

- (e) All moneys received as a rebate in respect of expenditure made out of the Loan Fund :
- (f) All moneys received for or on account of members of any Expeditionary Force raised for service outside Australia :
and
- (g) All moneys received from the sale of the effects of deceased members of any Expeditionary Force raised for service outside Australia."

(2.) This section shall be deemed to have come into operation on the first day of July One thousand nine hundred and sixteen.

Amendment of
s. 62A.

3. Section sixty-two A of the Principal Act is amended by inserting after sub-section (4.) thereof the following sub-section :—

"(4A.) The Treasurer may at any time pay into the Consolidated Revenue Fund any moneys standing to the credit of the Trust Account established by the Treasurer under this section known as the London Liabilities Account, except moneys which have been paid into the London Liabilities Account out of the Loan Fund."

WAR-TIME PROFITS TAX ASSESSMENT.

No. 33 of 1917.

An Act relating to the Imposition Assessment
and Collection of a Tax upon Profits.

[Assented to 22nd September, 1917.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—INTRODUCTORY.

Short title.

1. This Act may be cited as the *War-time Profits Tax Assessment Act 1917*.

Duration.

2. This Act shall apply to the profits of any business arising up to the thirtieth day of June next after the declaration of peace in connexion with the present war.

3. This Act shall be divided into Parts, as follows :—

Parts.

- Part I.—Introductory.
- Part II.—Administration.
- Part III.—War-time Profits Tax.
- Part IV.—Computation of Profits.
- Part V.—Pre-war Standard.
- Part VI.—Capital.
- Part VII.—Returns and Assessments.
- Part VIII.—Objections and Appeals.
- Part IX.—Collection and Recovery of Tax.
- Part X.—Miscellaneous.

4. In this Act, unless the contrary intention appears—

Definitions.

Cf. 1915, No. 34,
s. 3.

- “Agent” includes every person who in Australia, for or on behalf of any person out of Australia (in this section called “the principal”), carries on any business belonging to the principal, and every person declared by the Commissioner to be an agent or the sole agent for any person for the purposes of this Act.
- “Australia” includes the Territory of Papua.
- “Business” includes any profession or trade and any transaction not in the course of a person’s business for the sale and purchase of any commodity.
- “Capital” means the capital of a business employed in Australia.
- “The Commissioner” means the Commissioner administering this Act.
- “Company” includes all bodies or associations corporate or unincorporate.
- “Co-operative Company” means a company in which not less than two-thirds of the shares are held by members who are *bonâ fide* primary producers or suppliers to the company.
- “Partnership” includes beneficiaries under a will, settlement, or other deed of trust who are carrying on business jointly.
- “Person” includes a company.
- “Taxpayer” means any person chargeable with war-time profits tax.
- “Trustee” in addition to every person appointed or constituted trustee by act of parties, by order, or declaration of a Court, or by operation of law, includes an executor or administrator, guardian, committee, receiver, or liquidator.
- “Wasting asset” means mines (other than coal mines), quarries, timber rights, and any similar asset which, through gradual removal of the substance of the asset, becomes exhausted.

5. This Act shall extend to the Territory of Papua.

Act to extend to
Papua.

PART II.—ADMINISTRATION.

Commissioner.
 Cf. 1915, No. 34,
 s. 5.
 Delegation
 by the
 Commissioner.

6.—(1.) The Commissioner of Taxation shall have the general administration of this Act.

(2.) The Commissioner may, in relation to any particular matters or class of matters, or to any particular State or part of the Commonwealth, by writing under his hand, delegate to the Assistant Commissioner of Taxation or to a Deputy Commissioner of Taxation or other person all or any of his powers or functions under this Act (except this power of delegation), so that the delegated powers or functions may be exercised by the Assistant Commissioner or Deputy Commissioner or person with respect to the matters or class of matters or the State or part of the Commonwealth specified in the instrument of delegation.

(3.) Every delegation under this section shall be revocable at will but any delegation shall not prevent the exercise of any power or function by the Commissioner.

Report by the
 Commissioner.

(4.) The Commissioner shall furnish to the Treasurer annually for presentation to the Parliament a report on the working of this Act.

(5.) In the report the Commissioner shall draw attention to any breaches or evasions of this Act, which have come under his notice.

Officers to
 observe secrecy.

(6.) Every officer executing any power or duty conferred or imposed on any officer under this Act or the regulations shall, before entering upon his duties or exercising any power under this Act, make, before a Justice of the Peace or a Commissioner for taking affidavits or a Commissioner for Declarations, a declaration in the form prescribed.

(7.) Any officer who acts in the execution of his office before he has made the prescribed declaration, or who, after making the declaration, divulges any information relating to the affairs of a taxpayer except in the performance of his duty, shall be guilty of an offence.

Penalty : Two hundred and fifty pounds.

PART III.—WAR-TIME PROFITS TAX.

War-time
 profits tax.

7.—(1.) There shall be levied and paid on all war-time profits from any business to which this Act applies arising after the thirtieth day of June One thousand nine hundred and fifteen a tax (hereinafter referred to as "war-time profits tax") at such rate as is declared by the Parliament.

(2.) The war-time profits arising in a financial year shall be calculated as follows :—

(a) by ascertaining the monthly average of the profit or loss arising in the accounting period ending in the financial year and separately the monthly average of the profit or loss arising in the accounting period beginning in the financial year ;

(b) by multiplying the respective monthly averages of profit or loss (as the case may be) by the number of months of the respective accounting periods falling within the financial year ;

(c) by adding together the amounts of the profit or deducting the amount of the loss from the amount of the profit (as the case may be) and deducting from the sum so obtained the pre-war standard of profits as defined for the purposes of this Act; and

(d) by deducting from the sum remaining in paragraph (c) hereof the deduction (if any) allowed by the next succeeding sub-section.

(3.) From the sum remaining under paragraph (c) of the last preceding sub-section—

(a) in the case of a business in which the pre-war standard of profits does not exceed Five hundred pounds, there shall be deducted the sum of Two hundred pounds;

(b) in all other cases, where the sum remaining under paragraph (c) of the last preceding sub-section—

(i) does not exceed Two hundred pounds, the total sum shall be deducted;

(ii) exceeds Two hundred pounds, there shall be deducted the sum of Two hundred pounds less—

(i) in the financial year ending on the thirtieth day of June One thousand nine hundred and sixteen, One pound for every Two pounds by which the excess exceeds Two hundred pounds;

(ii) in all succeeding financial years, One pound for every Four pounds by which the excess exceeds Two hundred pounds.

(4.) For the purposes of this Act the accounting period shall be taken to be the period of twelve months for which the accounts of the business have been made up for the purposes of the *Income Tax Assessment Act 1915-1916*, and where the accounts of any business have not been made up for any definite period, or for the period for which they have been usually made up, or a year or more has elapsed without accounts being made up, shall be taken to be such period not being less than six months or more than a year as the Commissioner determines ending on such a date as the Commissioner determines.

Accounting period.

(5.) Where a business has not been in existence during the whole of the financial year or a business has changed ownership in a financial year this section shall have effect as if there were substituted for Two hundred pounds a proportionately reduced amount.

