

## LAND TAX BILL

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### EXPLANATORY NOTE

THIS Bill consolidates the land tax provisions in the Land and Income Tax Act 1954 and its amendments into a separate Land Tax Bill. Minor drafting amendments have been made, spent provisions omitted, and the order of some clauses and subclauses altered.

The source of each clause of the Bill is shown at the foot of each clause in the form of a reference to the enactment repealed. At the end of the explanatory note to the Income Tax Bill there is a comparative table showing where the enactments repealed by this Bill and by the Income Tax Bill have been dealt with, and indicating those that have been omitted.

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*Hon. Mr Wilkinson*

## LAND TAX

### ANALYSIS

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| <p>Title</p> <ol style="list-style-type: none"><li>1. Short Title, commencement, etc.</li><li>2. Interpretation</li></ol> <p style="text-align: center;"><b>PART I</b></p> <p style="text-align: center;">VALUATION OF LAND</p> <ol style="list-style-type: none"><li>3. Assessment of tax</li><li>4. Meaning of terms "unimproved value" and "improvements"</li><li>5. Unimproved value shown on district roll to be adopted</li><li>6. Value of minerals and trees to be excepted from unimproved value</li><li>7. Apportionment of unimproved value</li><li>8. Special valuation on request of Commissioner</li><li>9. Mode of determining unimproved value at date other than 31 March</li></ol> <p style="text-align: center;"><b>PART II</b></p> <p style="text-align: center;">IMPOSITION OF LAND TAX</p> <ol style="list-style-type: none"><li>10. Land tax imposed</li><li>11. Tax to be levied on total unimproved value less exemptions</li><li>12. Alternative exemption in cases of hardship or widows with dependent children</li><li>13. Tax on unimproved land</li><li>14. Liability of life tenant</li><li>15. Joint owners to be assessed jointly</li><li>16. Joint owners to be severally assessed also</li></ol> | <ol style="list-style-type: none"><li>17. Limitation of special exemptions in cases of joint ownership</li><li>18. Liability of shareholders of company</li><li>19. Two or more companies with substantially same shareholders</li><li>20. Liability of joint occupiers</li><li>21. Liability of buyer in possession</li><li>22. Seller to remain liable until possession delivered</li><li>23. No disposition of land to exempt from tax while possession retained</li><li>24. Liability of equitable owners</li><li>25. Liability of trustees</li><li>26. Liability of mortgagees in possession</li><li>27. Adjustments in cases of double taxation</li><li>28. Increase of tax of absentee taxpayers</li><li>29. Exemption of certain classes of land</li><li>30. Reduction of tax in certain cases</li><li>31. Tax on Maori land</li></ol> <p style="text-align: center;"><b>PART III</b></p> <p style="text-align: center;">RETURNS AND ASSESSMENTS</p> <ol style="list-style-type: none"><li>32. Annual returns by taxpayers</li><li>33. Returns by executors or administrators</li><li>34. Other annual returns</li><li>35. Commissioner may require other returns to be made</li><li>36. Dates by which annual returns to be furnished</li><li>37. Presumption as to authority</li></ol> |
|--|--|

38. Commissioner to make assessments
39. Assessment upon disposal before payment date
40. Assessment where default made in furnishing returns
41. Amendment of assessments
42. Limitation of time for amendment of assessment
43. Validity of assessments not affected by failure to comply with Act
44. Assessments deemed correct except in proceedings on objection
45. Evidence of returns and assessments
46. Notice of assessment to taxpayer
47. Objections to assessments

## PART IV

## PAYMENT AND RECOVERY OF TAX

48. Payment of tax
49. Additional tax to be charged if default made in payment of tax
50. Name of owner of land not known
51. Recovery of tax from persons other than owner of land
52. Unpaid tax to constitute charge on land
53. Application of certain provisions of Income Tax Act 1976 relating to recovery procedures

## PART V

## REFUNDS AND RELIEF FROM TAX

54. Refund of excess tax
55. Tax paid in excess may be set off against additional tax when assessment reopened
56. Power of Commissioner in respect of small amounts
57. Relief from additional tax
58. Relief in cases of serious hardship
59. Appropriation of refunds

## PART VI

## PENALTIES

60. Penalty for failure to furnish returns, etc.

61. Proceedings to be taken summarily
62. Information may charge several offences
63. Information may be laid within 10 years
64. Penal tax in case of evasion
65. Nature of penal tax
66. Assessment of penal tax
67. Objections to penal tax
68. Recovery of penal tax
69. Recovery of penal tax from executors or administrators
70. Recovery of penal tax not affected by conviction of taxpayer
71. Publication of names of tax evaders

## PART VII

## AGENTS

72. Meaning of term "absentee"
73. Agent to make returns and be assessed as principal
74. Rate and amount of tax payable by agent
75. Liability of principal not affected
76. Agent may recover tax from principal
77. Assessment deemed authority for payment of tax by agent
78. Agents to be personally liable for payment of tax
79. Person having control of land or of rents and profits to be agent of absentee or person under disability
80. Liability of new companies for tax payable by former companies with substantially same shareholders or under same control

## PART VIII

## GENERAL PROVISIONS

81. Regulations
82. Power to extend time for doing anything under Act
83. Repeals and savings Schedule

## A BILL INTITULED

## An Act to consolidate the law relating to land tax

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, commencement, etc.—(1) This Act may be cited as the Land Tax Act 1976.

(2) This Act shall come into force on the 1st day of April 1977, and shall, except as otherwise provided herein, apply with respect to the land tax for the year of assessment commencing on that date and for every subsequent year.

5 (3) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1974, and the First Schedule to that Act is hereby accordingly amended by adding a reference to this Act.

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“Additional tax” means additional tax charged under section 49 of this Act:

15 “Agent” means any person declared by this Act to be an agent for the purposes of land tax:

“Annual taxing Act” means an Act by which the rates of land tax are determined for any year:

“Basic rates” means the rates of land tax specified in the Schedule to this Act:

20 “Business” includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit:

“Charitable purpose” includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community:

25 “Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1974; and “District Commissioner” means a District Commissioner of Inland Revenue as defined in that Act:

30 “Company” means any body corporate, whether incorporated in New Zealand or elsewhere; but does not include a local or public authority:

35 “Encumbrance” means in respect of an estate or interest in land any trust, contract, easement, condition, or contingency affecting the same, and any restriction, howsoever imposed, on the owner’s power of user, alienation, or disposition:

40 “Estate” or “interest” means any estate or interest in land, whether legal or equitable, and whether vested or contingent, in possession, reversion, or remainder; and includes any right to the possession of land or to the receipt of the rents or profits thereof, or to the

- proceeds of the sale or other disposition thereof, whether immediate or through a trustee, or otherwise howsoever; but does not include a mortgage:
- “European” means any person other than a Maori; and includes a body corporate: 5
- “Friendly society” means any society registered or incorporated in New Zealand under any Act relating to friendly societies, industrial unions, industrial associations, or trade unions:
- “Land owned” means an estate or interest owned in land, or deemed to be so owned by virtue of the provisions of this Act: 10
- “Lease” means any disposition whatever by which a leasehold estate is created:
- “Leasehold estate” includes any estate, howsoever created, other than a freehold estate: 15
- “Local authority” means a borough, county, and other body corporate possessing rating powers in New Zealand, and any Harbour Board, Hospital Board, Education Board, or other incorporated instrument of local government in New Zealand, whether possessing rating powers or not: 20
- “Maori” means a person who is a Maori within the meaning of the Maori Affairs Act 1953:
- “Maori land” means Maori freehold land within the meaning and for the purposes of the Maori Affairs Act 1953: 25
- “Minerals” includes all minerals, metals, coal, oil, kauri gum, clay, stone, gravel, sand, and precious stones:
- “Minister” means the Minister of Finance: 30
- “Mortgage” means any mortgage, charge, or other security whether legal or equitable; and includes any rentcharge or annuity, and for the purposes of this definition all unpaid purchase money in respect of any estate or interest in land shall be deemed to be charged thereon: 35
- “Mortgagee” means the owner of a mortgage:
- “New Zealand” includes the continental shelf as defined in section 2 of the Continental Shelf Act 1964:
- “New Zealand company” means a company incorporated in New Zealand: 40

5 “Notice” means a notice in writing given by causing the same to be delivered to any person, or to be left at his usual or last known place of abode or business in New Zealand or elsewhere, or to be sent by post addressed to that usual or last known place of abode or business, or if there are several such places of business, then to any of them:

“Overseas company” means any company other than one incorporated in New Zealand:

10 “Owner of land” means a person who is the owner, or is deemed by virtue of this Act to be the owner, of any estate or interest in land, whether separately or jointly or in common with any other person; and “to own land” means to be the owner of land as so defined:

15 “Penal tax” means penal tax charged under section 64 of this Act:

“Person” includes a company and a local or public authority; and also includes an unincorporated body of persons:

20 “Possession” includes any use which is in fact or effect substantially exclusive, whether by virtue of a right of exclusive occupation or not:

“Prescribed” means prescribed by regulations under this Act or by the Commissioner:

25 “Public authority” means the Public Trustee, the Maori Trustee, and every other department or instrument of the Executive Government of New Zealand:

30 “Shareholder” includes any member of a company, whether the capital of that company is divided into shares or not; and “share” includes any interest in the capital of a company:

“Tax” means land tax:

35 “Taxation Review Authority” or “Authority” means a Taxation Review Authority established under the Inland Revenue Department Act 1974:

