

Serial Number 1946/74



THE LAND AND INCOME TAX REGULATIONS 1946

MICHAEL MYERS,
Administrator of the Government

ORDER IN COUNCIL

At the Government House at Wellington, this 22nd day of
May, 1946

Present :

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN
COUNCIL

PURSUANT to the Land and Income Tax Act, 1923, His Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

1. These regulations may be cited as the Land and Income Tax Regulations 1946.

2. In these regulations, unless the context otherwise requires,—

“ The Act ” means the Land and Income Tax Act, 1923 :

“ Authorized officer ” means any person who is authorized by the Commissioner to receive returns, notices, applications, or documents required by the Act or these regulations to be posted, delivered, or otherwise sent to the Commissioner :

“ Person ” includes a company and a local or public authority.

3. (1) The regulations made under the Act and specified in the Schedule hereto are hereby revoked.

(2) All acts of authority which originated under any of the regulations hereby revoked, and are subsisting or in force on the commencement of these regulations, shall enure for the purposes of these regulations as if they had originated under the corresponding provisions of these regulations, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings commenced under any of the regulations hereby revoked, and pending or in progress on the commencement of these regulations, may be continued and completed under these regulations.

Office Hours

4. The office of any Receiver of Land-tax and Income-tax shall, except on public holidays and on Saturdays, be open daily to the public for the transaction of business from 9.30 a.m. to 12 noon and from 1 p.m. to 3.30 p.m., or during such other hours as the Commissioner may prescribe.

Returns

5. Except as otherwise prescribed, every return of land under this Act shall—

- (a) Be made and furnished in the form prescribed by the Commissioner for the purpose :
- (b) Contain the information and particulars mentioned or referred to in that form :
- (c) Be verified by declaration as therein set forth.

6. Except as otherwise prescribed, every return of income under this Act shall—

- (a) Be made and furnished in such of the forms prescribed by the Commissioner for the purpose as is applicable :
- (b) Contain the information and particulars mentioned or referred to in that form :
- (c) Be verified by declaration as therein set forth :
- (d) Be accompanied by all such balance-sheets, profit and loss accounts, statements, and other documents as are mentioned in the form or are otherwise required by the Commissioner.

7. Any further or other return which a person is required to make or furnish to the Commissioner in pursuance of section 9 or section 11 of the Act or in pursuance of any other statutory provision shall, unless the form is prescribed by the statutory provision, be made and furnished in the form prescribed by the Commissioner.

8. Annual returns of land shall be made by all owners of land of an unimproved value exceeding £500 as assessed under the Valuation of Land Act, 1925, whether the owners are taxpayers or not.

9. (1) Annual returns of income shall be made—

- (a) By all companies and all persons in business (including farming) whether for the whole or part of the income year, irrespective of whether a profit has been made or a loss incurred ; and
- (b) By all other persons, whether taxpayers or not, who derive income from salary, wages, interest, rent, annuity, dividend, or other sources where the total income so derived exceeds £200 per annum.

(2) Any person or company required under subclause (1) hereof to make a return or returns shall include in the return or returns made the whole of the income derived by that person or company.

10. A return setting forth a full and complete statement of the income derived by every partnership during the income year, irrespective of whether a profit has been made or a loss incurred, shall be made in the name of the partnership and furnished by the partners or by any of them.

11. Every partner in a partnership shall make a separate return of his individual income, if any (excluding the income from the partnership).

12. A return setting forth a full and complete statement of the income derived by every trust during the income year, irrespective of whether a profit has been made or a loss incurred, shall be made in the name of the trust and furnished by the trustees or by any of them.

13. Every person liable to furnish a return as agent for any person shall furnish a separate return for each person for whom he is agent, in addition to his own individual return.

14. The Commissioner may at any time accept a return or form which is substantially in accordance with the form prescribed.

15. (1) All returns of land or income and any other returns required by the Act or these regulations to be furnished to the Commissioner shall be furnished by posting or delivering the same to the Superintendent or other authorized officer at such office of the Land and Income Tax Department or at such other place as the Commissioner may direct.

(2) Such direction may be given by the insertion of a general direction in any return form prescribed for use in any year of assessment or in such other manner as the Commissioner thinks fit.

16. A return shall not be deemed to have been duly furnished to the Commissioner unless and until—

(a) The proper form signed as required by the Act or these regulations and containing a full, true, and complete statement of all matters and things required to be stated therein by the Act, these regulations, the Commissioner, or the form itself; and

(b) All balance-sheets, profit and loss accounts, statements, notices, and other documents which by the Act, these regulations, or the Commissioner are required to accompany the return,—

have been received at the place where or by the person to whom under these regulations the return is required to be furnished.

17. Whenever a person is required by the Act, these regulations, or the Commissioner to furnish a return to the Commissioner, it shall be the duty of that person to procure and make the required return and to take all steps necessary to ensure that the return is received at the place where or by the person to whom under these regulations the return is required to be furnished.

18. (1) Every person who furnishes a return shall, in the return, state his postal address, and shall, within one month of any change in his postal address, give to the Commissioner at the place where he furnished his return, notice in writing of the change, and of his new postal address.

(2) The posting of any notice addressed to a person at the last address given by him pursuant to this regulation shall be sufficient service of notice on him for the purposes of the Act and these regulations.

19. The notice to be given by the Commissioner pursuant to section 10 of the Act of the date or dates on which returns of land and income are required to be made shall be in such form as the Commissioner may prescribe, and shall be published in the *Gazette* not less than fourteen days before the date or before any date on which any such return is required to be furnished.

Assessments

20. The Commissioner shall make assessments for land-tax and income-tax, and shall give notice of every such assessment to the taxpayer in such form as is prescribed by the Commissioner.