8.—(1.) The businesses to which this Act applies are all businesses (whether continuously carried on or not) of any description deriving profits from sources within Australia, excepting—

(a) businesses carried on by a municipal corporation or other local governing body or by a public authority; or by a society registered under a Friendly Societies Act of the Commonwealth or a State or Territory and not carried on for pecuniary profit; or by or for the

Businesses to which tax applies.
Cf. 5 & 6 Geo. 5, c. 89, s. 39.
Exemptions.

exclusive benefit of a religious, charitable, or public educational institution; or any company carrying on the business of life insurance so far as regards its life insurance business but not excluding so much of the profits of that business as is available for distribution to the shareholders; and

- (b) agriculture, fruitgrowing, the maintenance of dairy herds for the supply of dairy products, pig and poultry raising, and the business of co-operative companies engaged for the main part in the manufacture, preparation, or wholesale distribution of foodstuffs, the produce of Australia so far as regards the manufacture, preparation, or wholesale distribution of foodstuffs, the produce of Australia; and
- (c) offices or employments; and
- (d) any profession the profits of which depend mainly on the personal qualifications of the person by whom it is carried on, and in which comparatively little or no capital expenditure is required; and
- (e) businesses where the principal business consists of mining for gold; and
- (f) businesses commenced since the fourth day of August, One thousand nine hundred and fourteen which in the opinion of the Commissioner derive the whole of their profits from the recovery from waste manufactured products of any materials which are used for the production of munitions of war; and
- (g) businesses commenced since the fourth day of August One thousand nine hundred and fourteen for the purposes of mining for wolfram, molybdenite, tungsten, scheelite, or any other rare metal used in the manufacture of munitions of war, if the output of the mine is disposed of to the Imperial Government,

but including the business of any person taking commissions in respect of any transactions or services rendered, and of any agent of any description (not being a commercial traveller, or an agent whose remuneration consists wholly of a fixed and definite sum not depending on the amount of business done or any other contingency).

(2.) With respect to a business which, under this section, is exempt from the provisions of this Act, the exemption shall be limited to that business and shall not extend to any business which supplies to or purchases from that business any commodities.

(3.) When any resident of Australia, who is on active service outside Australia with the naval or military forces of any of the Allied Powers in connexion with the present war, is the owner of, or is a partner in a business to which this Act applies, and who before he went on active service devoted the whole or the greater part of his time in connexion with the management of the business, and whose military or naval duties require him to be in any part of the field of operations in connexion with the war where there is

danger to life as a result of the operations of enemy forces, such person shall—

- (a) when the sole owner of a business be exempt from liability to pay the war-time profits tax ;
- (b) when a partner in a business be entitled to a refund from the Commissioner of the part of the tax payable by the partnership which bears the same proportion to the tax payable by the partnership as his interest in the profits of the partnership bears to the total profits.

9. In any case where war-time profits are chargeable with war-time profits tax under this Act, and are also chargeable in Great Britain with excess-profits duty under any Act of the Imperial Parliament imposing an excess-profits duty, the Treasurer may agree with the Chancellor of the Imperial Exchequer, or other authorized person, for the apportionment between the Imperial and the Commonwealth Governments towards the supplies necessary for the services of His Majesty of the war-time profits tax derived pursuant to this Act or the excess-profits duty derived pursuant to the Imperial Act (whichever provides the greater amount), and may further agree that in any such case the tax or duty (as the case may be) chargeable pursuant to the other of these Acts shall not be collected.

Treasurer may agree for apportionment between Imperial and Commonwealth Governments of tax.

10.—(1) The profits arising from any business shall be separately determined for the purposes of this Act, but shall be so determined on the same principles as the profits and gains of the business are or would be determined for the purpose of Commonwealth income tax, subject to the modifications set out in Part IV. and to any other provisions of this Act :

Determination of profits and pre-war standard.
 Cf. 5 & 6 Geo. 5, c. 89, s. 40 (1).

Provided that where a person carries on more businesses than one, and this Act applies to some or all of such businesses, he may deduct proportionately from the profits of each business on which, apart from this proviso, war-time profits tax would be payable by him—

- (a) the loss (if any) on any of such businesses to which this Act applies ; and
- (b) the excess (if any) of the losses over the profits of all of such businesses (if any) to which this Act does not apply,

if either of these losses have been recouped out of the profits of a business to which this Act applies.

Provided further that the profits or losses in any business to which this Act does not apply shall be calculated in the same manner as the profits or losses in any business to which this Act applies.

(2.) The war-time profits tax payable on the profits derived by a business carried on by partners shall be payable by the partnership, but, for the purposes of this section, the tax shall be deemed to have been paid by each partner in proportion to his interest in the profits.

(3.) A person who carries on more than one business in partnership shall be deemed to be carrying on separate businesses for the purposes of this section, and shall, if the loss on any business carried on by him either alone or in partnership is recouped by him out of the profits of any partnership business which pays tax, be entitled to a refund from his share of the tax paid by the partnership business of the difference between his share of that tax and the amount that would have been payable by him in respect of his share of the profits if the loss made by him had been deducted from his share of the profits of the partnership business paying tax in calculating the amount of tax payable by that partnership.

Modifications.
Cf. 5 & 6
Geo. 5, c. 89,
s. 40 (3).

11.—(1.) Where it appears to the Commissioner, on the application of a taxpayer in any particular case, that any provisions of Parts IV., V., and VI. of this Act should be modified in his case, owing to—

- (a) a change in the constitution of a partnership; or
 - (b) the postponement or suspension, as a consequence of the present war, of renewals or repairs; or
 - (c) exceptional depreciation or obsolescence of assets employed in the business due to the war; or
 - (d) the necessity in connexion with the war of providing plant which will not be wanted for the purposes of the business after the war; or
 - (e) liabilities incurred in a business at the instance of the Commonwealth Government in pursuance of the war-time policy of the Government; or
 - (f) the fact that on account of the recent commencement of the business there has not been one pre-war trade year or the fact that the business has only commenced to be remunerative since the fourth day of August One thousand nine hundred and fourteen; or
 - (g) any other special circumstances specified in the regulations,
- the Commissioner shall have power—
- (i) to allow as deductions such sums (which apart from this section would not be deductible) as he thinks necessary in order to meet the particular case;
 - (ii) to vary the pre-war standard of profits to such an extent as he thinks necessary in order to meet the particular case; and
 - (iii) to calculate the amount of the capital employed in the business in such manner as he thinks necessary in order to meet the particular case:

Provided that where the reason for the modification is the fact that on account of the recent commencement of the business there has not been one pre-war trade year or the fact that the business has only commenced to be remunerative since the fourth day of August One thousand nine hundred and fourteen, the modification shall not be greater in extent than is sufficient to insure the financial stability of the business.

(2.) A taxpayer who is dissatisfied with the decision of the Commissioner under this section may require the Commissioner to refer his case to the Board of Referees constituted under this Act and the Commissioner shall refer the case accordingly.

12.—(1.) Where during the accounting period increased capital has been employed in a business, a deduction shall be made from the profits of the accounting period of the greater of the following sums :—

- (a) the statutory percentage per annum on the amount by which the capital has been increased ; or
- (b) the percentage per annum (on the amount by which the capital has been increased) of the profits standard on the average capital and borrowed money (if any) used in the pre-war trade years by reference to which the profits standard has been arrived at.

(2.) The deduction specified in the last preceding sub-section shall be proportionate to the part of the accounting period during which the additional capital has been employed.

