

(b) 'returned sailors' means persons who—

- (i) during the war which commenced in the year One thousand nine hundred and fourteen served abroad as members of any Naval Force raised in Australia, or
- (ii) prior to that war resided in Australia, and during that war served abroad as members of a Naval Force raised in any other part of the British Dominions."

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## WAR-TIME PROFITS TAX ASSESSMENT.

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No. 40 of 1918.

An Act to amend the *War-time Profits Tax Assessment Act 1917*.

[Assented to 25th December, 1918.]

**B**E 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 and citation.

1.—(1.) This Act may be cited as the *War-time Profits Tax Assessment Act 1918*.

(2.) The *War-time Profits Tax Assessment Act 1917* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *War-time Profits Tax Assessment Act 1917-1918*.

Duration.

2. Section two of the Principal Act is amended by omitting all words from and including "next after" and inserting in their stead the words "One thousand nine hundred and nineteen".

Definitions.

3. Section four of the Principal Act is amended by inserting after the definition of "Company" the following definitions:—

"'Established business' means a business other than a new business.

“ ‘New business’ means a business which, in the opinion of the Commissioner, was not commenced until on or after the fourth day of August One thousand nine hundred and twelve and was not reasonably established until on or after the fourth day of August One thousand nine hundred and fourteen.”;

and by omitting the definition of “ Co-operative Company.”

4. Section eight of the Principal Act is amended—

(a) by inserting in sub-section (1.) after paragraph (g) the following paragraphs :—

Businesses to  
which tax  
applies.

“ and (h) shipbuilding so far as regards contracts made with the Commonwealth Government since the fourth day of August One thousand nine hundred and fourteen and before the declaration of peace ; and

“ (i) such mining businesses or such classes of mining businesses (not including any coal mining business) as are specified by proclamation, as from the date, to the extent and on the conditions, set forth in the proclamation. The proclamation shall be laid before both Houses of the Parliament within seven days of the making thereof, or, if the Parliament is not then sitting, within seven days after the next meeting of the Parliament, but if either House of the Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the proclamation has been laid before such House disallowing the proclamation, the proclamation shall cease to have effect as from the making thereof ; and ” ;

(b) by omitting all the words in that sub-section after paragraph (g) thereof and inserting in their stead the following new paragraph :—

“ (j) any agency (in which little or no capital expenditure is required) to the extent to which the Commissioner is satisfied that the profits arise from commissions in respect of purchases sales leases loans insurances or collections of money made on behalf of any other person, including commercial travellers and agents whose remuneration consists wholly of a fixed and definite sum not dependent on the amount of the business done or any other contingency.” ;

(c) by inserting after paragraph (j) the following paragraph :—

“; and

(k) businesses deriving profits from the raising and sale of stud live stock bred by the owner of the business to the extent of the profits so derived where the profits so derived do not exceed Two thousand pounds.”

(d) by inserting after sub-section (1.) the following sub-section :—

“(1A.) For the purposes of this section ‘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.”;

(e) by inserting in sub-section (3.) thereof after the words “business to which this Act applies” the words “or is a shareholder of a company the number of shareholders of which does not exceed twenty, and which carries on a business to which this Act applies.”;

(f) by inserting in that sub-section after the words “management of the business” the words “or, in the case of a company as aforesaid, was wholly employed in the service of the company,”; and

(g) by adding at the end of that sub-section the following paragraph :—

“and (c) when a shareholder in a company as aforesaid be entitled to a refund of the part of the tax payable by the company which bears the same proportion to the tax payable by the company as the dividends received by him bear to the total dividends distributed by the company.”