“Taxpayer” means a person chargeable with land tax, whether on his own account or as the agent or trustee of any other person; and includes the executor or administrator of a deceased taxpayer:

40 “Trustee” includes an executor and administrator; and also includes the Public Trustee and the Maori Trustee:

“Year” means a year commencing on the 1st day of April and ending with the 31st day of March, both of these days being included:

“Year of assessment” means the year for which land tax is payable. 5

Cf. 1954, No. 67, s. 2

## PART I

### VALUATION OF LAND

**3. Assessment of tax**—Land tax shall be assessed on the unimproved value of the land owned by the taxpayer as determined in accordance with this Part of this Act. 10

Cf. 1954, No. 67, s. 46

**4. Meaning of terms “unimproved value” and “improvements”**—(1) The unimproved value of any land so owned means the sum which the owner’s estate or interest therein, if free from any mortgage or encumbrance, might have been expected to have realised on the 31st day of March 1970, whether or not the estate or interest was in existence on that date, if it had been offered for sale on such reasonable terms and conditions as a bona fide seller might have been expected to impose and if no improvements had been made on the land. 15 20

(2) The term “improvements” has the same meaning as in the Valuation of Land Act 1951 (as in force immediately before the commencement of the Valuation of Land Amendment Act (No. 2) 1970). 25

Cf. 1954, No. 67, s. 47; 1971, No. 146, s. 3 (1)

**5. Unimproved value shown on district roll to be adopted**—(1) Subject to the following provisions of this Part of this Act, if the unimproved value of any land appears on the district valuation roll in force under the Valuation of Land Act 1951 on the 31st day of March 1970, whether in the name of the taxpayer or of any predecessor in title, trustee, or other person, the unimproved value so appearing on that roll shall be deemed and be taken to be the unimproved value of that land on that day for the purposes of this Act. 30 35

(2) When a new valuation of land has been made by the Valuer-General pursuant to section 41 of the Valuation of Land Act 1951, and the application for the new valuation was made on or after the 1st day of April 1969 and before

the 1st day of April 1970, the amended value shall for the purposes of this Act be deemed to be the value appearing on the valuation roll on the 31st day of March 1970, notwithstanding that the new valuation may not then have been  
5 actually made.

Cf. 1954, No. 67, s. 48; 1971, No. 146, s. 3 (2) (a), (3)

**6. Value of minerals and trees to be excepted from unimproved value**—(1) Notwithstanding anything hereinbefore contained, the unimproved value of land shall not for the purposes of this Act include the value of any minerals or trees.  
10

(2) The Valuer-General shall, in all cases in which the value of any minerals or trees is included in the unimproved value as shown on the district valuation roll, show separately on that roll the value so included, and in such cases the remaining  
15 value only shall for the purposes of this Act be deemed to be the unimproved value as shown on the said roll.

Cf. 1954, No. 67, s. 49

**7. Apportionment of unimproved value**—(1) If the valuation appearing on the district valuation roll relates to an area  
20 of land a part only of which is assessable for the purposes of land tax, or different parts of which are assessable at different rates or require for any reason to be separately valued for the purposes of this Act, the unimproved value as appearing on that roll shall for the purposes of this Act be apportioned in  
25 such manner as may be just and reasonable between the several parts of that area, and the value so attributed to each part shall be deemed to be the unimproved value thereof for the purposes of this Act.

(2) Every such apportionment shall be made as follows:

30 (a) The Commissioner, if satisfied that the value of any such part as stated in the return made by the taxpayer represents a just and reasonable apportionment, may accept that value and make the assessment accordingly:

35 (b) The Commissioner may agree with the taxpayer as to the apportionment to be made, and may make the assessment accordingly:

(c) In default of any such acceptance or agreement the apportionment shall be made by the Valuer-General  
40 on the requisition of the Commissioner, and the assessment shall be made in accordance with that apportionment.

Cf. 1954, No. 67, s. 50



**8. Special valuation on request of Commissioner**—(1) If, in the case of any estate or interest in land, no valuation there-  
of appears on the district valuation roll in force on the 31st  
day of March 1970, or if the valuation thereof on the district  
valuation roll is made otherwise than in accordance with the  
provisions of this Act for the valuation of land for the purposes  
of land tax, the Valuer-General shall, on the requisition of the  
Commissioner and for the purposes of this Act, cause a special  
valuation of the unimproved value of that estate or interest to  
be made in accordance with the provisions of this Act as at  
the 31st day of March 1970, and the unimproved value of  
that estate or interest on that day shall for the purposes of this  
Act be determined in accordance with the valuation so made.

(2) The Commissioner shall, on receipt of the special  
valuation, give notice to the taxpayer of the amount of the  
unimproved value of the estate or interest.

(3) Any taxpayer who is dissatisfied with any special  
valuation made by the Valuer-General under subsection (1)  
of this section may, within one month after the date on which  
notice has been given to him under subsection (2) of this  
section, or within such extended time as the Commissioner  
may allow, object to that special valuation by delivering or  
posting to the Commissioner a written notice of objection  
stating shortly the grounds of his objection and the value  
which he contends should be the unimproved value of the  
estate or interest.

(4) The Commissioner shall thereupon forward the objec-  
tion to the Valuer-General, and sections 20 to 23 of the  
Valuation of Land Act 1951, as far as they are applicable  
and with any necessary modifications, shall apply to the  
objection:

Provided that the owner of the estate or interest shall  
not have any right to object to the special valuation or to  
have served on him any notice required to be served under  
those sections unless he is also the taxpayer.

(5) If, as a result of the objection, any alteration is made  
to the special valuation, the Valuer-General shall notify the  
Commissioner, who shall redetermine the unimproved value  
of the estate or interest accordingly.

(6) No alteration shall be made to the district valuation  
roll in consequence of any special valuation made for the  
purposes of this section.

(7) Notwithstanding anything in subsection (6) of this  
section, where the unimproved value of any estate or interest

in land has been determined or redetermined pursuant to this section, that unimproved value shall be deemed for the purposes of this Act to appear on the district valuation roll in force on the 31st day of March 1970.

5 Cf. 1954, No. 67, s. 51; 1971, No. 146, ss. 3 (2) (a), 4

**9. Mode of determining unimproved value at date other than 31 March**—Whenever for the purposes of this Act it is necessary to determine the unimproved value of land at any date other than the 31st day of March 1970, that value shall  
10 be determined in accordance with this Part of this Act, save that all references to the 31st day of March 1970 shall be read as references to the date as at which the value is to be determined.

Cf. 1954, No. 67, s. 52; 1971, No. 146, s. 3 (2) (b)

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**PART II**

**IMPOSITION OF LAND TAX**

**10. Land tax imposed**—(1) Subject to this Act, there shall be levied and paid, for the use of the Crown, in and for the year commencing on the 1st day of April in each year, a tax  
20 herein referred to as land tax.

(2) Subject to this Act, land tax shall be payable by every person on all land of which he was the owner at noon on the 31st day of March preceding the year in and for which the tax is payable (herein referred to as the year of assessment).

25 (3) Land tax shall be assessed, levied, and paid at such rate or rates as may be fixed from time to time by any Act to be passed for that purpose (herein referred to as the annual taxing Act).

Cf. 1954, No. 67, s. 53

30 **11. Tax to be levied on total unimproved value less exemptions**—Subject to this Act, land tax shall in the case of each owner be levied at the rate or rates aforesaid on the total unimproved value of all land so owned by him after making, by way of special exemption from that value, the  
35 deduction following, namely:

(a) Where that value does not exceed \$60,000, a deduction of \$60,000:

40 (b) Where that value exceeds \$60,000, a deduction of \$60,000 diminished at the rate of \$1 for every dollar of that excess, so as to leave no deduction when that value amounts to or exceeds \$120,000.

Cf. 1954, No. 67, s. 54; 1968, No. 4, s. 7 (1)

**12. Alternative exemption in cases of hardship or widows with dependent children—**(1) Instead of the special exemption provided for in section 11 of this Act, in any case where the Commissioner is satisfied that the total income of the owner from all sources, whether in New Zealand or elsewhere, during the year preceding the year of assessment did not exceed \$600, and that by reason of age, ill health, or other disability he is incapacitated from earning any further income, and that payment of the land tax in full would cause hardship, the Commissioner may allow by way of special exemption a deduction not exceeding \$5,000.

(2) Instead of the special exemptions hereinbefore provided for, the Commissioner may, in his discretion, where he is satisfied that a taxpayer is a widow having a child or children wholly or partly dependent on her for support, and that payment of the land tax in full would cause hardship, allow by way of special exemption a deduction not exceeding \$8,000.

Cf. 1954, No. 67, s. 55

**13. Tax on unimproved land—**(1) For the purposes of this section the term “unimproved land” means land on which there are not, on the 31st day of March immediately preceding the year of assessment, improvements of a value equal to \$5 a hectare or equal to one-third of the unimproved value, whichever is the less, and which in the opinion of the Commissioner it is reasonable should have been improved to that extent.

(2) This section shall not apply with respect to land situated in a borough, but applies to all other unimproved land as hereinbefore defined.

(3) This section shall apply separately to all lands of a taxpayer forming one continuous area or separated at their nearest points by a distance not exceeding 5 kilometres in a straight line.

(4) Notwithstanding anything in section 11 of this Act, no deductions by way of special exemption under that section shall be made in respect of any unimproved land to which this section applies and of which the taxpayer has been the owner for 3 years or upwards.