(3.) Where during the accounting period decreased capital has been employed in a business owing to withdrawal of capital, an addition shall be made to the profits of the accounting period of the greater of the following sums :—

- (a) the statutory percentage per annum on the amount by which the capital has been decreased ; or
- (b) the percentage per annum (on the amount by which the capital has been decreased) of the profits standard on the average capital and borrowed money (if any) used in the pre-war trade years by reference to which the profits standard has been arrived at :

Provided that where the capital has been decreased during the accounting period through compulsory dispossession, the profits of the accounting period shall not be increased as provided by this section.

(4.) The addition specified in the last preceding sub-section shall be proportionate to the part of the accounting period during which the capital was reduced.

(5.) For the purposes of this section, capital shall be taken to be increased or decreased, as the case may be—

- (a) where the pre-war standard of profits is a profits standard—if the capital employed in the business exceeds or is less than the average amount of capital employed during the pre-war trade years or year by reference to which the profits standard has been arrived at, and
- (b) where the pre-war standard of profits is a percentage standard—if the capital exceeds or is less than the capital on which the percentage standard has been calculated.

(6.) Where any capital employed in a business, which was so employed for the first time within three years before the

Special provisions as to pre-war standard.
Increase of capital.
Cf. 5 & 6 Geo. 5, c. 39, s. 41.

Decrease of capital.

Where pre-war standard is a profits standard.

Capital employed for first time.

fifth day of August One thousand nine hundred and fourteen, has only commenced to be remunerative or fully remunerative in the accounting period, there shall be added to the profits standard an amount equal to the statutory percentage on that capital, or where interest has been earned on the capital, but at a rate less than the statutory percentage, an amount which would bring the interest earned on the capital up to the statutory percentage, as the case may be.

Reference to the Commissioner of questions as to increase of percentages. Cf. 5 & 6 Geo. 5, c. 89, s. 42.

- 13.—(1.) Where an application is made to the Commissioner—
- (a) for an increase of the statutory percentage as respects any class of business, or for a calculation of the percentage standard in the case of any class of business, in which the amount of capital actually employed in the business is, owing to the nature of the business, small compared with the capital necessarily at stake for that business, by reference to some factor other than the capital of the business or to some additional factor ; or
 - (b) for an alteration of the pre-war standard of profits as respects capital employed for the purpose of the manufacture of war materials or for munitions work and which could not be expected to be remunerative or wholly remunerative, except in time of war, in a business which has been wholly or mainly carried on for those purposes ;

the Commissioner shall decide the application, and may, if he thinks fit, increase the statutory percentage or alter the percentage standard for that class of business, or alter the pre-war standard of profits, as the case requires, but not to an extent greater than is sufficient to ensure the financial stability of the business.

(2.) A taxpayer who is dissatisfied with the decision of the Commissioner under this section may require the Commissioner to refer his case to the Board of Referees constituted under this Act and the Commissioner shall refer the case accordingly.

Assessment of tax. Cf. ib. s. 45.

14.—(1.) The war-time profits tax shall be assessed by the Commissioner.

(2.) The tax may be assessed on any person for the time being owning or carrying on the business or acting as agent for another person in carrying on the business, or, where a business has ceased, on the person who owned or carried on the business or acted as agent in carrying on the business immediately before it ceased, and where there has been a change of ownership of the business, the Commissioner may, if he thinks fit, take the accounting period as the period ending on the date on which the ownership has so changed and assess the tax on the person who owned or carried on the business or acted as agent for the person carrying on the business at that date.

(3.) Where a company is being wound up after the commencement of this Act, the liquidator of the company shall give notice to the Commissioner within fourteen days after the approval of the

shareholders to the winding up has been obtained or the order for the winding up has been made, and shall set aside such sum out of the assets of the company as appears to the Commissioner to be sufficient to provide for any such war-time profits tax as may become chargeable.

(4.) In the case of any business which by reason of its being unable to pay its debenture-holders or creditors is being carried on by a liquidator, receiver, or trustee under the Court, no war-time profits tax shall be levied or paid until provision has been made for the payment of the unpaid debenture-holders or creditors.

(5.) In any case in which a business is transferred to another person after the commencement of this Act, the person to whom the business is transferred shall be personally liable to pay any war-time profits tax which may subsequently be assessed as payable by the former owner if he fails to secure the payment of that tax to the Commissioner.

PART IV.—COMPUTATION OF PROFITS.

15.—(1.) Subject to this Act, the profits shall be taken to be the actual profits arising in the accounting period from sources within Australia.

Computation of profits.
Cf. 5 & 6 Geo. 5, c. 89, Sched. 4, Part I.

Provided that the profits accruing to a person not resident in Australia from the sale by an agent in Australia of the goods of that person shall not be deemed to be profits for the purposes of this Act, unless the principal has a branch and carries stock in Australia or consigns his goods to an agent for sale in Australia.

(2.) Deductions for wear and tear or for any expenditure of a capital nature for renewals, or for the development of the business or otherwise in respect of the business, shall not be allowed except such as may be allowed for the purposes of the Commonwealth Income Tax.

(3.) Deductions shall be allowed for—

- (a) all losses by fire, flood, accident, robbery or embezzlement which are proved to have occurred and to be irrecoverable either directly or by way of insurance;
- (b) alterations (but not additions) to plant, machinery and premises for purposes of the business which have been charged to revenue account; and
- (c) all bad debts proved to have been written off in the accounting period.

(4.) Deductions shall not be allowed on account of the liability to pay, or the payment of, war-time profits tax, but a deduction shall be allowed for any sum which has been paid in respect of the profits on account of any war-time profits tax or similar tax imposed in any country outside the Commonwealth:

Provided that a deduction shall be allowed from the profits of an accounting period of—

- (a) Commonwealth and State land taxes paid in that accounting period, less any refunds of those taxes received in that accounting period; and

- (b) Commonwealth and State income taxes paid in respect of the profits, less any refunds of Commonwealth and State income taxes received in the accounting period ; and
 - (c) all rates and other taxes paid in Australia in the accounting period.
- (5.) For the purposes of this section "income tax payable in respect of the profits" shall be—

- (a) in the case of an individual the amount of tax that would have been payable if the profits had been the only income derived by him from sources within Australia ;
- (b) in the case of a partnership the aggregate of the amounts of tax that would have been payable by each partner if the share of the profits coming to him had been the only income derived by him from sources within Australia ; and
- (c) in the case of a company, the amount of the tax (if any) paid by the company, together with the aggregate of the amounts of tax that would have been payable by each shareholder if the share of the profits credited or paid to him had been the only income derived by him from sources within Australia.

(6.) Where a deduction of war-time profits tax is allowable in any income tax assessment, but has not been made owing to the date at which the war-time profits tax is ascertained, the Commissioner may reduce the war-time profits tax payable, by the amount by which the income tax would have been reduced if the deduction had been made at the time of the making of the income tax assessment.