**Modifications.**

**5. Section eleven of the Principal Act is amended—**

(a) by omitting from paragraph (f) of sub-section (1.) thereof the words “the fact that on account of the recent commencement of the business there has not been one pre-war trade year or”;

(b) by omitting the proviso to sub-section (1.) thereof;

(c) by inserting after sub-section (1.) thereof the following sub-sections :—

“(1A.) In the case of a new business, carrying on the same class of business as established businesses, the Commissioner may, on the application of the owner of the business, allow as the pre-war standard of profits of the new business such

percentage on the average amount of capital employed during the accounting period as the Commissioner determines by reference to the pre-war standard of profits of the established businesses (carrying on the same class of business), which are taxable under this Act.

“(1B.) In the case of a new business, not carrying on the same class of business as established businesses, the Commissioner may, on the application of the taxpayer, allow as the pre-war standard of profits such sum as the Commissioner thinks necessary in order to meet the particular case.”.

**6. Section twelve of the Principal Act is amended—**

(a) by inserting at the end of sub-section (1.) the following proviso:—

Special provisions as to pre-war standard.

“Provided that paragraph (b) of this sub-section shall not apply to assessments made for the financial year beginning on the first day of July, One thousand nine hundred and eighteen, and any subsequent year”; and

(b) by inserting at the end of sub-section (3.) the following proviso:—

“Provided further that paragraph (b) of this sub-section shall not apply to assessments made for the financial year beginning on the first day of July, One thousand nine hundred and eighteen, and any subsequent year.”

**7. Section thirteen of the Principal Act is amended by omitting the words “, but not to an extent greater than is sufficient to insure the financial stability of the business”.**

Reference to Commissioner of questions as to increase of percentages.

**8. Section thirteen of the Principal Act is amended by inserting after the words “additional factor” at the end of sub-clause (a) the words “or for a calculation of the percentage standard in the case of a pastoral business carried on in a district which is proved to the Commissioner to be liable to severe drought and in which the capital is liable to be decreased or wholly lost through drought.”**

Percentage standard in drought-affected districts.

**9. Section fifteen of the Principal Act is amended—**

(a) by adding at the end of sub-section (2.) thereof the following proviso:—

Computation of profits.

“Provided that where in the opinion of the Commissioner any deduction claimed for advertising in the accounting period is excessive, having regard to the expenditure on advertising for the business during the last three pre-war trade years, he may reduce the deduction to such sum as he thinks reasonable and just.”;

(b) by omitting paragraph (b) of sub-section (3.) thereof and inserting in its stead the following paragraph :—

“(b) such alterations to plant, machinery and premises used for the purposes of the business which have been charged to revenue account as are in the opinion of the Commissioner not additions;”;

(c) by adding at the end of sub-section (3.) thereof the following paragraphs :—

“(d) payments made or gifts purchased and forthwith presented during the continuance of the present war to any patriotic fund established in any part of the King’s Dominions or in any country in alliance with Great Britain for any purpose connected with the present war, if the making of the payments or the purchase and presentation of the gifts is verified to the satisfaction of the Commissioner ; and

“(e) contributions made to the Department of Repatriation or to any public authority for the purpose of being handed over to the Department of Repatriation :

Provided that the value of the contribution if in kind shall be verified to the satisfaction of the Commissioner.” ;

(d) by omitting from sub-section (5.) thereof the word “payable” (first occurring) and inserting in its stead the word “paid” ;

e) by adding at the end of sub-section (5.) thereof the following proviso :—

“Provided that in calculating the income tax under this sub-section no deduction shall be made from the profits on account of the war-time profits tax payable in respect of those profits.”;

(f) by omitting paragraph (b) of sub-section (7.) thereof and inserting in its stead the following paragraph :—

“(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 expended in the accounting period for development or is appropriated for development (the cost of which is not otherwise deductible) and for 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 by the end of the accounting period next succeeding that in which the

profits were derived been expended for the purpose for which they were appropriated 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 :

Provided further that no deduction for depreciation shall be allowed on any new plant to which the paragraph applies.” ;

(g) by omitting sub-section (8.) thereof and inserting in its stead the following sub-section :—

