxpayer; or

25 “(b) Is made to any relative (other than the spouse) of the taxpayer, or, where the taxpayer is a proprietary company, to any of its shareholders or to any relative of any of its shareholders:

30 “Provided that where the Commissioner is satisfied that the relative or shareholder, as the case may be, was a bona fide full-time employee of the taxpayer, the Commissioner may allow as a deduction under this section so much of the amount of the bonus, gratuity, or retiring allowance as the Commissioner determines would be reasonable if that employee were not a relative or shareholder, as the case may be.

35 “(4) To the extent that any payment made by way of a bonus, gratuity, or retiring allowance is, in accordance with subsection (3) of this section, not allowed as a deduction in calculating the assessable income of any taxpayer,—

40 “(a) Where the taxpayer is a proprietary company, the amount not allowed shall, for the purposes of this Act, be deemed to be a dividend paid by that company to the recipient and received by him as a shareholder of the company:

New

“(b) Where the taxpayer is not a proprietary company, the amount not allowed shall, notwithstanding the provisions of paragraph (b) of section 88 or of section 88B of this Act, not be deemed to be assessable income of the relative to whom the payment was made. 5

“(5) Paragraph (b) of section 88 of this Act shall not apply to any amount which is deemed to be a dividend under paragraph (a) of subsection (4) of this section.” 10

(2) Section 128A of the principal Act (as so inserted) is hereby amended by repealing paragraph (b) of subsection (1), and substituting the following paragraph:

“(b) Either—

“(i) The employee did not retire from that employment before attaining the appropriate retiring age (as defined in subsection (3) of section 88B of this Act); or 15

“(ii) The employee ceased to be employed by the taxpayer by reason of redundancy or other similar circumstances.” 20

New

(3) This section shall apply with respect to any bonus, gratuity, or retiring allowance paid on or after the nineteenth day of July, nineteen hundred and sixty-eight, to an employee who retired (or who, pursuant to paragraph (b) of subsection (2) of section 128B of the principal Act (as inserted by subsection (1) of this section) is deemed to have retired) on or after that date. 25

23. Deduction of export-market development expenditure and of tourist-promotion expenditure— (1) Section 129A of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by omitting from subsection (2) (as amended by section 18 (2) of the Land and Income Tax Amendment Act (No. 2) 1967) the words “nineteen hundred and sixty-nine”, and substituting the words “nineteen hundred and seventy-two”. 30 35

(2) Section 18 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby consequentially amended by omitting from subsection (4) (as amended by section 18 (3) of the Land and Income Tax Amendment Act (No. 2) 1967) the words “nineteen hundred and sixty-nine”, and substituting the words “nineteen hundred and seventy-two”. 40

(3) Section 18 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby consequentially amended by repealing subsections (2) to (4).

24. Deduction by reference to the export of goods—

5 (1) Section 129B of the principal Act (as inserted by section 20 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by omitting from subsection (5) (as substituted by section 19 (1) of the Land and Income Tax
10 Amendment Act (No. 2) 1967) the words “the income year commencing on the first day of April, nineteen hundred and sixty-eight” wherever they occur, and substituting in each case the words “any of the four income years next succeeding that income year”.

(2) Section 25 of the Land and Income Tax Amendment
15 Act 1966 is hereby consequentially amended by omitting from subsection (6) (as amended by section 19 (3) of the Land and Income Tax Amendment Act (No. 2) 1967) the words “and in each of the two income years next succeeding that income year”, and substituting the words “and in each of the
20 five income years next succeeding that income year”.

(3) Section 19 of the Land and Income Tax Amendment Act (No. 2) 1967 is hereby amended—

(a) By repealing subsection (3):

25 (b) By omitting from subsection (4), as from its commencement, the words “and in the income year commencing on the first day of April, nineteen hundred and sixty-eight”.

(4) Subsections (1) and (2) of this section shall apply with respect to the tax on income derived in the income year that
30 commenced on the first day of April, nineteen hundred and sixty-eight, and in the three income years next succeeding that income year.

25. Losses incurred may be set off against future profits—

(1) Section 137 of the principal Act is hereby amended by
35 repealing subsection (2), and substituting the following subsections:

“(2) Any taxpayer who satisfies the Commissioner that he has, in any income year, incurred a loss shall, subject to the provisions of this section, be entitled to claim that the loss be
40 carried forward and deducted from or set off against the assessable income derived in the first income year after the income year in which the loss was incurred, so far as that income extends, and, so far as it cannot then be deducted or set off, be deducted from or set off against the assessable
45 income derived in the next income year, and so on.

“(2A) 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.