(7.) Where the profits of a business arise wholly or partly from the use of a wasting asset the following provisions shall apply :—

- (a) A deduction shall be made in ascertaining the excess profits under this Act, of the sinking fund (calculated according to the prescribed tables, for the number of years estimated to be required to exhaust the asset from the time it was first used by the owner as a wasting asset), which will recoup the amount expended by the owner in the purchase of the asset or (where the asset has been acquired otherwise than by purchase) the value of the asset, at the date when it was first used as a wasting asset for the purposes of the business, as known at that date. The estimated number of years required to exhaust the asset shall be ascertained as at the end of the accounting period upon the profits of which the current assessment under this Act is being made ; and
- (b) In the case of a mining business, other than mining for coal, there shall be deducted, in addition to any other deductions allowed by this Act, so much of the profits of the accounting period as is appropriated for development or new plant :

Provided that so much of the profits so appropriated as would, if they had not been appropriated,

have been war-time profits and which have not been expended for the purpose for which they were appropriated by the end of the accounting period next succeeding that in which the profits were derived, shall be liable to tax in the financial year in which the end of the latter accounting period falls at the rate which was applicable at the time of appropriation.

(8.) In the case of a business which uses leasehold property—

- (a) for which a definite sum of money, other than the rent reserved by the lease, has been paid, or a consideration in the form of material assets has been given by the lessee either to the lessor, or to purchase the leasehold rights from a precedent lessee; or
- (b) upon which the lessee has covenanted with the lessor to expend money on improvements which will revert to the lessor upon the termination of the lease,

a deduction shall be allowed of the amount obtained by dividing the sum so paid or to be expended or the value of the consideration so given by the number of years of the unexpired period of the lease at the date the amount was so paid or the consideration so given or in the case of money to be expended within the meaning of paragraph (b) of this sub-section, at the date of his entry into possession of the lease.

(9.) Any deduction allowed for the remuneration of directors, managers, and persons concerned in the management of the business shall not exceed the sums allowed for those purposes in the last pre-war trade year or a proportionate part thereof as the case requires, unless the Commissioner, owing to any special circumstances or to the fact that the remuneration of any managers or managing directors depends on the profits of the business, otherwise directs:

Provided that in the case of a business owned by a company in which, owing to its recent commencement there has not been one pre-war trade year, the total deduction allowed for the remuneration of directors, for their services in every capacity, shall not, unless the Commissioner otherwise directs, exceed the sum of One thousand pounds per annum :

Provided further that in the case of a business (other than a business in which the pre-war standard of profits has been computed under paragraph (b) of sub-section (3.) of section sixteen of this Act)—

- (a) if the business is owned by an individual—a deduction of Three hundred pounds or such greater sum as the Commissioner directs in the case of a business in which the pre-war standard of profits does not exceed Five hundred pounds, or, in the case of a business in which the pre-war standard of profits exceeds Five hundred pounds but is less than One thousand pounds, such sum as represents the difference between One thousand pounds and the pre-war standard of profits, shall be allowed, if the owner devotes the whole of his time to the business ;

- (b) if the business is owned by a partnership—in the case of a business in which the pre-war standard of profits does not exceed One thousand pounds, a deduction of Three hundred pounds, or such greater sum as the Commissioner directs, shall be allowed in respect of each partner who devotes the whole of his time to the business, or a part of that amount proportionate to the time devoted to the business where part only of his time is so devoted, but the total sum to be deducted shall in no case be less than the sum which represents the difference between One thousand pounds and the pre-war standard of profits.

Provided also that in the case of a business in which the pre-war standard of profits has been computed under paragraph (b) of sub-section (6.) of section sixteen of this Act—

- (a) if the business is owned by an individual—a deduction of Three hundred pounds, or such greater sum as the Commissioner directs, shall be allowed, if the owner devotes the whole of his time to the business, together with, in the case of a business in which the pre-war standard of profits exceeds Five hundred pounds but is less than Seven hundred pounds, an additional deduction equal to the difference between Seven hundred pounds and the pre-war standard of profits ;
- (b) if the business is owned by a partnership—a deduction of Three hundred pounds, or such greater sum as the Commissioner directs, shall be allowed in respect of each partner who devotes the whole of his time to the business, or a part of that amount proportionate to the time devoted to the business where part only of his time is so devoted.

(10.) No deduction shall be allowed in respect of any transaction or operation of any nature, where it appears, or to the extent to which it appears, that the transaction or operation has artificially reduced the amount to be taken as the amount of the profits of the business for the purposes of this Act.

(11.) A deduction shall be allowed of all profits which are set aside for the purpose of any profit-sharing scheme between employer and employee, so far as such profits have been distributed among the employees, within six months after the close of the accounting period, or such further time as the Commissioner may allow.

Provided that for the purposes of this sub-section a director shall not be deemed to be an employee.

(12.) Where a company, either in its own name or in that of a nominee, owns the whole of the ordinary capital of another company carrying on the same class of business, or so much of that capital as under the general law a single shareholder may legally own, the provisions of this Act as to war-time profits tax and the pre-war standard of profits shall apply as if that other company were a branch of the first-named company, and the profits of the two companies shall not be separately assessed.

(13.) Where in the case of a pastoral business—

- (a) any part of the profits arising during the last three pre-war trade years have been invested in the business and have, in subsequent years, been wholly or partly lost owing to drought, adverse seasons or other adverse conditions ; and
- (b) any part of the profits of the current accounting period has been applied in extinction of that loss,

then in estimating the profits a deduction shall be allowed equal to the amount of profits applied in extinction of that loss and any other loss which the Commissioner is of opinion has been recouped out of the profits of the current accounting period.

(14.) Where in the case of any business except a pastoral business—

- (a) the net result of the business since the first of the three selected pre-war trade years (in the case of a person adopting a profits standard), or since the first one of the last three pre-war trade years (in the case of a person adopting the percentage standard) and up to the end of the accounting period immediately preceding that upon which the current assessment is being made has shown a loss ; and
- (b) any part of the profits of the current accounting period has been applied in extinction of that loss ;

then in estimating the profits a deduction shall be allowed equal to the amount of profits so applied.

(15.) Where it is shown to the satisfaction of the Commissioner that borrowed money has been used for the creation or acquisition of any of the assets employed for the purpose of gaining profits which are liable to tax under this Act, a deduction shall be allowed from the profits of the difference between the interest paid in the accounting period on borrowed money which has not been repaid and the statutory percentage thereon.

(16.) In estimating the profits, no account shall be taken of income received from investments, except in the case of businesses where the principal business consists of the making of investments. Where account is taken of any such income—

- (a) interest derived from the bonds, debentures, stock, or other securities of the Commonwealth issued for the purposes of Commonwealth War Loans shall not form part of the war-time profits ; and
- (b) the income has been derived from profits in respect of which any payment or repayment of war-time profits tax has been made under this Act, such deduction or addition shall be made in computing the profits as will make proper allowance for that payment or repayment of tax.

(17.) In the case of any contract extending beyond one accounting period from the date of its commencement to the completion thereof, and only partially performed in any accounting

period, there shall (unless the Commissioner, owing to any special circumstances, otherwise directs) be attributed to each of the accounting periods in which the contract was partially performed, such proportion of the entire profits or loss or estimated profits or loss in respect of the complete performance of the contract as is properly attributable to such accounting periods respectively, having regard to the extent to which the contract was performed in such periods.

PART V.—PRE-WAR STANDARD.

Pre-war years.
Cf. 5 & 6 Geo. 5,
c. 39, Sched. 4,
Part II.

16.—(1.) The profits of any pre-war trade year shall be computed on the same principles and subject to the same provisions as the profits of the accounting period.

(2.) Where the profits on which the war-time profits tax is to be assessed are for a period less than a year, the amount of the pre-war standard of profits shall be proportionately reduced but shall not be reduced below the sum of Five hundred pounds.