“(8.) In the case of a business which uses leasehold property or the owner of which has acquired a licence to construct works, buildings or other improvements for the purpose of gain on any land—

- (a) for which a definite sum of money has been paid other than the rent reserved ; or
- (b) for which a consideration in the form of material assets has been given by the lessee or licensee ; or
- (c) upon which the lessee has covenanted with the lessor to expend money on works, buildings or other improvements which will revert to the lessor upon the termination of the lease ; or
- (d) upon the condition that the works, buildings or other improvements will pass to the licensor at the termination of the licence,

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 or licence at the date the amount was so paid or the consideration was so given, or (in the case of money to be expended upon the works, buildings or other improvements) at the date of his entry into possession of the lease or licence.”

(h) by omitting sub-section (14.) thereof and inserting in its stead the following sub-section :—

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

(a) the net result of the business—

- (i) in the case of a business with less than three pre-war trade years—since its commencement ; or

(ii) in the case of a person adopting a profits standard—from the beginning of the first three selected pre-war trade years ;  
or

(iii) in the case of a person adopting the percentage standard—from the beginning of the first one of the last three pre-war trade years

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 the profits so applied.” ;

(i) by omitting sub-section (15.) thereof and inserting in its stead the following sub-section :—

“(15.) Where it is shown to the satisfaction of the Commissioner that borrowed money has been used in 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 made from the profits of the difference between the interest paid or accrued due in the accounting period on the borrowed money and ten per centum on the average amount of borrowed money used in the accounting period.” ; and

(j) by adding at the end thereof the following sub-section :—

“(18.) In calculating the profits of a co-operative company or society there shall be deducted so much of the profits as arises from business carried on with members of the company or society.”.

Partnership  
capital : How  
defined.

10. Section seventeen of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(6.) Notwithstanding anything contained in this Act, the capital of a partnership which, for the purpose of its business to which this Act applies, uses, rent free, land purchased or in process of purchase by a member of the partnership, or in which a member of the partnership has an estate for life or a leasehold estate, shall include—

(a) where the land was purchased or is being purchased by the member—the amount of purchase money paid by him ; or

(b) where the land was acquired by the member otherwise than by purchase—its value at the date when it was acquired ;  
or

(c) where the member has a leasehold estate—the value of the leasehold estate when it was acquired by the member, calculated in accordance with the provisions of the *Land Tax Assessment Act* 1910–1914 relating to leasehold estates :

Provided that where a member has borrowed money for the purpose of acquiring his estate in the land or has borrowed money on the security of his estate in the land for the purpose of using it in the business of the partnership, the average amount of the borrowed money outstanding during the accounting period of the partnership shall be deducted from the amount that would otherwise be included in the capital of the partnership business and shall be deemed to be borrowed money used by that business within the meaning of sub-section (15.) of section fifteen of this Act.”

11. Section twenty-seven of the Principal Act is amended by omitting the proviso to sub-section (3.) thereof. Board of Referees.

12. Section fifty-nine of the Principal Act is amended by inserting after the word “hardship” the words “or that, by reason of drought or adverse seasons or other adverse conditions, the returns from the taxpayer’s land used for the purposes of the business have been seriously impaired”. Release of taxpayers in cases of hardship.

13.—(1.) The amendments made to the Principal Act by paragraphs (d) and (e) of section nine of this Act shall be deemed to have come into operation on the twenty-second day of September One thousand nine hundred and seventeen. Application of Act.

(2.) All amendments to the Principal Act made by this Act, other than the amendments referred to in sub-section (1.) of this section, shall, subject to this Act, apply to assessments made for the financial year commencing on the first day of July One thousand nine hundred and sixteen and all subsequent years.

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## INCOME TAX.

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### No. 41 of 1918.

An Act to impose Taxes upon Incomes.

[Assented to 25th December, 1918.]

**B**E it enacted by the King’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

1. This Act may be cited as the *Income Tax Act* 1918.

Short title.