“(2B) Where the amount of any debt incurred by a taxpayer has been taken into account in calculating any loss incurred by him in any income year, and subsequently the liability of the taxpayer in respect of that debt has been remitted or cancelled in whole or in part, the relief afforded by this section shall be reduced by the amount so remitted or cancelled. For the purposes of giving effect to this subsection, the Commissioner may at any time alter any assessment, notwithstanding anything to the contrary in section 24 of this Act. 5 10

“(2C) Where a taxpayer pays an amount in respect of a debt to which subsection (2B) of this section applies, the amount paid shall, to the extent that it does not exceed that debt, be allowed as a deduction from the assessable income in the income year in which the payment is made. 15

“(2D) For the purposes of this section— 20

“(a) A debt shall be deemed to have been remitted to the extent to which the taxpayer has been discharged from that liability without fully adequate consideration in money or money’s worth:

“(b) A debt shall be deemed to have been cancelled to the extent to which the taxpayer has been released from that liability by the operation of the Bankruptcy Act 1908 or the Insolvency Act 1967 or the Companies Act 1955, or by any deed of composition with his creditors.” 25 30

(2) Section 172J 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 “instead of the deductions under section 137 of this Act” and substituting the words “the amount of the loss incurred in any income year, as calculated in accordance with section 137 of this Act, shall be allowed as follows”. 35

(3) The following enactments are hereby consequentially repealed:

(aa) Subsection (4) of section 9 of the principal Act: 40

(a) Subsection (2) of section 94 of the principal Act:

(b) Section 137A of the principal Act (as inserted by section 20 (1) of the Land and Income Tax Amendment Act 1959):

(c) Section 20 of the Land and Income Tax Amendment Act 1959. 45

(4) Subsection (1) and paragraph (a) of subsection (3) of this section shall apply to—

5 (a) Any loss incurred by any taxpayer in the income year which commenced on the first day of April, nineteen hundred and sixty-two, or in any of the five income years next succeeding that income year, in so far as that loss has not been deducted from or set off against his assessable income derived in any income year ending not later than the thirty-first day of

10 March, nineteen hundred and sixty-eight:
(b) Any loss incurred by any taxpayer in the income year that commenced on the first day of April, nineteen hundred and sixty-eight, and in every subsequent year.

15 (5) Subsection (2) of this section shall apply with respect to the tax for the year of assessment commencing on the first day of April, nineteen hundred and seventy, and for every subsequent year.

20 **26. Profits of mutual associations in respect of transactions with members**—The principal Act is hereby further amended by repealing section 145, and substituting the following section:

25 “145. (1) Where in any income year an association enters into transactions with its members, or with its members and other persons, any profit or surplus arising in that income year from those transactions which would be included in the profits or gains of the association if the transactions were not of a mutual character shall be deemed to be profits or gains arising

30 from those transactions and, subject to the deduction allowed under subsection (2) of this section, to be assessable income of the association derived in that income year.
“ (2) The Commissioner shall, in calculating the assessable income for any income year of any association to which this

35 section applies, allow a deduction of the amount of any rebate which—
“(a) Is paid by the association to a member in respect of his transactions with the association in that income year, being transactions which are taken into account in calculating that assessable income; and

40 “(b) Is calculated by reference to the amount of those transactions, whether or not in any case the rebate is limited or reduced by reference to the amount of the share or interest of the member in the capital of the association—

45 4

to the extent to which the rebate does not exceed the profit attributable to those transactions.

“(3) For the purposes of this section, the profit attributable to the transactions in any income year of any member shall be calculated in accordance with the following formula: 5

$$\frac{a}{b} \times c$$

where—

- a is the total amount of the transactions of that member with the association in that income year in respect of which a rebate is given; and 10
- b is the total amount in that income year of all the transactions of the association with its members and with other persons, in respect of which a rebate is given to its members or would be given to those other persons if they were members; and 15
- c is the sum of—
 - (i) The assessable income of the association for that income year; and 20
 - (ii) The aggregate amount of the deductions allowed under subsection (2) of this section in calculating that assessable income. 25

“(4) Where any rebate or part of a rebate paid to any member by an association to which this section applies is paid in respect of any transactions which are of such a nature that any payments in respect thereof by that member to the association or, as the case may be, by the association to that member would be taken into account in calculating the assessable income of that member, that rebate, or, as the case may be, that part of a rebate, shall form part of the assessable income (otherwise than as a dividend) of that member: 30

“Provided that where that rebate or, as the case may be, that part of a rebate exceeds so much as is attributable thereto of the deduction allowed under subsection (2) of this section, the amount of the excess shall be deemed to be a dividend within the meaning of section 4 of this Act derived by that member. 35

“(5) Nothing in this section shall affect the extent of the exemption from income tax of any co-operative company to which the provisions of paragraph (f) of subsection (1) of section 86 or section 146 or section 146A or section 146B of this Act are applicable. 40

“(6) For the purposes of this section, a rebate shall be deemed to have been paid to a person when it has been credited in account or otherwise dealt with in his interest or on his behalf.