Pre-war
standard.

(3.) The pre-war standard of profits shall, subject to the provisions of this Act, be taken to be the amount of the profits arising from the business on the average of any two of the last three pre-war trade years, to be selected by the taxpayer (in this Act referred to as "the profits standard"), but shall not in any case be less than the sum of Five hundred pounds.

Provided that where there have been less than three pre-war trade years the profits standard shall be—

(a) where there have been two pre-war trade years—the greater of the profits of those two years, or, if there has been a loss in one year and a profit in the other, the profits of the year in which a profit was made; and

(b) where there has been only one pre-war trade year—the profits of that year.

(4.) Where it is shown in the case of any business that the last three pre-war trade years have been years of abnormal depression, any two of the three preceding pre-war trade years may be substituted for the purposes of the pre-war standard of profits for any two of the last three pre-war trade years.

The last three pre-war trade years shall not be considered as years of abnormal depression unless the average profits of those years have been at least twenty-five per centum lower than the average profits of the preceding three years.

(5.) Where in the case of any business the pre-war standard of profits calculated otherwise than under this sub-section does not exceed Five hundred pounds, the taxpayer may adopt as the pre-war standard of profits of that business a profits standard computed under paragraph (b) of sub-section (6.) of this section.

Recent
commencement
of business.

(6.) Where owing to the recent commencement of a business there has not been one pre-war trade year the pre-war standard of profits shall be taken to be the statutory percentage on the average amount of capital employed in the business during the accounting

period, or at the option of the taxpayer the greater of the following amounts :—

- (a) an amount proportionate for the period of twelve months to the actual profits during the pre-war period during which the business was carried on ; or
- (b) a profits standard computed by reference to the income arising from any trade, business, office, employment or profession of any sort, whether liable to war-time profits tax or not, carried on by the taxpayer before his new business commenced as if it were the same business but only to the extent to which the income from the former trade, business, office, employment or profession has been diminished.

(7.) The provisions of the last preceding sub-section shall apply to any company which has been formed by any person or persons who had formerly been in receipt of an income from any of the sources mentioned in paragraph (b) of the last preceding sub-section and who prove that they relinquished that former income on the establishment of the company and that they own individually or between them the majority of the shares of the company, and that they are devoting the whole of their time to the business of the company.

(8.) Notwithstanding anything contained in this section if the profits standard is less than the percentage standard as hereinafter defined the percentage standard shall be taken to be the pre-war standard of profits.

(9.) The percentage standard shall be taken to be an amount equal to the statutory percentage on the capital of the business as existing at the end of the last pre-war trade year, subject, however, to the provisions of this Act as to any alteration in the manner of calculating the percentage standard in special cases.

Percentage standard.

(10.) For the purposes of this Act the statutory percentage shall be ten per centum, subject, however, to the provisions of this Act as to the increase in that percentage in certain cases.

Statutory percentage.

(11.) The provisions contained in Part IV. of this Act shall have effect with respect to the computation of the profits of a pre-war trade year, and the provisions contained in Part VI. shall have effect with respect to the ascertainment of capital.

Ascertainment of capital.

(12.) "The last pre-war trade year" means the year ending at the end of the last accounting period before the fifth day of August One thousand nine hundred and fourteen, and "the last three pre-war trade years" means the three years ending at the three corresponding times.

Pre-war years.

(13.) Where since the commencement of the last three pre-war trade years a business has changed ownership, the provisions of this Act shall apply as if a new business had been commenced on the change of ownership, except in cases when the taxpayer makes an application that the provisions of this Act should apply as if the business had not changed ownership, but in that case such modifications (if any) shall be made as may be necessary to make the basis on which the profits standard is computed the same as that on which the profits of the accounting period are computed.

(14.) For the purposes of this section a change of ownership of a business shall include a change of ownership of a particular asset the separate management of which when transferred constitutes a business within the meaning of this Act.

Assets.

(15.) Where any business is confined to the management of any particular assets, but power exists to substitute other assets for them or any of them, such a substitution shall not be deemed, for the purposes of this Act, to constitute a change of ownership of the business.

PART VI.—CAPITAL.

Capital :
How defined.
Cl. 5 & 6
Geo. 5, c. 89,
Sched. 4,
Pt. III.

17.—(1.) The amount of the capital of a business shall be taken to be the amount of its capital paid up by the owner in money or in kind, together with all accumulated trading profits invested in the business, with the addition or subtraction of balances brought forward from previous years to the credit or debit respectively of profit and loss account.

(2.) Any capital the income on which is not taken into account for the purposes of this Act shall be excluded in computing the amount of capital for the purposes of this Act.

(3.) Where any money paid into or credited to a business is not being drawn upon for the purposes of that business it shall be excluded from the capital of the business for the purposes of this Act.

(4.) Where any asset has been paid for otherwise than in cash or created or acquired without purchase its value for the purposes of this section shall be taken to be its value at the time the asset was created or acquired, but where a business has been converted into a company or transferred to a company, and the shares in the company are wholly or mainly held by the person who was owner of the business, no value shall be attached to those shares, so far as they are represented by goodwill or otherwise than by material assets of the company, unless the Commissioner in special circumstances otherwise directs. Patents and secret processes shall be deemed to be material assets.

(5.) Where a company is reconstructed and the capital is increased, so much of the additional capital as has not been paid up in money or is not represented by new material assets shall not be deemed to be capital for the purposes of this Act.

PART VII.—RETURNS AND ASSESSMENTS.

Persons to
furnish returns.
Cl. 1915,
No. 34, s. 28.

18.—(1.) For the purpose of assessment and levy of war-time profits tax every person liable to be taxed shall, when called upon by the Commissioner either in writing or by notice published in the *Gazette*, furnish to the Commissioner in the prescribed manner a return setting forth a full and complete statement of the net profits of his business.

Year of income.

(2.) The first assessment of war-time profits tax shall be as for the financial year commencing on the first day of July One thousand nine hundred and fifteen, and shall be in respect of all accounting periods ending and beginning in that financial year, and there shall

be a subsequent assessment as for each succeeding financial year, which shall be in respect of all accounting periods ending and beginning in that financial year :

Provided that nothing in this sub-section shall prevent the Commissioner requiring returns to be furnished to him before the commencement of any financial year for which war-time profits tax is to be assessed.

19. In addition to the returns specified in the preceding section, every person, whether a taxpayer or not, shall, as and when required by the Commissioner, make such return or further or other returns as the Commissioner requires for the purposes of this Act.

New or further and fuller returns.
Cf. 1915, No. 34, s. 20.

20. Any return purporting to be made or signed by or on behalf of any taxpayer or person shall be deemed to have been duly made and signed by him until the contrary is proved.

Returns deemed to be duly made.
Cf. ib. s. 30.

21. From the returns and from any other information in his possession, or from any one or more of these sources, the Commissioner shall cause assessments to be made for the purpose of ascertaining the profits upon which war-time profits tax shall be levied.

Assessments to be made.
Cf. ib. s. 31.

22. If—

- (a) any person makes default in furnishing any return ; or
- (b) the Commissioner is not satisfied with the return made by any person ; or
- (c) the Commissioner has reason to believe that any person (though he may not have furnished any return) is a taxpayer,

Assessment in case of default or unsatisfactory returns.
Cf. ib. s. 32.

the Commissioner may make an assessment of the amount upon which, in his judgment, war-time profits tax ought to be levied, and the person assessed shall be liable to war-time profits tax thereon, excepting so far as he establishes on objection that the assessment is excessive.