(5) In respect of any unimproved land to which this section applies and of which the taxpayer has been the owner for 3 years or upwards the rate of land tax shall be 50 percent more than the rate fixed by the annual taxing Act in respect of other lands.

Cf. 1954, No. 67, s. 56; 1973, No. 30, s. 37 (a) (b)

**14. Liability of life tenant**—The owner of any life estate or of any other freehold estate less than the fee simple shall be deemed for the purposes of this Part of this Act to be the owner of the fee simple to the exclusion of any person entitled  
5 in reversion or remainder, and shall be assessed and liable for land tax accordingly.

Cf. 1954, No. 67, s. 57

**15. Joint owners to be assessed jointly**—(1) Whenever 2 or more persons (hereinafter called joint owners) own land  
10 jointly or in common, whether as partners or otherwise, they shall be assessed and liable for land tax in accordance with this section.

(2) The joint owners shall be jointly assessed and liable in respect of the land so owned by them jointly or in common  
15 (hereinafter called the joint estate) as if it were owned by a single person, without regard to their respective interests in the land, and without taking into account any land owned by any one of them in severalty, or jointly or in common with any other person.

20 (3) One special exemption only shall be allowed to the joint owners in respect of all land so owned by them jointly or in common.

Cf. 1954, No. 67, s. 58

**16. Joint owners to be severally assessed also**—(1) In  
25 addition to the assessment under section 15 of this Act, each joint owner shall be assessed and liable in respect of his individual interest in the joint estate, together with any other land owned by him in severalty, and with his individual interests in any other land.

30 (2) In the case of each joint owner there shall be deducted from the tax so payable by him under this section (so far as that tax exceeds the land tax that would be payable by him if he owned no interest in any joint estate) his share of the tax so payable in respect of the joint estate.

35 (3) The share of a joint owner in the tax so payable in respect of the joint estate shall bear the same proportion to the amount of that tax as his interest in the joint estate bears to the whole value of that estate.

Cf. 1954, No. 67, s. 59

**17. Limitation of special exemptions in cases of joint ownership**—(1) No joint owner assessed under sections 15 and 16 of this Act shall be entitled to a greater special exemption in the aggregate than the special exemption to which he would be entitled if he were assessed only under section 16 of this Act, and in any such case the Commissioner shall, if and so far as necessary, reduce the exemptions otherwise allowable under either of those sections. 5

(2) For the purposes of this section, but not otherwise, any special exemption allowed in respect of a joint assessment shall be apportioned between the owners in proportion to the interest of each of them in the land in respect of which the exemption is so allowed. 10

Cf. 1954, No. 67, s. 60

**18. Liability of shareholders of company**—(1) For the purposes of this section— 15

(a) The term “business premises” means any piece of land included within the area of a building used for business purposes, together with such additional land as immediately adjoins that building and is used and occupied in connection therewith and does not exceed in extent the area of the building itself. When any area so adjoining a building and used and occupied in connection therewith exceeds the area of the building, the Commissioner shall from time to time determine, as he thinks fit, what part of that adjoining area, equal to the area of the building, shall be deemed to be business premises: 20 25

(b) A building shall be deemed to be used for business purposes if it is exclusively or principally used, whether by the owner or by any occupier or occupiers, for the purposes of any business: 30

(c) The term “shareholder” shall include all persons on whose behalf a share in the company is held by a trustee or by any other person. 35

(2) For the purposes of this Part of this Act all land owned by a company shall be deemed (though not to the exclusion of the liability of the company or of any other person) to be owned in common by the shareholders of that company in the proportions which their interests in the paid-up capital of the company bear to the total paid-up capital; and the 40

said shareholders shall be individually assessed and liable for land tax accordingly in the manner provided by section 16 of this Act, and shall be entitled to the same deduction as is therein provided; and all references in that section to a joint  
 5 assessment shall be read as references to the assessment of the company.

(3) No shareholder shall be liable to land tax under this section if his assessable interest, calculated in accordance with this section, in the land (other than business premises)  
 10 owned by the company is less than \$1,000.

Cf. 1954, No. 67, s. 61

**19. Two or more companies with substantially same shareholders**—(1) For the purposes of this section, 2 or more companies shall, in relation to any year of assessment, be  
 15 deemed to consist substantially of the same shareholders, if—

(a) The aggregate of the prescribed proportions of the paid-up capital, or of the nominal value of the allotted shares, or of the voting power, in each of those companies which is held by the same persons at noon on the 31st day of March immediately preceding that year of assessment is not less than two-thirds of the paid-up capital, or of the nominal value of the allotted shares, or of the voting power, as the case may be, in each of those companies; or  
 20  
 25  
 (b) The aggregate of the prescribed proportions of the undistributed profits of each of those companies to which the same persons would be entitled if those profits of each of those companies were distributed by way of dividend at noon on the 31st day of March immediately preceding that year of assessment is not less than two-thirds of those profits of each of those companies.  
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(2) For the purposes of subsection (1) of this section, section 186 (1) of the Income Tax Act 1976 shall, with any necessary modifications, apply in the same manner as it applies for the purposes of section 186 of that Act.  
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(3) If 2 or more companies consist substantially of the same shareholders, those companies shall be deemed for the  
 40 purposes of land tax to be a single company, and shall be

jointly assessed and jointly and severally liable accordingly, with such right of contribution or indemnity between themselves as is just.

Cf. 1954, No. 67, s. 62; 1969, No. 28, s. 5 (1)

**20. Liability of joint occupiers—**(1) Without limiting in any way the meaning of the term “joint occupation”, 2 or more persons shall be deemed to occupy lands jointly within the meaning of this section if those lands are occupied, worked, or managed by any one or more of those persons on behalf of all of them or on a joint account, or if those lands are occupied, worked, or managed by any other person as trustee for or otherwise on behalf of all of those persons. 5 10

(2) When 2 or more persons own land in severalty but occupy it jointly, whether as partners or on joint account or otherwise, the same land tax shall be payable by them and by each of them as if they owned the whole of the land jointly, in the proportions which the unimproved values of the lands so severally owned bear to one another, and for the purposes of this Part of this Act they shall be deemed to be joint owners of those lands accordingly. 15 20

Cf. 1954, No. 67, s. 63

**21. Liability of buyer in possession—**Where an agreement has been made for the sale of land, whether before or after the commencement of this Act, the buyer shall be deemed to be the owner of the land for the purposes of this Part of this Act (though not to the exclusion of the liability of any other person) so soon as he has obtained possession of the land so purchased, although the agreement has not yet been completed by conveyance. 25 30

Cf. 1954, No. 67, s. 64

**22. Seller to remain liable until possession delivered—**(1) When any agreement has been made for the sale of land, whether before or after the commencement of this Act, and whether the agreement has been completed by conveyance or not, the seller shall be deemed to remain the owner of the land for the purposes of this Part of this Act (though not to the exclusion of the liability of any other person) until possession of the land has been delivered to the purchaser and at least 15 percent of the purchase money has been paid: 35

Provided that in any case in which possession has been so delivered, but less than 15 percent of the purchase money has been paid, it shall be lawful for the Commissioner to exempt the seller from the provisions of this section if the  
5 Commissioner is satisfied that the agreement for sale has been made in good faith and not for the purpose of evading the payment of land tax, and that the agreement is still in force.

(2) In estimating the amount of purchase money which  
10 has been so paid all money owing by the purchaser to the seller and secured by any mortgage or other charge on the land, and all money lent to the purchaser by the seller, and all money owing by the purchaser to any other person and directly or indirectly guaranteed by the seller, shall be  
15 deemed to be unpaid purchase money.

(3) When by virtue of this section and section 21 of this Act the buyer and seller of land are both liable for land tax in respect thereof, there shall be deducted from the tax so payable by the seller in respect of the land the amount of the  
20 tax payable in respect thereof by the buyer.

(4) Nothing in this section applies to any agreement of sale made, whether before or after the commencement of this Act, by a seller who at the date of that agreement was not the owner of land the unimproved value of which, including  
25 the unimproved value of the land so sold by him, was more than \$80,000.

Cf. 1954, No. 67, s. 65

**23. No disposition of land to exempt from tax while possession retained**—No conveyance, transfer, declaration of trust,  
30 settlement, or other disposition of land (whether made before or after the commencement of this Act) shall be effective so as to exempt the person making the same, so long as he remains or is in possession or in receipt of the rents or profits of any such land (whether on his own account or on account  
35 of any other person), from any land tax which would have become payable in respect of that land had no such conveyance, transfer, declaration of trust, settlement, or disposition taken place; and for the purposes of this Part of this Act the person so making the same shall, while he remains or is so in  
40 possession of the land or in receipt of the rents or profits thereof, be deemed (though not to the exclusion of the liability of any other person) the owner of the land.

