



ANNO · QUARTO

EDWARDI VII REGIS.

A.D. 1904.

No. 861.

An Act to amend the Taxation Acts, and for other purposes.

[Assented to, November 24th, 1904.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Taxation Act Amendment Act, 1904," and shall be read and incorporated with the "Taxation Act, 1884" (hereinafter called the principal Act), and the Acts amending the same. Short title and incorporation.

2. For the year ending the thirty-first day of December, one thousand nine hundred and four, subdivision II. of section 2 of the "Taxation Act Amendment Act, 1887," shall be read as if in place of the words "Two Hundred Pounds" therein there were inserted the words "One Hundred and Fifty Pounds." Reduction of exemption to One Hundred and Fifty Pounds.
Act No. 838 of 1903, sec. 2.

3. The taxes on incomes for the year ending the thirty-first day of December, one thousand nine hundred and four, recoverable under the "Taxation Act, 1884," are hereby increased by the imposition of the following taxes, which shall be in lieu of the rates of income tax heretofore in force— Increase of taxes.
Ibid., sec. 3.

(a) On all income derived from personal exertion, at the rate of Four Pence Halfpenny for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of Seven Pence for every Pound sterling of such amount above the sum of Eight Hundred Pounds: Ibid., sec. 3, sub-sec. (a).

(b) On

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Act 838 of 1903,
sec. 3, subsec. (b).

(b) On all income consisting of the produce of property, at the rate of Nine Pence for every Pound sterling of the taxable amount thereof up to and inclusive of the sum of Eight Hundred Pounds, and at the rate of Thirteen Pence and a Halfpenny for every Pound sterling of such amount above the sum of Eight Hundred Pounds.

Abolition of exemption in case taxable amount of income exceeds Four Hundred Pounds.

Ibid., sec. 4.

4. If the net income from all sources of a taxpayer in his sole individual right shall exceed Four Hundred Pounds, he shall not be entitled to any deduction by way of exemption from income tax imposed by section 3 of this Act.

Persons absent for twelve months not entitled to exemption

Ibid., sec. 5.

5. No person who shall have been out of South Australia for twelve consecutive months prior to the passing of this Act shall be entitled to any deduction by way of exemption from income tax payable under section 3 of this Act: Provided that the Agent-General for the State shall not be deemed to be an absentee under the provisions of this Act or any other Taxation Act.

Increase of taxes.

6. The taxes on land, to be calculated on the fourteenth day of December, one thousand nine hundred and four, and due and payable on the fourteenth day of February, one thousand nine hundred and five, are increased as follows:—

Land tax increased One Farthing.

i. The land tax shall be increased at the rate of One Farthing for every Pound sterling on the amount of the taxable value of the land:

Additional land tax increased One Farthing.

ii. The additional land tax provided for in section 4 of Act 604 of 1894 is increased at the rate of One Farthing for every Pound sterling exceeding the amount of Five Thousand Pounds of the total assessed unimproved value of all land owned by any party:

Computation of absentee land tax.

iii. The absentee land tax provided for by the said section 4 shall be computed on and added to the amount of land tax and additional land tax, including the increase of each such tax hereby enacted and payable in respect of land owned by absentees.

Person absent twelve months from State shall be included as absentee.
Ibid., sec. 6, amended.

7. During the operation of section 6 of this Act the words "twelve months" shall be substituted in place of the words "two years" in the twelfth line of section 3 of Act 604 of 1894.

Annual assessment additional and absentee land tax.
Ibid., sec. 7.

8. Notwithstanding the provisions of any Taxation Act, an annual assessment for additional land tax and absentee land tax shall be made as of the fourteenth day of December in every year.

Certain incomes deemed to arise, &c., in South Australia.

9. The following incomes shall be deemed to arise or accrue in or be derived from South Australia, that is to say—

(a) Income resulting from the buying, selling, or dealing in South Australia of or in any shares, debentures, or stock in or of any joint-stock or incorporated company, wherever such company or its property may be situate: (b) Rent,

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- (b) Rent, interest, and other profits issuing out of any money invested in South Australia, or lent anywhere to any person in South Australia, or charged or secured upon or by any lands, tenements, or hereditaments in South Australia, or any estate or interest therein, notwithstanding that any person or persons entitled to receive or liable to pay such rent, interest, or profits may reside or be out of South Australia, and notwithstanding that any instruments creating, charging, or securing such rent, interest, or profits may have been executed out of South Australia:
- (c) Income arising or accruing by virtue or means of any contract made in South Australia of or for the sale of goods delivered or to be delivered in South Australia, or of goods in South Australia whether delivered or to be delivered either in or out of South Australia.