23.—(1.) The Commissioner may at any time make all such alterations in or additions to any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that war-time profits tax may have been paid in respect of profits included in the assessment :

Alterations in assessment.
Cf. ib. s. 33.

Provided that every alteration or addition which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to objection.

(2.) When any alteration in an assessment has the effect of reducing the taxpayer's liability, the Commissioner shall refund the taxpayer any tax overpaid.

24. The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

Validity of assessment.
Cf. ib. s. 34.

Copies as
evidence.
Cf. 1915, No. 34,
s. 35.

25.—(1.) The production of any notice of assessment or of any document under the hand of the Commissioner, Assistant Commissioner or a Deputy Commissioner purporting to be a copy of a notice of assessment shall—

- (a) be conclusive evidence of the due making of the assessment, and
- (b) be conclusive evidence that the amount and all the particulars of the assessment are correct; except in proceedings on appeal against the assessment, when it shall be *prima facie* evidence only.

(2.) The production of any document under the hand of the Commissioner, Assistant Commissioner or a Deputy Commissioner, purporting to be a copy of or extract from any return or notice of assessment, shall for all purposes be sufficient evidence of the matter therein set forth, without producing the original.

Notice of
assessment.
Cf. ib. s. 36.

26.—(1.) As soon as conveniently may be after an assessment is made, the Commissioner shall cause notice in writing of the assessment to be given to the person liable to pay the war-time profits tax.

(2.) The omission to give any such notice shall not invalidate the assessment.

(3.) Where a taxpayer is liable to pay the war-time profits tax in respect of more than one business, the Commissioner may, in his discretion, issue to that taxpayer one notice of assessment showing the tax payable in respect of each of the businesses in respect of which the taxpayer is liable to pay tax.

PART VIII.—OBJECTIONS AND APPEALS.

Board of
Referees.

27.—(1.) There shall be a Board or Boards of Referees to be appointed by the Governor-General.

(2.) The Board of Referees shall consider such cases as are referred to it by the Commissioner and as are prescribed.

(3.) The Board of Referees shall have power to allow such modifications of any provisions of Parts IV., V., and VI. of this Act as it thinks necessary and such other powers as are prescribed :

Provided that where the reason for the modification is the fact that on account of the recent commencement of the business there has not been one pre-war trade year or the fact that the business has only commenced to be remunerative since the fourth day of August One thousand nine hundred and fourteen, the modification shall not be greater in extent than is sufficient to insure the financial stability of the business.

(4.) The costs of and incidental to any proceedings before the Board of Referees shall be in the discretion of the Board, which may order by whom and to whom they are to be paid and by whom they are to be taxed.

(5.) The Board of Referees may make rules for regulating the practice and procedure in relation to proceedings before the Board.

(6.) All such rules shall—

- (a) be notified in the *Gazette* ;
- (b) take effect from the date of notification, or from a later date specified in the rules ; and
- (c) be laid before both Houses of the Parliament within thirty days of the making thereof, or, if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

(7.) If either House of the Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the rules have been laid before that House, disallowing any rule, that rule shall thereupon cease to have effect.

28.—(1.) A taxpayer who is dissatisfied with the assessment made by the Commissioner under this Act may, within thirty days after service by post of the notice of assessment, lodge an objection in writing with the Commissioner against the assessment, stating fully the reason for the objection.

Objection.
Cf. 1915, No. 34,
s. 37.

(2.) The Commissioner shall consider the objection, and may either disallow it, or allow it, either wholly or in part.

(3.) The Commissioner shall give to the objector written notice of his decision on the objection.

(4.) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after the service by post of notice of the decision of the Commissioner, ask the Commissioner to treat his objection as an appeal, and forward it either to the High Court, the Supreme Court, or a County or District Court of a State, or such other Court as is specified in that behalf by proclamation, as required by the taxpayer.

(5.) When the appeal is to the High Court or a Supreme Court, it shall be heard by a single Justice of the Court.

(6.) An inferior court of a State shall not have jurisdiction under this section unless it is constituted or presided over by a Judge authorized in that behalf by the Governor-General.

(7.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment appealed from.

(8.) A taxpayer shall be limited in his appeal to the reasons for objection set out in his objection.

29.—(1.) On the hearing of the appeal, the Court may make such order as it thinks fit, and may either reduce or increase the assessment, and its order shall be final and conclusive on all parties except as provided in this section.

Power of Court
on hearing of
appeal.
Cf. ib. s. 38.

(2.) The costs of the appeal shall be in the discretion of the Court.

(3.) On the hearing of the appeal, the Court may, if it thinks fit, state a case in writing for the opinion of the High Court upon any question arising in the appeal which in the opinion of the Court is a question of law.

(4.) The High Court shall hear and determine the question, and remit the case with its opinion to the Court below, and may make such order as to costs of the case stated as it thinks fit.

(5.) An appeal shall lie to the High Court, in its appellate jurisdiction, from any order made under sub-section (1.) of this section.

Pending appeal not to delay payment of tax.
Cf. 1915 No. 34, s. 39.

30.—(1.) The fact that an appeal is pending shall not in the meantime interfere with or affect the assessment appealed from ; and war-time profits tax may be levied and recovered on the assessment as if no appeal were pending.

(2.) If the assessment is altered on appeal a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears.

Rules of Court.
Cf. ib. s. 40.

31.—(1.) The Justices of the High Court or a majority of them may make Rules of Court for regulating the practice and procedure in relation to appeals against assessments.

(2.) All such rules shall—

(a) be notified in the *Gazette* ;

(b) take effect from the date of notification, or from a later date specified in the rules ; and

(c) be laid before both Houses of the Parliament within thirty days of the making thereof, or if the Parliament is not then sitting, within thirty days after the next meeting of the Parliament.

(3.) If either House of the Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the rules have been laid before that House, disallowing any rule, that rule shall thereupon cease to have effect.

PART IX.—COLLECTION AND RECOVERY OF TAX.

Date of payment of tax.
Cf. ib. s. 41.

32.—(1.) War-time profits tax shall be due and payable thirty days after the service by post of a notice of assessment.

(2.) Where an assessment is amended in accordance with this Act and additional war-time profits tax is thereby payable by the taxpayer, the additional war-time profits tax shall be due and payable thirty days after the service by post of the notice of amended assessment upon the taxpayer.

Time to pay extensions and instalments.
Cf. ib. s. 42.

33. The Commissioner may in such cases as he thinks fit—

(a) extend the time for payment as he considers the circumstances warrant, or

(b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

Penal tax.
Cf. ib. s. 43.

34. If the war-time profits tax or additional war-time profits tax payable on an amended assessment is not paid before the expiration of thirty days after the time specified in section thirty-two of this Act or such further time as may be allowed by the Commissioner

under section thirty-three of this Act, additional tax amounting to ten per centum of the tax unpaid shall be payable in addition by way of penalty :

Provided that the Commissioner may, in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional tax imposed by way of penalty or any part thereof. The Commissioner shall furnish to the Treasurer from time to time, for presentation to Parliament, a report of all such remissions with a statement of the reasons therefor.

35.—(1.) War-time profits tax shall be deemed when it becomes due and payable to be a debt due to the King on behalf of the Commonwealth and payable to the Commissioner in the manner and at the place prescribed.