Cf. 1954, No. 67, s. 66



**24. Liability of equitable owners**—Subject to this Part of this Act, the owner of any equitable estate in land shall be assessed and liable in respect of land tax as if the estate so owned by him were legal, but there shall be deducted from the tax so payable by him in respect of that estate the amount of any land tax paid in respect thereof by the legal owner of the land. 5

Cf. 1954, No. 67, s. 67

**25. Liability of trustees**—(1) Any person owning land as a trustee shall be assessed and liable in respect of land tax as if he were beneficially entitled to the land, save that when he is the owner of different lands in severalty in trust for different beneficial owners who are not, by reason of joint occupation or otherwise, liable to be jointly assessed for land tax in respect of the same, the tax so payable by him shall be separately assessed in respect of each of those lands; and save also that when a trustee is also the beneficial owner of other land he shall be separately assessed in respect of that land and of the land of which he is a trustee, unless, by reason of joint occupancy or for any other reason, he is liable to be jointly assessed independently of this section. 10 15 20

(2) Notwithstanding anything in this section, a trustee may be assessed for land tax in respect of the interest of any beneficiary in the land owned by the trustee at the rate at which the beneficiary himself is liable to be assessed when, by reason of the ownership of other land, or his absence from New Zealand, or for any other reason, the beneficiary is liable to be assessed at a higher rate than that at which the trustee would be assessed independently of this section. 25

(3) For the purpose of any special exemption to be allowed either to the trustee or to the beneficial owner the land shall be deemed to be owned by the beneficial owner, and the exemptions shall be allowed or apportioned by the Commissioner accordingly in such manner as he deems just and reasonable. 30 35

(4) When land is held by the Crown in trust the beneficiaries under that trust shall make returns and be assessable and liable for land tax as if their interests were legal.

Cf. 1954, No. 67, s. 68

**26. Liability of mortgagees in possession**—A mortgagee in possession of land shall be deemed for the purposes of this Part of this Act, so long as that possession continues (though not to the exclusion of the liability of any other person),  
5 to be the beneficial owner of the estate or interest which is subject to the mortgage, and shall be liable for land tax accordingly; but there shall be deducted from the tax so payable by him the amount of land tax (if any) paid in respect of that estate or interest by the mortgagor:  
10 Provided that in each of the 5 years of assessment immediately following the year in which the mortgagee entered into possession the Commissioner shall, if satisfied that the mortgagee is in possession solely for the purpose of  
15 furthering the realisation of his security, assess him separately in respect of the estate or interest of which he is deemed to be the beneficial owner as aforesaid.

Cf. 1954, No. 67, s. 69

**27. Adjustments in cases of double taxation**—Whenever double taxation is imposed by this Act on the same estate or  
20 interest in land by reason of that estate or interest being owned or deemed to be owned by more than one person, and no provision is made in this Act for such a deduction as will prevent that double taxation, the Commissioner may make such deduction or other adjustment as he deems just and  
25 necessary for the avoidance of the double taxation.

Cf. 1954, No. 67, s. 71

**28. Increase of tax of absentee taxpayers**—(1) Every person shall be deemed to be an absentee for the purposes of this section unless he has been personally present in New  
30 Zealand for at least one-half of the period of 4 years immediately preceding the year of assessment:

Provided that no person who has acquired all his land in New Zealand within the said period of 4 years shall be deemed to be an absentee if he has been personally present  
35 in New Zealand for at least one-half of the period which has elapsed between the time when he first acquired any of that land and the commencement of the year of assessment:

Provided also that no person who is absent from New Zealand in the service in any capacity of the Government of New  
40 Zealand, nor the wife of any such person if she is absent from New Zealand with him, shall by reason of that absence be deemed to be an absentee within the meaning of this section.

(2) Every taxpayer who on the 31st day of March in the year preceding the year of assessment is an absentee within the meaning of this section shall be assessed and liable for land tax to an amount greater by 50 percent than the amount for which he would have been assessed independently of this section, including in the last-mentioned amount his share of any land tax for which he is assessable jointly with any other taxpayer, whether an absentee or not, and the annual taxing Act shall be read and construed accordingly. 5

(3) This section shall not apply to companies, but shall apply to shareholders in companies in accordance with section 18 of this Act. 10

(4) Where any shareholder in a company is assessable as an absentee for land tax in respect of the land of the company, the company shall be deemed for the purposes of this Part of this Act to be the agent of the shareholder, and shall be liable to pay on his behalf the land tax payable by him so far as it relates to the land of the company, and all the provisions of this Act as to agents shall apply accordingly: 15

Provided that no tax shall be so recovered from the company unless a written demand therefor has been made upon the company by the Commissioner within one year from the due date of the tax, and while the taxpayer continues to remain a shareholder of the company. 20

(5) No trustee assessed as such shall be deemed to be an absentee. 25

Cf. 1954, No. 67, s. 72

**29. Exemption of certain classes of land**—(1) Land shall be exempt from land tax in the following cases, and to the following extent: 30

- (a) Land owned by or in trust for a local or public authority other than the Public Trustee or the State Insurance General Manager: 30
- (b) Land owned by or in trust for a university, college, high school, secondary school, or other public educational institution in New Zealand not carried on for the private pecuniary profit of any individual: 35
- (c) Land owned by or in trust for a friendly society, a registered building society, or a trustee savings bank established under the Trustee Savings Banks Act 1948: 40

- (d) Land owned by or in trust for a society incorporated under the Agricultural and Pastoral Societies Act 1908 and used by that society as a showground or place of meeting:
- 5 (e) Land owned by or in trust for any company and used by that company as the permanent way of a public railway or tramway, or for yards and buildings used for the purposes of the traffic on any such railway or tramway, or for the purpose of providing access to any such railway, tramway, yards, or buildings as aforesaid:
- 10 (f) Land owned by or in trust for a society incorporated under the Libraries and Mechanics' Institutes Act 1908 and used by that society as a site for the purposes of the society:
- 15 (g) Land owned by or in trust for any society or trustees and used by the society or trustees (otherwise than for the private pecuniary profit of any individual) as the site of a public library, public museum, public cemetery or burial ground, public recreation ground, or public garden, domain, or reserve:
- 20 (h) Land owned by or in trust for any society or institution established exclusively for charitable purposes, and not carried on for the private pecuniary profit of any individual, if the land is used as a site for the purposes of that society or institution:
- 25        Provided that if any such site exceeds 7 hectares in extent this exemption shall be limited to 7 hectares thereof to be selected by the Commissioner:
- 30 (i) Maori customary land within the meaning of the Maori Affairs Act 1953:
- (j) Crown land or other land administered by the Land Settlement Board and held as a small grazing run or for pastoral purposes, and any other land reserved, set apart, or granted by the Crown as endowments and occupied for pastoral purposes:
- 35 (k) Land owned by trustees on account of a superannuation fund:
- 40 (l) Land used solely or principally for the purposes of a business of—
- (i) Animal husbandry (including poultry-keeping, bee-keeping, and the breeding of horses); or
- (ii) Growing fruit, vegetables, or other crop-producing plants; or
- 45

(iii) Horticulture; or

(iv) Viticulture:

Provided that the exemption in this paragraph shall not extend to land used for the purposes of a racecourse within the meaning of the Racing Act 1971 or to land used solely or principally for the purposes of forestry or silviculture. 5

(2) The benefit of the exemptions provided by paragraphs (a) to (k) of subsection (1) of this section shall in each case be limited to the owner specified in those paragraphs, and shall not extend to any other person who is the owner of any estate or interest in the land (whether as purchaser, lessee, or otherwise howsoever), nor shall it extend to land held by an owner specified in the said paragraphs in trust for an owner not so specified. 10 15

(3) For the purposes of the proviso to paragraph (1) of subsection (1) of this section, land on which are planted trees solely or principally to provide shelter or to prevent erosion or otherwise for agricultural or pastoral purposes shall be deemed not to be land used for the purposes of forestry or silviculture. 20

Cf. 1954, No. 67, s. 73; 1970, No. 40, s. 4 (1), (2); 1973, No. 30, s. 37 (c)

**30. Reduction of tax in certain cases—**(1) Notwithstanding anything in this Part of this Act, the amount of the land tax chargeable for any year in respect of any land to which this section applies, in so far as that land is not exempt from land tax by virtue of section 29 of this Act, shall be the greater of the following amounts: 25

(a) Twentyfive percent of the amount that would be chargeable in respect thereof if this section did not apply; or 30

(b) The amount that would be chargeable in respect thereof if the rate of land tax were 5c for every \$24 of the unimproved value on which land tax is payable. 35

(2) This section applies to the following classes of land:

(a) Land owned or occupied by or in trust for any society or association of persons, whether incorporated or not, if the land is used for games or sports other than horse racing or trotting, and is not used for the private pecuniary profit of any individual: 40

(b) Land owned by or in trust for any religious society, if the land or the rents or profits thereof are used exclusively for charitable purposes, and if the principal purpose for which the society is established is the teaching, maintenance, or advancement of religion:

(c) Land vested in the Masterton Trust Lands Trustees:

(d) Land vested in the Greytown Trust Lands Trustees:

(e) Land vested in the Trustees of Cornwall Park, Auckland.

Cf. 1954, No. 67, s. 74; 1965, No. 124, s. 17

**31. Tax on Maori land**—(1) No Maori shall be chargeable with land tax in respect of his interest in Maori land unless the land is, as to his interest therein, in the occupation or possession of some person other than the Maori owner or a trustee for him.

(2) A Maori shall be chargeable with land tax in respect of his interest in Maori land at 50 percent of the rate applicable to European land if the Maori land is, as to his interest therein, in the occupation or possession of any person other than the Maori owner or a trustee for him:

Provided that no Maori shall, for any year of assessment, be chargeable with an amount of land tax in respect of his interest in Maori land in excess of 10 percent of the total revenue derived or derivable from that land in respect of the year ending with the 31st day of March preceding the year of assessment.

(3) A European shall be chargeable with land tax in respect of any interest owned by him in Maori land in the same manner and to the same extent as if it were not Maori land.