10. When any goods shall, in South Australia, be manufactured or altered or made more marketable or saleable, or otherwise treated with a view to profit to the owner of such goods, and shall be taken out of South Australia without any sale or contract to sell the same being first made therein, then the owner of the said goods by whom or on whose behalf the same shall be so manufactured, altered, made marketable or saleable, or otherwise treated, shall be deemed to have made and received by such manufacture, alteration, making marketable or saleable, or other treatment, a profit and net income equal to Three Pounds upon every Hundred Pounds of the actual cost to such owner of such manufacture, alteration, making marketable or saleable, or other treatment: such cost shall include a fair and reasonable charge for all lands, buildings, and machinery used or employed by the owner in and about such manufacture, alteration, making marketable or saleable, or other treatment. Where such goods shall be so manufactured, altered, made more marketable or saleable, or otherwise treated as aforesaid, together with other goods, that the actual cost aforesaid, or any portion thereof, cannot be specifically ascertained, then the cost or such portions thereof as cannot be specifically ascertained of manufacturing, altering, making more marketable or saleable, or otherwise treating such first-mentioned goods, and other goods together, shall be attributed to and divided among all such goods ratably according to the respective values of such goods immediately before the first-mentioned goods shall be taken out of South Australia.

Goods treated, but not sold in South Australia.

11. The use and enjoyment of any house, or portion of a house, and all gratuities, bonuses, and premiums, whether in money, or goods, or land allowed, given, or granted to any person in respect of or for or in relation to any employment or services of such person shall be deemed to be income of such person from personal exertion to the amount of the value of such use and enjoyment, gratuities, bonuses, and premiums, respectively. The use and enjoyment of any house, or portion of a house, shall be valued according to the annual value thereof, and be charged as income, notwithstanding that the person using and enjoying the same may be under any obligation or duty to use or enjoy the same.

Residences, &c., chargeable as income.

12. In

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Income from shipping

12. In the case of every carrier by sea who shall carry passengers or goods to or from South Australia, the net taxable income of such carrier in his business of a carrier by sea shall, unless and until the contrary be shown, be calculated and assessed at the rate of Five Pounds upon every Hundred Pounds of the gross moneys paid or payable to or receivable by such carrier, whether in South Australia or elsewhere, for the carriage of passengers, mails, or goods out of any port in South Australia, whether to some other port in South Australia or to some other place. The provisions of this section shall not apply to any sailing vessel taking cargo in South Australian ports for oversea ports unless and until such vessels shall load in South Australia oftener than twice in any one year.

Charging income tax on casual shipping.

13. (1) The Commissioner may, in the prescribed manner, declare that section 5 of the principal Act shall not apply with respect to the earnings of any ship or vessel named by him during the period named by him.

(2) Thereupon the master of such ship or vessel shall furnish such return or returns as shall be prescribed.

(3) At any time after the making of such declaration, an estimate may be made by the Commissioner of the income which is or will be assessable as income of the owner or hirer of such ship as a carrier by sea in relation to the earnings of such ship or vessel in the period named in the declaration.

(4) The Commissioner may, either before or after the expiration of the said period, make an assessment against the owner and hirer of such ship or vessel for income tax upon the amount of such estimate, and tax shall thereupon be forthwith payable according to such assessment.

(5) If such owner or hirer be not known to the Commissioner, or be not known by the Commissioner to be in South Australia, such assessment may be made against the master of the ship or an agent in South Australia for the owner or hirer, and such master or agent shall thereupon be liable to pay the tax so assessed, and may recover the same from his employer or principal and deduct and retain the same out of any moneys of the employer or principal then or afterwards in the hands of the master or agent so assessed.

Taxpayers temporarily in South Australia.

14. Whenever any person shall be in South Australia temporarily in pursuit or exercise of any calling in the ordinary course of which, in the opinion of the Commissioner (certified in the prescribed manner), he will leave South Australia before income tax will be recoverable from him in the ordinary course, income tax shall be calculated and payable by him daily while he is in South Australia, and the Commissioner may, from time to time, assess the same for each day or include the tax for any number of days in one assessment.

Income tax on sales in South Australia for absent persons.

15. (1) Whenever any contract to sell or of sale of any goods shall be made in South Australia by any agent in South Australia for

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for any principal who shall be out of South Australia such agent shall pay to the Commissioner income tax upon the income of the principal arising from such contract, which income shall for that purpose be computed and assessed at Five Pounds for every One Hundred Pounds of the purchase-money under such contract wherever such purchase-money shall be payable or paid.

(2) The agent shall make such returns as may be prescribed in respect of such contract.

(3) Where the agent is a company the public officer of the company shall be liable under this section as if the income of the principal were income of the company.

(4) The payment under this section shall be in addition to all income tax payable by the agent upon his own income arising out of or in relation to the contract.

(5) The agent may deduct and retain the amount of all payments made under this section out of any moneys from time to time payable by him to the principal, or may recover the same from the principal as a debt in any Court of competent jurisdiction.