5 “(7) Where a rebate or part of a rebate is satisfied—

“(a) By the issue of fully paid-up or partly paid-up shares in an association (being a company) to which this section applies; or

10 “(b) By giving credit in respect of the whole or part of the amount unpaid on any shares in any such association,—

that rebate or part of a rebate shall be deemed not to be a bonus issue within the meaning of section 4A of this Act.

“(8) In this section the term—

15 “‘Association’ includes any body or association of persons, whether incorporated or not.

20 “‘Rebate’ means any payment to its members by an association, being a payment by way of distribution of profits of the association, the distribution being made not later than six months after the end of the association’s trading period in respect of which the payment is made.”

27. Provisional taxpayers—(1) Section 41 of the Income Tax Assessment Act 1957 is hereby amended by repealing the proviso (as added by section 36 (1) of the Land and Income Tax Amendment Act 1965) and substituting the following proviso:

30 “Provided that a provisional taxpayer shall be relieved from his obligation to pay provisional tax in respect of the income of any income year in any case where he did not derive in the income year preceding that income year any assessable income other than source deduction payments, interest, dividends, or rents, and the aggregate amount of his assessable income
35 derived from interest, dividends, or rents did not exceed two hundred dollars.”

(2) Section 36 of the Land and Income Tax Amendment Act 1965 is hereby consequentially repealed.

40 (3) This section shall apply with respect to the provisional tax payable in respect of the income of the income year that commenced on the first day of April, nineteen hundred and sixty-eight, and of every subsequent year.

28. Section 14 of 1961 Amendment Act amended—Section 14 of the Land and Income Tax Amendment Act 1961 is hereby amended, as from the passing of that Act, by omitting from subsection (4) the words “the principal Act” wherever they occur, and substituting in each case the words “the Land and Income Tax Amendment Act 1960”. 5

29. Repeal of spent provisions—(1) The enactments specified in the Schedule to this Act are hereby repealed.

(2) Section 113 of the principal Act is hereby consequentially amended by adding the following subsection: 10

“(3) For the purposes of this section—

“‘Fish’ includes shellfish and crustaceans:

“‘Fishing’ means the taking or catching of fish for the purposes of sale:

“‘Fishing boat’ means a boat that is registered as a fishing boat under Part I of the Fisheries Amendment Act 1963; and includes a small boat belonging to any such fishing boat.” 15

(3) Section 113 of the principal Act is hereby consequentially further amended by omitting from subsection (1A) (as inserted by section 9 (1) of the Land and Income Tax Amendment Act (No. 2) 1967) the words “(within the meaning of section 117D of this Act)” wherever they occur. 20

(4) Section 113D of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1967) is hereby consequentially amended by omitting from paragraph (a) of subsection (1) the words “(within the meaning of section 117D of this Act)” wherever they occur, and substituting in each case the words “(within the meaning of section 113 of this Act)”. 25 30

SCHEDULE

Section 29

ENACTMENTS REPEALED

- 1954, No. 67—The Land and Income Tax Act 1954: Sections 114, 115, 116, 117A, and 117B, subsection (9) of section 117C, and sections 117D and 118. (Reprinted 1967, Vol. 3, pp. 1909, 1919, 1921, 1927, 1936, 1943, 1944, 1946.)
- 1955, No. 91—The Land and Income Tax Amendment Act 1955: Sections 10 and 13. (Reprinted 1967, Vol. 3, pp. 2148, 2149.)
- 1956, No. 52—The Land and Income Tax Amendment Act 1956: Section 6. (Reprinted 1967, Vol. 3, p. 2150.)
- 1957, No. 90—The Land and Income Tax Amendment Act (No. 2) 1957: Section 11. (Reprinted 1967, Vol. 3, p. 2153.)
- 1958, No. 5—The Land and Income Tax Amendment Act (No. 2) 1958: Section 31. (Reprinted 1967, Vol. 3, p. 2236.)
- 1963, No. 140—The Land and Income Tax Amendment Act (No. 2) 1963: Sections 11 and 12. (Reprinted 1967, Vol. 3, p. 2271.)
- 1964, No. 122—The Land and Income Tax Amendment Act 1964: Section 32. (Reprinted 1967, Vol. 3, p. 2279.)
- 1965, No. 18—The Land and Income Tax Amendment Act 1965: Sections 18, 19, and 21. (Reprinted 1967, Vol. 3, pp. 2287, 2288.)
- 1965, No. 125—The Land and Income Tax Amendment Act (No. 2) 1965: Subsection (2) of section 9. (Reprinted 1967, Vol. 3, p. 2293.)
- 1966, No. 28—The Land and Income Tax Amendment Act 1966: Sections 17 and 19. (Reprinted 1967, Vol. 3, p. 2296.)