(4) If any Maori land is held by a trustee (not being a Maori) in trust for the Maori owner, the tax shall be payable on behalf of the Maori owner by the trustee. In all other cases the tax shall be payable on behalf of the Maori owner by any owner of a leasehold estate or interest in the land.

(5) This section shall apply to the trustee of a Maori in the manner in which it applies to that Maori himself.

(6) All land owned by the East Coast Commissioner on the 24th day of October 1952 (being the date of the passing of the Land and Income Tax Amendment Act 1952), shall for the purposes of assessing land tax be deemed to be and to have always been Maori land within the meaning of this

Act, unless and until it has ceased to be Maori land at any time after that date, whether before or after the commencement of this Act.

Cf. 1954, No. 67, s. 75

### PART III

5

#### RETURNS AND ASSESSMENTS

**32. Annual returns by taxpayers**—For the purposes of the assessment and levy of land tax every taxpayer shall in each year furnish to the Commissioner a return in the prescribed form setting forth a complete statement of all land in respect whereof he is assessable for land tax, as owned by him at noon on the 31st day of March in the preceding year, together with such other particulars as may be prescribed. 10

Cf. 1954, No. 67, s. 6

**33. Returns by executors or administrators**—(1) The executor or administrator of a deceased taxpayer shall in respect of all land owned by that taxpayer in his lifetime make the same returns as the taxpayer ought to have made or would have been bound to make if he had remained alive; and the Commissioner may from time to time require the executor or administrator to make such further returns relative to that land as the Commissioner thinks necessary, and may assess the executor or administrator for land tax on that land in the same manner in which the taxpayer might have been assessed had he remained alive. 15  
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(2) The tax so assessed shall be deemed to be a liability incurred by the deceased taxpayer in his lifetime, and the executor or administrator of the taxpayer shall be liable for the same accordingly.

Cf. 1954, No. 67, s. 11

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**34. Other annual returns**—In addition to the foregoing returns every person, whether a taxpayer or not, shall make to the Commissioner such annual returns as may be prescribed for the purposes of this Act.

Cf. 1954, No. 67, s. 13

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**35. Commissioner may require other returns to be made**—In addition to the returns above mentioned every person, whether a taxpayer or not, shall, as and when required by the Commissioner, make such further or other returns as the Commissioner requires for the purposes of this Act. 40

Cf. 1954, No. 67, s. 15

**36. Dates by which annual returns to be furnished—**(1) The annual returns of land required under this Act shall be furnished to the Commissioner not later than the 7th day of May in each year.

5 (2) The Commissioner shall give public notice of the days by which the returns are required to be furnished by publishing the notice in such manner as he thinks fit; but the omission to give any such notice shall not affect the liability of any person to furnish any return within the time prescribed by  
10 this section in that behalf.

Cf. 1954, No. 67, s. 14 (3), (4); 1959, No. 95, s. 3 (1);  
1963, No. 140, s. 3

**37. Presumption as to authority—**A return purporting to be made by or on behalf of any person shall for all purposes  
15 be deemed to have been made by that person or by his authority, as the case may be, unless the contrary is proved.

Cf. 1954, No. 67, s. 16

**38. Commissioner to make assessments—**From the returns made as aforesaid and from any other information in his  
20 possession the Commissioner shall in and for every year, and from time to time and at any time thereafter as may be necessary, make assessments in respect of every taxpayer of the amount on which tax is payable and of the amount of that tax.

25 Cf. 1954, No. 67, s. 17; 1967, No. 19, s. 4

**39. Assessment upon disposal before payment date—**  
(1) Where the owner of any land as at noon on the 31st day of March preceding any year of assessment disposes or intends to dispose of the land before the due date of  
30 the payment of land tax in respect thereof, the Commissioner may, if he thinks fit, either before or after the passing of the annual taxing Act or the due date for the payment of land tax, require the original owner to make a return under section 32 of this Act of all land whereof he is assessable for land tax  
35 for that year of assessment, and may assess him for land tax either in respect of all such land or, as he thinks fit, in respect of so much thereof as has been or is to be disposed of as aforesaid.

(2) Any person so assessed shall have the same right of  
40 objection as if he had been assessed in the ordinary course.



(3) Tax so assessed shall be payable on demand, which may be made in and by the notice of assessment or at any later date, and the tax shall be recoverable in the same manner as land tax assessed in the ordinary course.

(4) If any assessment of land tax made under this section 5 is made before the passing of the annual taxing Act by which the rate of land tax is fixed, the tax shall be assessed at the rate fixed by the annual taxing Act last passed before the date of the assessment.

(5) No assessment made under this section shall in any 10 manner preclude a subsequent assessment of the same person in the ordinary course, but in any such case the tax paid under the earlier assessment shall be credited in the subsequent assessment.

(6) On application in writing made by or on behalf of 15 any person who would be liable for the payment of any land tax assessed under this section in the event of default in the payment of that tax being made by the person primarily liable therefor, the Commissioner may give to the first-mentioned person notice of the amount for which he would 20 be so liable if default were made as aforesaid.

Cf. 1954, No. 67, s. 70

**40. Assessment where default made in furnishing returns—**

If any person makes default in furnishing any return, or if the Commissioner is not satisfied with the return made by 25 any person, or if the Commissioner has reason to suppose that any person, although he has not made a return, is a taxpayer, he may make an assessment of the amount on which in his judgment tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, 30 save in so far as he establishes on objection that the assessment is excessive or that he is not chargeable with tax.

Cf. 1954, No. 67, s. 19

**41. Amendment of assessments—**(1) The Commissioner may from time to time and at any time make all such altera- 35 tions in or additions to an assessment as he thinks necessary in order to ensure the correctness thereof, notwithstanding that tax already assessed may have been paid.

(2) If any such alteration or addition has the effect of imposing any fresh liability or increasing any existing liability, 40 notice thereof shall be given by the Commissioner to the taxpayer affected.

Cf. 1954, No. 67, s. 22

**42. Limitation of time for amendment of assessment—**

(1) When any person has made returns and has been assessed for land tax for any year, it shall not be lawful for the Commissioner to alter the assessment so as to increase the amount thereof after the expiration of 4 years from the end of the year in which the assessment was made.

(2) Notwithstanding subsection (1) of this section, in any case where, in the opinion of the Commissioner, the returns so made are fraudulent or wilfully misleading, it shall be lawful for the Commissioner to alter the assessment (being an assessment made on or after the 1st day of April 1958, whether before or after the commencement of this Act) at any time so as to increase the amount thereof.

Cf. 1954, No. 67, s. 24; 1968, No. 4, s. 5 (1), (4), (5)

**43. Validity of assessments not affected by failure to comply with Act—**The validity of an assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

Cf. 1954, No. 67, s. 25

**44. Assessments deemed correct except in proceedings on objection—**Except in proceedings on objection to an assessment under section 47 of this Act, no assessment made by the Commissioner shall be disputed in any Court or in any proceedings (including proceedings before a Taxation Review Authority) either on the ground that the person so assessed is not a taxpayer or on any other ground; and, except as aforesaid, every such assessment and all the particulars thereof shall be conclusively deemed and taken to be correct, and the liability of the person so assessed shall be determined accordingly.

Cf. 1954, No. 67, s. 26; 1960, No. 38, s. 2 (2)

**45. Evidence of returns and assessments—**The production of any document under the hand of the Commissioner or a District Commissioner purporting to be a copy of or extract from any return or assessment shall in all Courts and in all proceedings (including proceedings before a Taxation Review Authority) be sufficient evidence of the original, and the production of the original shall not be necessary, and all Courts and Taxation Review Authorities shall in all proceedings take judicial notice of the signature of the Commissioner or District Commissioner either to the original or to any such copy or extract.

Cf. 1954, No. 67, s. 27; 1960, No. 38, s. 2 (2)

**46. Notice of assessment to taxpayer—**(1) As soon as conveniently may be after an assessment is made the Commissioner shall cause notice of the assessment to be given to the taxpayer:

Provided that where—

- (a) The taxpayer has, in his return to which the assessment relates, calculated the amount on which tax is payable or the amount of the tax; or
- (b) The assessment has been made on default by the taxpayer in furnishing any return for the year to which the assessment relates; or
- (c) The Commissioner causes a separate statement in relation to the assessment to be given to the taxpayer setting forth the amount on which tax is payable and the amount of the tax,—

it shall not be necessary to set forth in the notice of the assessment any particulars other than particulars as to the amount of tax to be paid by the taxpayer or the amount of tax to be refunded, as the case may require.

(2) The omission to give any such notice shall not invalidate the assessment or in any manner affect the operation thereof.

Cf. 1954, No. 67, s. 28; 1967, No. 19, s. 5

**47. Objections to assessments—**(1) Subject to the provisions of this section, an assessment made under this Part of this Act shall be subject to objection in the same manner as an assessment of income tax levied under section 38 of the Income Tax Act 1976, and of sections 30 to 35 of that Act, as far as they are applicable and with any necessary modifications, shall apply to an objection to an assessment made under this Part of this Act as if—

- (a) Every reference in the said sections 30 to 34 to income tax or to tax were a reference to land tax; and
- (b) Every reference in the said section 35 to income were a reference to land.