Recovery of tax.
Cf. 1915, No. 34, s. 44.

(2.) Any war-time profits tax unpaid, including any additional tax, may be sued for and recovered in any Court of competent jurisdiction by the Commissioner or a Deputy Commissioner suing in his official name.

36. If, in any proceedings against a taxpayer for the recovery of war-time profits tax or additional war-time profits tax, the defendant—

Substituted service.
Cf. ib. s. 45.

- (a) is absent from Australia and has not to the knowledge of the Commissioner after reasonable inquiry in that behalf any attorney or agent in Australia on whom service of process can be effected ; or
- (b) cannot after reasonable inquiry be found,

service of any process in the proceedings may, without leave of the Court, be effected on him by posting the same or a sealed copy thereof in a letter addressed to him at his last-known place of business or abode in Australia.

37. The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full and complete returns :—

When tax not paid during lifetime.
Cf. ib. s. 46.

- (a) The Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect to the taxable profits of the taxpayer as he would have had against the taxpayer in his lifetime ;
- (b) The executors and administrators shall make such returns as the Commissioner requires for the purpose of a full assessment ;
- (c) The assessment shall be at the rates payable in respect of years for which the war-time profits tax ought to have been paid, and the amount shall (where the taxpayer's default was intentional) be treble the amount of the difference between the tax so assessed and the amount actually paid by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators ;

- (d) No lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the treble tax as in the case of ordinary assessments and taxation.

Taxpayer dying before furnishing return.
Cf. 1915, No. 34, s. 46A.

38.—(1.) Where a taxpayer dies after the conclusion of any financial year, and before furnishing a return of the profits of his business for the accounting periods ending and beginning in that financial year, his executors or administrators shall furnish a return of the profits of his business during those periods, and shall be assessable in respect thereof, and shall be chargeable with and pay war-time profits tax thereon.

(2.) Where the executors or administrators are unable or fail so to furnish a return of such profits, the Commissioner may estimate same at, and may make an assessment of, the amount on which in his judgment tax ought to be charged.

Taxpayer dying after furnishing return.

39. Where a person dies after the conclusion of a financial year, and after furnishing a return of the profits of his business for the accounting periods ending and beginning in that financial year, but a notice of assessment has not prior to his death been sent to him by the Commissioner, the Commissioner may assess the executors or administrators of that deceased person in respect of those profits, and the executors or administrators shall be chargeable with and pay tax thereon.

Profits arising in an accounting period before a taxpayer's death.

40. Where a person dies during an accounting period, the executors or administrators of that person shall, in making their return of the profits of the business, include in that return the profits of the business arising during that accounting period up to the date of the death of the deceased, and shall be liable for the tax in respect of those profits.

Bankruptcy of taxpayer.

41. Where a person, after lodging a return of the profits of his business, but before the tax thereon is due and payable, takes advantage of any law of a State relating to bankruptcy or insolvency, the tax, which is assessed as due and payable by that person in respect of those profits, shall, notwithstanding anything contained in any law of the State relating to bankruptcy or insolvency, be deemed to be a debt due to the Crown provable in bankruptcy or insolvency.

Statute of Limitations.
Cf. *ib.* s. 47.

42. No statute of limitations at any time in force shall bar or affect any action or remedy for the recovery of war-time profits tax.

Remedy against other persons where taxpayer makes default.
Cf. *ib.* s. 48.

43. Where a taxpayer makes a default in the payment of war-time profits tax, then without in any way relieving him from his liability the following provisions shall apply as long as the default continues:—

- (a) If the tax is payable in respect of profits derived solely or partially from rents, or from money lent at interest, then the lessee or occupier of the property in respect of which the rent is paid, or the person by whom the

interest is payable, shall be responsible for payment of the tax payable in respect of such rent or interest, and it may be recovered from him as if he were the defaulting taxpayer.

- (b) All payments made under this section by a lessee or occupier or other person shall be deemed to be made on behalf of the defaulting taxpayer:

Provided that the responsibility of the lessee or occupier or other person under this section shall only be to the extent of any rent or payments due by him to the taxpayer at the time of demand made or action brought by the Commissioner, or from time to time accruing due thereafter.

44. Every person who, under the provisions of this Act, pays any war-time profits tax for or on behalf of any other person, shall be entitled to recover the same from that other person as a debt, together with the costs of recovery, or to retain or deduct the same out of any money in his hands belonging or payable to that other person.

Recovery of tax paid on behalf of another person. Cf. 1915, No. 34, s. 49.

45. Where two or more persons are jointly liable to war-time profits tax they shall each be liable for the whole tax, but any of them who has paid the tax may recover contributions as follows:—

Contributions from joint taxpayers. Cf. ib. s. 50.

- (a) A person who has paid the tax in respect of any of the taxable profits may recover by way of contribution from any other owner thereof a sum which bears the same proportion to the tax as the share of the taxable profits of such other person bears to the whole of the taxable profits.
- (b) Every person entitled to contribution in respect of war-time profits tax under this section may sue therefor in any Court of competent jurisdiction as money paid to the use of the person liable to contribute at his request; or may retain or deduct the amount of the contribution out of any moneys in his hands belonging or payable to the person liable to contribute.

PART X.—MISCELLANEOUS.

46. Every company which carries on business in Australia shall at all times be represented by a person residing in Australia duly appointed by the company or by its duly authorized agent or attorney, and with respect to every such company and person the following provisions shall apply:—

Public officer of company. Cf. ib. s. 51.

- (a) The person so appointed shall for the purposes of this Act be called the public officer of the company.
- (b) The company shall keep the office of public officer constantly filled and no appointment of a public officer shall be deemed to be duly made until after notice thereof in writing, specifying the name of the officer and address for service, has been given to the Commissioner.

- (c) If the company fails or neglects to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence.
Penalty: Fifty pounds for every day during which the failure or neglect continues.
- (d) Service of any document at the address for service or on the public officer of a company shall be sufficient service upon the company for all the purposes of this Act or the regulations, and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company shall be sufficient.
- (e) The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act or the regulations by a taxpayer, and in case of default shall be liable to the same penalties.
- (f) Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company. The absence or non-appointment of a public officer shall not exclude the company from the necessity of complying with any of the provisions of this Act or the regulations, or from the penalties of the section on the failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint a public officer.

Agents and
trustees.
Cf. 1915, No. 34,
s. 52.

47. With respect to every agent and with respect also to every trustee, the following provisions shall, subject to this Act, apply:—

- (a) He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of the profits arising from the business carried on by him in his representative capacity and the payment of tax thereon.
- (b) He shall in respect of such profits make the returns and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other.
- (c) If he is an executor or administrator, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make.
- (d) Where as agent or trustee he pays war-time profits tax, he is hereby authorized to recover the amount so paid from the person in whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (e) He is hereby authorized and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the war-time profits tax which is or will become due in respect of the said profits.

- (f) He is hereby made personally liable for the war-time profits tax payable in respect of the profits if, after the Commissioner has required him to make a return, or while the tax remains unpaid, he disposes of or parts with any fund or money then in his possession or which comes to him from or out of which war-time profits tax could legally be paid, but he shall not be otherwise personally liable for the tax:

Provided that the Commissioner may, upon application by the agent, permit disposal of such fund or money or part thereof as he considers necessary.