Objections

21. An objection to an assessment of land-tax or of income-tax shall be posted to or lodged with the Superintendent or other authorized officer at the address from which the notice of assessment objected to was issued.

Appeals from Assessments

22. In these regulations the term "appeal" means a proceeding in a Magistrate's Court under Part III of the Act for the determination of an objection made under the Act to an assessment of land-tax or income-tax, and the term "appellant" means the person by whom any such objection has been made.

23. Every appeal shall be instituted in such Magistrate's Court as the Commissioner selects, having due regard to the convenience of the appellant.

24. The parties to the appeal shall be the appellant and the Commissioner as respondent.

25. (1) For the purpose of every appeal the Commissioner shall state and sign a case setting forth the facts as alleged by him, the nature of the assessment made by him, the ground of objection thereto, and the question for the determination of the Court.

(2) The case, so stated and signed, shall be filed by the Commissioner in the Magistrate's Court so selected by him, and the filing of the case shall be deemed to be the institution of the appeal.

(3) A copy of the case so filed shall be sent by the Commissioner to the appellant, either through the post-office or otherwise.

26. Within fourteen days after the filing of the case by the Commissioner, or within such further time as the Commissioner may allow, the appellant may, if he thinks fit, file an answer to the case. The answer shall set forth the facts as alleged by the appellant and the grounds of his appeal.

27. The case as stated and filed by the Commissioner shall not be conclusive as to the matters set forth therein, either against the appellant or the Commissioner, except so far as agreed to in writing by or on behalf of the Commissioner and the appellant.

28. After the filing of the case by the Commissioner a Magistrate or the Clerk of the Court in which the case is filed shall, on the application of the Commissioner or of the appellant, appoint a time and place for the hearing of the appeal, that time not being earlier (except with the consent of the Commissioner and the appellant) than twenty-one days after the date of the filing of the case.

29. Reasonable notice by post or otherwise of the time and place so appointed shall be given by the person on whose application the appointment has been made to the other party to the appeal.

30. At the time and place so appointed a Magistrate, or, in the absence of a Magistrate, the Clerk of the Court, may adjourn the hearing to any other time or place, and so on from time to time.

31. If either party fails to appear at the hearing, the Court shall in its discretion either adjourn the hearing or determine the appeal in the same manner as if both parties were present.

32. The procedure at the hearing of the appeal shall be the same, with all necessary modifications, as if the appeal were an action in which the appellant is the plaintiff and the Commissioner is the defendant.

Miscellaneous

33. In any proceedings against a person for refusing or failing to furnish any return or information as and when required by the Act or these regulations, or by the Commissioner, a certificate in writing signed by the Commissioner, Deputy Commissioner, Second Deputy Commissioner, or a Superintendent certifying that the return or information so required has not been received from that person at the place where or by the person to whom the return or information should have been furnished, shall, in the absence of proof to the contrary, be sufficient evidence that the defendant has refused or failed to furnish the return or information.

34. Every application to the Commissioner to exempt the seller of any lands from the provisions of section 61 of the Act shall be supported by a statutory declaration in such form as may be prescribed by the Commissioner.

35. The notice to be given to the Commissioner, pursuant to section 68 of the Act, that any person has ceased to be the owner of any land shall be given in such form as may be prescribed by the Commissioner.

36. Any certificate of payment of income-tax shall be in such form as may be prescribed by the Commissioner.

37. (1) The security that may be required of a non-resident trader or non-resident agent pursuant to section 110 of the Act shall be in such form as may be prescribed by the Commissioner.

(2) Where the security required is by way of deposit the Commissioner shall give a receipt therefor in such form as may be prescribed by the Commissioner.

38. (1) The return required by section 164 of the Act to be made by employers of all persons employed by them shall be made in such form as may be prescribed by the Commissioner.

(2) In the case of Government Departments the return may be made by the administrative head of the Department, in the case of a company by the secretary or a director, and in the case of a local authority by the Chairman or the Clerk.

39. The return of interest allowed by any bank, local or public authority, or other company or person required to be made by section 165 of the Act shall be made in such form as may be prescribed by the Commissioner.

40. The certificate of charge to be registered under section 11 of the Land and Income Tax Amendment Act, 1940, shall be in such form as may be prescribed by the Commissioner.

41. The release of any such charge shall be in such form as may be prescribed by the Commissioner.

42. (1) Any certificate, notice, or other document bearing the written, stamped, or printed signature of the Commissioner, Deputy Commissioner, Second Deputy Commissioner, or a Superintendent shall, until the contrary is proved, be deemed to have been duly signed by the person by whom it purports to have been signed.

(2) Judicial notice shall be taken of every such signature and of the fact that the person whose signature it purports to be holds or has held the office of Commissioner, Deputy Commissioner, Second Deputy Commissioner, or a Superintendent, as the case may be.

43. Any notice, application, or document required by any Act or regulations to be given, made, or sent by any person to the Commissioner shall be given, made, or sent by posting or delivering the same to the Superintendent or other authorized officer to whom returns are required to be sent pursuant to Regulation 15 hereof.

SCHEDULE
REGULATIONS REVOKED

Date of Enactment.	Published in <i>Gazette</i> .	
	Year.	Page.
14th November, 1923	1923	2849
8th December, 1924	1924	2902
16th February, 1925	1925	554
15th November, 1929	1929	3037
14th April, 1930	1930	1419
6th October, 1930	1930	3133
31st March, 1931	1931	958
4th May, 1932	1932	1218

W. O. HARVEY,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 23rd day of May, 1946.

These regulations are administered in the Department of Land and Income Tax.