(2) Except so far as may be expressly provided to the contrary in this Act, subsection (1) of this section shall not confer any right of objection with respect to—

- (a) Any decision or determination of the Commissioner made in exercise of any power or discretion conferred upon him to enlarge or extend the time for

giving any notice, making any application, furnishing any return, or doing any other act, matter, or thing:

- 5 (b) Any matter which is left to the discretion, judgment, opinion, approval, consent, or determination of the Minister or any act, matter, or thing done or omitted by the Minister under or pursuant to any of the provisions of this Act or of any regulations made under this Act:
- 10 (c) Any matter in respect of which provision is made by this Act or by any regulations made under this Act—
- 15 (i) For the matter to be inquired into, considered, reported upon, heard, decided, determined, or otherwise dealt with by; or
- (ii) For the matter to be the subject of any recommendation of—
- 20 any special committee, tribunal, or authority (other than a Taxation Review Authority) established in that behalf or any person or official (other than the Commissioner):
- (d) Any matter which by any provision in Part III (other than section 42), Part IV, Part V, Part VI, Part VII, or Part VIII of this Act is left to the discretion, judgment, opinion, approval, consent, or determination of the Commissioner:
- 25 (e) Any valuation or apportionment made by the Valuer-General under the Valuation of Land Act 1951 or this Act:
- 30 (f) Any matter in respect of which it is expressly provided in this Act, or in any provision of the Income Tax Act 1976 applied to land tax by this Act, that there shall be no right of objection to the decision or determination of the Commissioner.
- 35 Cf. 1954, No. 67, s. 35; 1960, No. 38, s. 2 (1); 1962, No. 4, s. 7 (2); 1965, No. 18, s. 12 (2)

#### PART IV

##### PAYMENT AND RECOVERY OF TAX

40 **48. Payment of tax**—Land tax shall be due and payable for any year of assessment in one sum on the 7th day of October in that year.

Cf. 1954, No. 67, s. 204 (1); 1972, No. 17, s. 36 (1), (5) (a)

**49. Additional tax to be charged if default made in payment of tax—**(1) Subject to this section, if any tax remains unpaid at the expiration of one month after the due date thereof (whether already assessed or not), or after the date of demand, as the case may be, 10 percent on the amount of the tax unpaid shall be and be deemed to be added thereto by way of additional tax, and shall be payable accordingly: 5

Provided that where any tax remaining unpaid as aforesaid is paid within 3 months after the due date thereof (whether already assessed or not), or after the date of demand, as the case may be, 50 percent of the amount added by way of additional tax as aforesaid to the tax so paid shall be remitted. 10

(2) In any case in which an assessment is not made until after the due date of the tax, or is increased after the due date of the tax, and the Commissioner is satisfied that the taxpayer has not been guilty of wilful neglect or default in making due and complete returns for the purposes of that tax, the Commissioner shall in his notice to the taxpayer of the assessment or amended assessment, or in any subsequent notice, fix a new date for the payment of the tax or of the increase, as the case may be, and the date so fixed shall be deemed to be the due date of that tax or increase for the purposes of subsection (1) of this section. 15 20

(3) Where the taxpayer is resident beyond New Zealand and has no agent in New Zealand, the Commissioner shall, before charging the additional tax as aforesaid, grant such further time, not exceeding 6 months after the due date of the tax, as he may deem necessary. 25

Cf. 1954, No. 67, s. 208; 1956, No. 52, s. 12; 1957, No. 93 s. 89 (d) 30

**50. Name of owner of land not known—**Whenever, after reasonable inquiry to the satisfaction of the Commissioner, the name of the owner of any land cannot be ascertained, the following provisions shall apply:

(a) He shall be assessed for land tax under the designation of "the owner" of that land: 35

(b) Proceedings for the recovery of that tax may be taken and judgment may be given against him and enforced under the designation aforesaid:

(c) Good service of any notice, summons, or writ may be effected on him by affixing the same or a sealed copy or duplicate thereof on a conspicuous part of any land to which the tax relates, any Act or rule of Court to the contrary notwithstanding.

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Cf. 1954, No. 67, s. 218

**51. Recovery of tax from persons other than owner of land—**(1) When land tax has been assessed and has become due and payable in respect of any land, and the taxpayer has made default in payment thereof, the Commissioner may thereupon or at any time thereafter, so long as the default continues, by notice in writing, demand payment of the tax from any of the following persons, who shall thereupon become personally liable in the same manner as the taxpayer:

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(a) Any person who is at the time of demand the owner at law or in equity of the estate or interest in respect of which the tax was assessed, as the successor in title of the taxpayer:

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(b) Any person who is at the time of demand a tenant of the land, holding under the taxpayer or his successor in title:

(c) Any person who is at the time of demand a mortgagee of the estate or interest in respect of which the tax was assessed.

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(2) If the land so held by a successor in title or tenant, or so subject to a mortgage, is only part of the land in respect of which the tax was assessed, the tax shall for the purposes of this section be apportioned by the Commissioner in such manner as he deems just, and the liability of the successor in title, tenant, or mortgagee shall be determined accordingly.

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(3) All payments made under this section by any person on whom demand has been so made shall be deemed to be made on behalf of the taxpayer.

Cf. 1954, No. 67, s. 219

**52. Unpaid tax to constitute charge on land—**(1) Land tax which has been assessed and has become due and payable in respect of any land (whether before or after the commencement of this Act) shall be a charge on the land in respect of which it is payable.

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(2) Subject to this subsection, every charge created by this section shall have priority over all existing or subsequent mortgages, charges, or encumbrances, and the land on which any charge is created under this section shall continue to be

subject to the charge, notwithstanding any disposition of the land. Notwithstanding anything in any other Act, if any land subject to a charge created by this section is also subject to a charge created by that other Act, the charges shall rank equally with each other unless by virtue of that Act the charge created thereby would be deferred to the charge created by this section. 5

(3) The Commissioner may, at any time before any charge created by this section has been discharged or has lapsed as provided in subsection (5) of this section, register the charge by depositing with the District Land Registrar or Registrar of Deeds, as the case may require, in the land registration district in which the land is situated, a certificate under his hand referring to the land charge and stating that there are arrears of land tax payable in respect thereof, and the Registrar shall thereupon, without payment of any fee, register the certificate accordingly. No disposition of any estate or interest in any land shall be registered while a charge under this section is registered against the land. 10 15

(4) For the purpose of enforcing any charge registered under this section the Supreme Court may make such order as it thinks fit, either for the sale of the estate or interest that is subject to the charge, or for the appointment of a Receiver, or otherwise howsoever, and any order for sale shall be carried into effect by the Sheriff in the same manner as in the case of a writ of sale, with any modifications that may be necessary or may be provided for by rules of Court in that behalf. 20 25

(5) Every charge created by this section on any land in respect of any land tax shall, if it has not been sooner discharged, lapse at the end of the year next following the year of assessment for which the tax is payable unless at that time the tax is secured by a charge previously registered against the land under this section: 30

Provided that if, owing to the failure of the taxpayer to furnish a complete return of the land owned by him, a correct assessment of land tax is not made before the time specified in this subsection, that time shall be deemed to be extended to the end of the year next following the year in which a correct assessment of the tax is made. 35 40

(6) Notwithstanding anything in section 51 of this Act, no demand may be made by the Commissioner under that section in respect of any land tax at any time after the charge created by this section in respect of that tax has lapsed under subsection (5) of this section. 45

(7) Upon payment of all tax for the time being secured by any charge registered under this section the Commissioner shall cause a release of the charge to be registered. On the registration of any such release there shall be payable to the  
 5 District Land Registrar or Registrar of Deeds, as the case may require, a registration fee of \$1, or, if the maximum amount of land tax secured by the charge at any one time was less than \$1, a registration fee equal to that maximum amount:

10 Provided that, in special circumstances, and on the recommendation of the Commissioner, a release may be registered without payment of a registration fee.

(8) The fees prescribed by this section shall be payable by the owner of the land charged or other person by whom the  
 15 land tax secured by the charge was payable, and shall be paid in the first instance to the Commissioner.

(9) Application for the registration of a release shall be made by the Commissioner in writing, and in the application the Commissioner shall certify that the registration fee has  
 20 been paid, or, if the case so requires, shall recommend that the release be registered without payment of a registration fee.

Cf. 1954, No. 67, s. 220

**53. Application of certain provisions of Income Tax Act 1976 relating to recovery procedures—Sections 384 and 386**  
 25 **to 393** of the Income Tax Act 1976, as far as they are applicable and with any necessary modifications, shall apply for the purposes of this Act, as if—

(a) Every reference in those provisions to tax were a reference to land tax; and

30 (b) The reference to an assessment in the said section 390 were a reference to an assessment made under Part III of this Act; and

(c) For the words “this Act” wherever they occur in the said sections 392 and 393, there were substituted the  
 35 words “the Land Tax Act 1976”.