- (g) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirements of the Commissioner.
- (h) For the purpose of insuring the payment of war-time profits tax the Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the property of any other taxpayer in respect of war-time profits tax, and in as full and ample a manner.

48. With respect to every person who has the receipt control or disposal of money belonging to a person resident out of Australia, who carries on business in Australia, the following provisions shall, subject to this Act, apply:—

Person in receipt or control of money for person out of Australia.

- (a) He shall, when required by the Commissioner, pay the war-time profits tax due and payable by the person on whose behalf he has the control receipt or disposal of money.
- (b) Where he pays war-time profits tax in accordance with the preceding paragraph, he is hereby authorized to recover the amount so paid from the person on whose behalf he paid it, or to deduct it from any money in his hands belonging to that person.
- (c) He is hereby authorized and required to retain from time to time out of any money which comes to him on behalf of the person resident out of Australia so much as is sufficient to pay the war-time profits tax which is or will become due by that person.
- (d) He is hereby made personally liable for the war-time profits tax payable by him on behalf of the person resident out of Australia, if, after the Commissioner has required him to pay the tax, he disposes of or parts with any fund or money then in his possession or which comes to him from or out of which the war-time profits tax could legally be paid, but he shall not be otherwise personally liable for the tax:

Provided that the Commissioner may upon application permit disposal of such fund or money or part thereof as he considers necessary.

(e) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirements of the Commissioner.

Contracts to evade tax void.

Cf. 1915, No. 34, s. 56.

49. Every contract, agreement, or arrangement made or entered into, in writing or verbally, whether before or after the commencement of this Act, shall, so far as it has or purports to have the purpose or effect of in any way, directly or indirectly—

- (a) altering the incidence of any war-time profits tax ; or
- (b) relieving any person from liability to pay any war-time profits tax or make any return ; or
- (c) defeating, evading or avoiding any duty or liability imposed on any person by this Act ; or
- (d) preventing the operation of this Act in any respect ;

be absolutely void, but without prejudice to its validity in any other respect or for any other purpose.

Fictitious and artificial transactions.

Cf. 5 and 6 Geo. 5, c. 89, s. 44 (3).

50. A person shall not, for the purpose of avoiding the payment of war-time profits tax, enter into any fictitious or artificial transaction or carry out any fictitious or artificial operation, and every person who has entered into any such transaction or carried out any such operation before the commencement of this Act shall inform the Commissioner of the nature of the transaction or operation.

Penalty : One hundred pounds, in addition to ten per centum of the amount of tax that would have been evaded.

Access to books, &c.

Cf. 1915, No. 34, s. 55.

51. The Commissioner, or any officer authorized by him in that behalf, shall at all times have full and free access to all buildings, places, books, documents, and other papers for the purpose of ascertaining the taxable profits of any person, and for that purpose may make extracts from or copies of any such books, documents, or papers.

Power to obtain evidence.

Cf. ib. s. 56.

52.—(1.) The Commissioner may by notice in writing require any person, whether a taxpayer or not, to attend and give evidence before him, or before any officer authorized by him in that behalf, concerning any profits or assessment, and to produce all books, documents, and other papers whatever in his custody, or under his control, relating thereto, or to supply in writing any information required by the Commissioner relating thereto.

(2.) The Commissioner may require the evidence to be given on oath, and either verbally or in writing, and for such purpose he, or the officer so authorized by him, may administer an oath.

(3.) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

Obstructing officers.

Cf. ib. s. 57.

53. Any person who obstructs or hinders any officer acting in the discharge of his duty under this Act, or the regulations, shall be guilty of an offence.

Penalty : Fifty pounds.

Offences.

Cf. ib. s. 58.

54.—(1.) Any person who—

- (a) fails or neglects duly to furnish any return as and when required by this Act or the regulations, or by the Commissioner ; or

- (b) without just cause shown by him refuses or neglects duly to attend and give evidence when required by the Commissioner or any officer duly authorized by him, or to answer truly and fully any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer; or
- (c) knowingly and wilfully makes or delivers any false return, or makes any false answer, whether verbally or in writing, in relation to any matter or thing affecting his own or any other person's liability to or exemption from assessment of war-time profits tax,

shall be guilty of an offence.

Penalty: One hundred pounds.

(2.) A prosecution in respect of an offence against paragraph (a) of sub-section (1.) of this section may be commenced at any time.

55.—(1.) Notwithstanding anything contained in the last preceding section, any person who fails or neglects duly to furnish any return as and when required by this Act or the regulations or by the Commissioner, or fails to include any assessable profits in any return, shall, if a taxpayer, be liable, except as provided in this section, by way of additional tax to pay an amount of ten per centum of the amount of tax assessable to him in addition to any additional tax which may become payable by him in accordance with section thirty-four of this Act:

Additional tax
in certain cases.
Cf. 1915, No. 34,
s. 59.

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

(2.) The Commissioner shall furnish to the Treasurer annually, for presentation to Parliament, a report of all such remissions with statement of the reasons therefor.

(3.) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by the last preceding section or by the next succeeding section, such action may be taken by the Commissioner, and in that case the additional tax payable under this section shall not be charged.

56. Any person who, with intention to defraud, in any return understates the amount of any profits, shall be guilty of an indictable offence.

Under-
statement of
profits.
Cf. *ib. s. 60.*

Penalty: Five hundred pounds and an amount equal to treble the amount of war-time profits tax which would have been avoided if the profits stated in the return had been accepted as the correct profits.

57. Any person who, by any wilful act, default, or neglect, or by any fraud, art, or contrivance whatever, avoids or attempts to avoid assessment or taxation, shall be guilty of an indictable offence.

Avoiding
taxation.
Cf. *ib. s. 61.*

Penalty: Five hundred pounds, in addition to ten per centum of the amount of tax payment whereof he has avoided or attempted to avoid.

Penalties not to relieve from tax.

Cf. 1915, No. 34, s. 62.

Release of taxpayers in cases of hardship.

Cf. ib. s. 64.

58. Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable.

59.—(1.) In any case where a taxpayer liable to pay war-time profits tax has become bankrupt or insolvent, or has suffered such a loss that the exaction of the full amount of tax will entail serious hardship, a Board, consisting of the Commissioner, the Secretary to the Treasury, and the Comptroller-General of Customs, may release such taxpayer wholly or in part from his liability, and the Commissioner may make such entries and alterations in the assessment as are necessary for that purpose.

(2.) The Commissioner shall be Chairman of the Board, and the decision of the majority shall prevail.

Regulations.

60. The Governor-General may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

WAR-TIME PROFITS TAX.

No. 34 of 1917.

An Act to impose a Tax upon Profits.

[Assented to 22nd September, 1917.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title.

1. This Act may be cited as the *War-time Profits Tax Act* 1917.

Duration.

2. This Act shall cease to have effect on a date to be fixed by Proclamation.

Incorporation.

3. The *War-time Profits Tax Assessment Act* 1917 shall be incorporated and read as one with this Act.

Imposition of war-time profits tax.

4. War-time profits tax is imposed on the war-time profits liable to tax under the *War-time Profits Tax Assessment Act* 1917 arising from any business at the following rates, namely:—

(a) on the war-time profits arising in the financial year ending at the thirtieth day of June One thousand nine hundred and sixteen—fifty per centum of those profits;

(b) on the war-time profits arising in each succeeding financial year—seventy-five per centum of those profits.