## PART V

### REFUNDS AND RELIEF FROM TAX

**54. Refund of excess tax—**(1) In any case where the Commissioner is satisfied that tax has been paid in excess of the  
 40 amount properly payable, he shall refund the amount paid in excess:



Provided that, subject to subsection (2) of this section, no refund shall be made under this section after the expiration of the period of 8 years immediately after the end of the year in which the assessment was made or, in any case where the original assessment has been altered (whether once or more than once), after the end of the year in which the original assessment was made, unless written application for the refund is made by or on behalf of the taxpayer before the expiration of that period. 5

(2) In any case where an assessment has been altered so as to increase the amount of tax payable and the Commissioner is satisfied that by reason of that alteration tax has been paid in excess of the amount properly payable, he shall, notwithstanding that the time limited in accordance with subsection (1) of this section for the making of a refund may have expired, refund the amount so paid in excess by reason of that alteration: 10 15

Provided that, in any such case, no refund shall be made under this section after the expiration of the period of 8 years immediately after the end of the year in which the alteration was made, unless written application for the refund is made by or on behalf of the taxpayer before the expiration of that period. 20

Cf. 1954, No. 67, s. 223; 1966, No. 28, s. 41 (1); 1968, No. 48, s. 41 (1), (3) 25

**55. Tax paid in excess may be set off against additional tax when assessment reopened—**(1) In any case where, upon the investigation by the Commissioner of the liability of a taxpayer for tax over a group of successive years,—

(a) The Commissioner assesses the taxpayer with tax for any year of assessment in respect of which no assessment has been made previously or alters an assessment for any year so as to increase the amount thereof; and 30

(b) The Commissioner is satisfied that in respect of any year or years of assessment within that group of years tax has been paid in excess of the amount properly payable,— 35

the Commissioner may, in his discretion and to the extent that in his opinion is equitable, allow any amount so paid in excess to be deducted from or set off against any tax due and 40

unpaid for any year or years within that group of years, notwithstanding that the time limited for the making of a refund of any tax so paid in excess may have expired.

(2) This section shall apply with respect to tax assessed whether before or after the commencement of this Act and whether under this Act or under the land tax provisions of any former Act.

Cf. 1954, No. 67, s. 223A; 1958, No. 5, s. 36; 1966, No. 28, s. 41 (2)

10 **56. Power of Commissioner in respect of small amounts—** Notwithstanding anything in this Act, the Commissioner may, in his discretion, refrain from either issuing a notice of assessment or collecting or refunding tax in any case where, as the case may be—

- 15 (a) The balance of any tax payable does not exceed \$2; or  
(b) The tax paid or deducted exceeds the amount of the tax for which the taxpayer is liable by an amount not exceeding 50c.

Cf. 1954, No. 67, s. 223B; 1964, No. 122, s. 48

20 **57. Relief from additional tax—**(1) On application for relief made in writing by or on behalf of any taxpayer who (whether before or after the commencement of this Act) has become liable for the payment of any additional tax under section 49 of this Act, the Commissioner, if having regard to  
25 the circumstances of the case he thinks it equitable so to do, may, subject to this section, grant relief to the taxpayer—

- (a) By the remission of the whole or part of the additional tax; or  
30 (b) Where the additional tax has been paid in whole or in part, by the refund to the taxpayer of the whole or any part of that tax that has been paid, with or without the remission of any part of the additional tax that has not been paid.

(2) No amount of tax in excess of \$500 in any case shall  
35 be remitted or refunded under this section except with the approval of the Minister given either specifically with respect to that case, or generally with respect to a class of cases.

Cf. 1954, No. 67, s. 225; 1969, No. 28, s. 21

**58. Relief in cases of serious hardship—**(1) In any case where it is shown to the satisfaction of the Commissioner—

(a) That any taxpayer has suffered such loss or is in such circumstances that the exaction of the full amount of the tax has entailed or would entail serious hardship; or 5

(b) That, owing to the death of any person who if he had not died would have been liable to pay tax, the dependants of that person are in such circumstances that the exaction of the full amount of the tax has entailed or would entail serious hardship,— 10

he may, subject to this section, release the taxpayer or the executor or administrator of the deceased taxpayer (as the case may be) wholly or in part from his liability, and may make such alterations in the assessment as are necessary for that purpose; and may, if the tax as previously assessed or any part thereof has been already paid, refund any tax paid in excess of the amount of the assessment as altered under this section. 15 20

(2) No amount of tax in excess of \$500 shall be remitted or refunded under this section except with the approval of the Minister.

Cf. 1954, No. 67, s. 226 (1), (2); 1969, No. 28, s. 22

**59. Appropriation of refunds—**Any refund of tax under this Act may be made without further appropriation than this section. 25

Cf. 1954, No. 67, s. 227

## PART VI

### PENALTIES

30

**60. Penalty for failure to furnish returns, etc.—**(1) Every person commits an offence against this Act who—

(a) Refuses or fails to furnish any return or information as and when required by this Act or the regulations made thereunder, or by the Commissioner; or 35

(b) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the Commissioner or any other officer, in relation to any matter or thing affecting his own or any other person's liability to land tax; or 40

- (c) Obstructs any officer acting in the discharge of his duties or in the exercise of his powers under this Act; or
- 5 (d) Acts in contravention of or, without lawful justification or excuse, fails to comply in any respect with any provision of this Act or of the regulations made thereunder or any requirement imposed under this Act or the regulations; or
- 10 (e) Aids, abets, or incites any other person to commit any offence against this Act or against any regulation made thereunder.

(2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable to a fine not exceeding \$200 and not less than \$4.

Cf. 1954, No. 67, s. 228

- 15 **61. Proceedings to be taken summarily**—All proceedings for offences against this Act shall be taken by way of summary prosecution before a Magistrate, and only upon the information of the Commissioner, or of some person authorised in writing by the Commissioner in that behalf, and the signature of the Commissioner to any warrant of authority under
- 20 this section shall be judicially noticed.

Cf. 1954, No. 67, s. 229; 1957, No. 93, s. 88

- 25 **62. Information may charge several offences**—(1) Any information may charge the defendant with any number of offences against this Act or the land tax provisions of any former Act (whether committed before or after the commencement of this Act), if those offences are founded on the same set of facts, or form or are part of a series of offences of the same or a similar character.

30 (2) Where any information charges more than one such offence, particulars of each offence charged shall be set out separately in the information.

(3) All such charges shall be heard together, unless the Court, either before or at any time during the hearing, considers it just that any charge should be heard separately and

35 makes an order to that effect.

Cf. 1954, No. 67, s. 229A; 1958, No. 5, s. 38

- 40 **63. Information may be laid within 10 years**—Notwithstanding anything in the Summary Proceedings Act 1957 or in any other Act, any information in respect of any offence

against this Act or against any regulation made thereunder may be laid at any time within 10 years after the termination of the year in which the offence was committed.

Cf. 1954, No. 67, s. 230

**64. Penal tax in case of evasion**—If any taxpayer evades, or attempts to evade, or does any act with intent to evade, or makes default in the performance of any duty imposed upon him by this Act or the regulations thereunder with intent to evade, the assessment or payment of any sum which is or may become chargeable against him by way of tax (which sum is hereinafter referred to as the deficient tax), he shall be chargeable, by way of penalty for that offence, with additional tax (hereinafter called penal tax) not exceeding an amount equal to treble the amount of the deficient tax.

Cf. 1954, No. 67, s. 231

**65. Nature of penal tax**—Subject to this Part of this Act, penal tax shall for all purposes be deemed to be tax of the same nature as the deficient tax, and shall be deemed to be payable in and for the same year of assessment as the deficient tax.

Cf. 1954, No. 67, s. 232

**66. Assessment of penal tax**—(1) The penal tax shall be assessed by the Commissioner in the same manner, so far as may be, as the deficient tax, but separately therefrom.

(2) An assessment of penal tax may be amended from time to time in the same manner as any other assessment.

(3) It shall be lawful for the Commissioner to make or amend an assessment of penal tax (being an assessment which relates to deficient tax for the year of assessment that commenced on the 1st day of April 1958 or for any subsequent year) at any time.

Cf. 1954, No. 67, s. 233; 1968, No. 4, s. 5 (3), (6)

**67. Objections to penal tax**—(1) Any assessment of penal tax shall be subject, in the same manner as any other assessment of tax, to objection on the ground that the person so assessed is not chargeable with penal tax, or on the ground that the amount so assessed is excessive having regard to the nature and degree of the offence or to the reason for the

imposition of the penal tax, and notwithstanding that the amount so assessed is not in excess of treble the amount of the deficient tax:

5 Provided that, where the person so assessed is chargeable with penal tax, the amount of penal tax assessed by the Commissioner shall not be reduced by a Taxation Review Authority or any Court below the smaller of the following amounts:

(a) The amount of penal tax so assessed:

10 (b) An amount calculated, in respect of the period commencing with the last day of the year of the assessment for which the deficient tax is payable and ending with the day on which the assessment of the penal tax is made by the Commissioner, at the rate  
15 of 10 percent per annum of the amount of the deficient tax.

(2) Subject to subsection (1) of this section, the provisions of section 47 of this Act as to objections shall apply to an objection to an assessment of penal tax, save that the burden  
20 of proving the offence in respect of which penal tax is chargeable shall lie upon the Commissioner.

Cf. 1954, No. 67, s. 234; 1960, No. 38, s. 3 (1)

**68. Recovery of penal tax**—(1) An assessment of penal tax may be made and the tax so assessed shall be recoverable  
25 at any time, whether before or after the passing of the annual taxing Act by which the rate of the deficient tax is determined, and whether before or after the deficient tax has been assessed, or has become assessable or payable, or has been paid.

(2) When an assessment of penal tax is made before the  
30 passing of the annual taxing Act by which the rate of the deficient tax is determined, the deficient tax shall for that purpose be estimated by reference to the rate determined by the last preceding annual taxing Act.

Cf. 1954, No. 67, s. 235

**69. Recovery of penal tax from executors or administrators**—(1) Penal tax shall be assessable against and recoverable  
35 from the executors or administrators of a deceased taxpayer, but, if so assessed, the amount thereof shall be recoverable only as a debt incurred by the deceased in his  
40 lifetime.

(2) No penal tax shall be recoverable from any person other than the taxpayer himself, or his executors or administrators.

Cf. 1954, No. 67, s. 236

**70. Recovery of penal tax not affected by conviction of taxpayer**—The assessment or recovery of penal tax in respect of any offence shall not be in any manner barred or affected by the fact that the taxpayer has been convicted under this Act of the same or any other offence; but no person who has paid the penal tax assessed against him for any offence shall be thereafter convicted of the same offence.

Cf. 1954, No. 67, s. 237

**71. Publication of names of tax evaders**—(1) The Commissioner shall from time to time publish in the *Gazette* a list of persons who—

- (a) Have been convicted under section 60 (1) (b) of this Act of wilfully making any false return, or of giving any false information, or misleading or attempting to mislead the Commissioner, in relation to any matter or thing affecting their own or any other person's liability to land tax; or
- (b) Have been charged with penal tax under section 64 of this Act.

(2) The Commissioner may, in his discretion, omit from any list published under this section any reference to any taxpayer to whom subsection (1) of this section applies if the Commissioner is satisfied that, before any investigation or inquiry has been commenced in respect of the offence or evasion of which the taxpayer is guilty, the taxpayer has voluntarily disclosed to the Commissioner or to any officer authorised by the Commissioner in that behalf complete information and full particulars as to the offence or evasion.

(3) Every list published under this section shall specify—

- (a) The name, address, and occupation or description of the taxpayer;
- (b) Such particulars of the offence or evasion as the Commissioner thinks fit;
- (c) The year or years in which the offence or evasion occurred:

- (d) The amount or estimated amount of the tax evaded:
- (e) The amount (if any) of the penal tax imposed.
- (4) A copy of every list published under this section shall be laid before Parliament.

5 Cf. 1954, No. 67, s. 238; 1957, No. 93, s. 89 (f)

## PART VII

### AGENTS

72. **Meaning of term "absentee"**—In this Part of this Act the term "absentee" means—

- 10 (a) Any person (other than a company) who is for the time being out of New Zealand:
- (b) Any overseas company unless it has a fixed and permanent place of business in New Zealand at which it carries on business in its own name:
- 15 (c) Any overseas company which is declared by the Commissioner to be an absentee for the purposes of this Act by notice given to that company or to its agent or attorney in New Zealand, so long as that declaration remains unrevoked.

20 Cf. 1954, No. 67, s. 173

73. **Agent to make returns and be assessed as principal**—

Every agent shall make returns of the land in respect of which he is an agent, and shall be assessed thereon in the same manner as if he were the principal, save that he shall be entitled

25 to no special exemption or rebate other than such exemption or rebate (if any) as his principal may be entitled to.

Cf. 1954, No. 67, s. 174; 1974, No. 129, s. 37 (2)

74. **Rate and amount of tax payable by agent**—Except where otherwise expressly provided by this Act, the rate of tax

30 for which an agent shall be so assessed and liable shall be determined by reference to the total taxable land of the principal, but it shall be charged and payable only on the land in respect of which the agency exists, and in the same proportion as that land bears to the total taxable land of the principal.

35 Cf. 1954, No. 67, s. 175

75. **Liability of principal not affected**—(1) Nothing in this Act relating to an agent shall be so construed as to release the principal from liability to make returns and to be assessed and chargeable with tax.



(2) No assessment of the agent shall preclude an assessment of the principal for the same tax, nor shall an assessment of the principal preclude an assessment of the agent for the same tax, and the principal and agent shall be jointly and severally liable for all tax for which the agent is liable. 5

(3) When 2 or more persons are liable to be assessed as agents in respect of the same tax, they shall be jointly and severally liable therefor.

Cf. 1954, No. 67, s. 176

**76. Agent may recover tax from principal**—When an agent 10  
pays any tax he may recover the amount so paid from his principal, or may deduct the amount from any money in his hands belonging or payable to his principal.

Cf. 1954, No. 67, s. 177

**77. Assessment deemed authority for payment of tax by 15  
agent**—An assessment made by the Commissioner shall, as between an agent and his principal, be a sufficient authority for the payment by the agent of the tax so assessed, and the agent shall be entitled as against his principal to reimbursement accordingly. 20

Cf. 1954, No. 67, s. 179

**78. Agents to be personally liable for payment of tax**—  
(1) Every agent shall be personally liable for the tax on the land in respect of which he is an agent.

(2) When the Commissioner is satisfied that an agent has 25  
no money of his principal with which he can pay the tax, and that he has not paid away any such money after notice of the assessment of the tax, and that immediate enforcement of payment by the agent would be a cause of hardship, the Commissioner may allow the agent such further period for 30  
the payment thereof, not exceeding 6 months after the date of the notice of assessment, as the Commissioner thinks necessary, and the additional tax imposed by section 49 of this Act on taxpayers in default shall not accrue until the expiry of the period so allowed. 35

Cf. 1954, No. 67, s. 180

**79. Person having control of land or of rents and profits to be agent of absentee or person under disability**—Every person who on the 31st day of March in any year has the control or management of any land, or the receipt, control, or 40

disposal of the rents or profits thereof, on behalf of an owner of that land who is an absentee or is under any legal disability, shall for the purposes of this Act be the agent of the owner in respect of land tax payable in and for the next succeeding  
5 year, and shall make returns and be assessable and liable for that tax accordingly.

Cf. 1954, No. 67, s. 183

**80. Liability of new companies for tax payable by former companies with substantially same shareholders or under  
10 same control—**(1) In this section—

“Company” means a New Zealand company or an overseas company within the meaning of this Act:

“New company” means a company carrying on business in New Zealand and consisting substantially of the  
15 same shareholders as an original company or being under the control of the same persons as an original company:

“Original company” means a company which, having at any time carried on business in New Zealand, has,  
20 whether before or after the commencement of this Act, ceased to carry on business in New Zealand; and includes any such company that has been wound up.

(2) Where an original company within the meaning of this section has been wound up, its shareholders and directors, as  
25 on the commencement of its winding up, shall respectively be deemed to be the shareholders and the persons having the control of the company for the purposes of this section.

(3) Where an original company as hereinbefore defined was, when it ceased to carry on business in New Zealand,  
30 liable under this Act for any land tax or was liable to be assessed for any such tax, and that tax has not been paid, the new company shall, for the purposes of this Act, be deemed to be the agent of the original company and shall be liable for all tax payable by the original company. It shall also be  
35 liable for all tax for which the original company would have been liable if it had continued to carry on business in New Zealand.

Cf. 1954, No. 67, s. 185

## PART VIII

## GENERAL PROVISIONS

**81. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations, not inconsistent with this Act, for all or any of the following purposes: 5

- (a) Prescribing the duties and functions of officers and other persons appointed or employed under this Act:
- (b) Prescribing the form of returns to be made, the particulars to be set forth therein, the persons by whom and the time when or within which such returns 10 are to be made, and the forms of the assessments, notices, and other documents referred to in this Act or necessary in order to give effect thereto:
- (c) Providing, where there is no provision in this Act or no sufficient provision in respect of any matter or 15 thing necessary to give effect to this Act, in what manner and form the deficiency shall be supplied:
- (d) Making any provision which may be convenient for the administration of this Act or which may be 20 desirable or necessary in order to carry its objects into full effect.

Cf. 1954, No. 67, s. 243

**82. Power to extend time for doing anything under Act**—

(1) If anything required by or under this Act to be done at or within a fixed time cannot be or is not so done, the 25 Governor-General, by Order in Council, may from time to time appoint a further or other time for doing the same, whether the time at or within which the same ought to have been done has or has not expired.

(2) Anything done at or, as the case may be, within the 30 time prescribed by any such Order in Council shall be as valid as if it had been done at or, as the case may be, within the time fixed by or under this Act.

Cf. 1954, No. 67, s. 244

**83. Repeals and savings**—(1) The enactments specified in 35 the Seventh Schedule to the Income Tax Act 1976 in so far as they relate to land tax are hereby repealed.

(2) The Valuation of Land Amendment Act (No. 2) 1970 is hereby consequentially amended by repealing section 8 (4) (as substituted by section 3 (4) of the Land and Income Tax 40 Amendment Act 1971).

(3) For all purposes whatsoever in respect of any land tax which at the commencement of this Act has been already assessed or paid, or is still assessable or payable, in or for the year of assessment ending with the 31st day of March 5 1976, or in or for any previous year, in accordance with the provisions of any enactment hereby repealed or amended, that enactment and all the provisions thereof, including its penal provisions, and all regulations, warrants, and other acts of authority originating thereunder, shall, notwithstanding 10 the repeal or amendment thereof, be deemed to remain in full force and effect; and all proceedings under any such enactment, including proceedings for the recovery of any fine or penalty in respect of any offence committed, whether before or after the commencement of this Act, may be instituted or 15 continued accordingly as if the enactment concerned had not been repealed or amended.

(4) All proceedings in respect of offences committed or alleged to be committed against any enactment hereby repealed or amended before the commencement of this Act 20 may be instituted or continued as if this Act had not been passed.

SCHEDULE

Section 2

BASIC RATES OF LAND TAX

The basic rates of land tax shall be as follows:

On so much of the unimproved value on which land tax is payable as—	The rate of tax for every \$1 shall be—
Does not exceed ..... \$20,000 .....	$\frac{5}{12}c$
Exceeds ..... \$20,000 but does not exceed \$30,000	$\frac{5}{8}c$
Exceeds ..... \$30,000 but does not exceed \$40,000	$1\frac{1}{4}c$
Exceeds ..... \$40,000 .....	$1\frac{3}{8}c$