(6) The tax under this section shall be calculated and payable and may be assessed forthwith after the making of the contract.

(7) The Commissioner, upon the application of the principal or the agent, within twelve months after payment of the tax under this section, and upon proof to the satisfaction of the Commissioner that the whole net income, wherever arising, of the principal in respect of the goods the subject of the contract was in fact less than the amount computed and assessed under subdivision (1) hereof, may reduce the assessment to the amount of such whole net income, and the excess of tax paid over the tax payable upon such reduced assessment shall be refunded to the principal or the agent by the Treasurer.

(8) This section shall not apply where the principal, either by himself, or his agent, or servant, carries on business continuously in South Australia in his own name.

(9) The Commissioner, in the prescribed manner, may declare any principal to be assessable under the general provisions of the Taxation Acts, and may rescind such declaration. While such declaration is in force, and from the date of such declaration, or from such prior date (if any) as shall be specified in the declaration, this section shall not apply to any contracts made for the principal so declared.

16. Taxes at any time payable under the last preceding three sections shall be at the rates in force for the time being upon income from personal exertion generally of or for the year ending on the last previous thirty-first day of December. Subdivision x. of section 12 of the principal Act, and any amendment thereof, shall not apply to income to which the said three sections, or any of them, shall apply.

Rates of taxes
certain cases.

17. (1) The

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Companies.

17. (1) The words “but not dividing its profits amongst its members in the said Province or being a Life Assurance Company” in section 12, subdivision iv., of the principal Act are hereby repealed.

(2) Subdivision xii. of section 12 of the principal Act is hereby repealed.

(3) In the case of the income of a taxpayer being a company carrying on business in the said State and also elsewhere, and—

(a) Carrying on the business of life assurance: The taxable amount of income from life assurance business shall be such portion of the company's profits and surplus from life assurance as shall be or would if all such profits and surplus were distributable amongst the company's policy holders be actuarially distributable to or amongst the South Australian holders of the company's policies:

(b) Carrying on any business other than banking, fire insurance, life assurance, marine insurance, carrying by sea: The taxable amount of income from such business other than as aforesaid shall be a sum which shall bear to the company's whole net income, wherever arising from such business other than as aforesaid, the proportion which the assets of the company in South Australia shall bear to the whole assets of the company at the time as at which the income is calculated; but assets held or employed wholly for the purpose of the business of banking, fire insurance, life assurance, marine insurance, or carrying by sea being excluded from the reckoning to ascertain the proportion: Provided, nevertheless, that in cases in which money or security for money is the only asset of such company in South Australia, then the interest earned in South Australia on such money shall, subject to the deduction therefrom of interest on money borrowed by such company in South Australia, be the taxable amount of such company's income.

(4) Subdivision x. of section 12 of the principal Act and any amendment thereof shall not apply to the account or income of any taxpayer being a company.

(5) Subject to the provisions of this Act and of section 12, subdivision iv., of the principal Act, the taxable amount of income of a company shall be ascertained in the same manner as if the company were an individual natural person; and all moneys held by any company at the commencement of or during the year one thousand nine hundred and four arising from profits made by such company within the past ten years, and upon which income tax has not hitherto been paid, shall, subject to all lawful deductions for losses and shortages, be deemed to be and be taxable as income for that year.

Companies in liquidation.

18. Any company now or hereafter in course of being wound up, and which at the commencement of the winding-up was or shall be

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be subject to section 62 of the principal Act, shall continue to be subject to that section, and be deemed to carry on business in the said State so long as the winding-up shall continue in the said State or with relation to any assets of the company in the said State.

19. The legal personal representative or the Public Trustee, or other person, administering or getting in the estate of any person who has died since the first day of January, one thousand nine hundred and four, or shall hereafter die, shall be a taxpayer in a representative capacity in respect of the income of the deceased person from the first day of January last preceding his decease, up to his decease, and in the year immediately prior to such first day of January, and in respect of such income shall furnish returns which the deceased person should (if living) have furnished, and be bound by any assessments made against or in the name of the deceased person as taxpayer, either in the lifetime of the deceased person or after his death, and before the Commissioner shall have had notice, in writing, of such death, but may appeal against the same in the manner and time and upon the ground in and upon which the deceased (if living) might have appealed against the same.

Tax on incomes on deceased persons.

20. (1) Where the person having or entitled to any income described in subdivision (b) of section 9 of this Act shall not be known to the Commissioner to be in South Australia, the Commissioner may give notice thereof in form and manner prescribed to either or both—

Securing payment of taxes on income from rents, &c., in certain cases.

(a) The Registrar-General:

(b) The person liable to pay the rent, interest, or other profits.

(2) Such notice to the Registrar-General shall be registered, and shall operate as a charge created by the person having or entitled to the said income upon all his estate and interest in the lands out of, or upon, or by which the rents, interests, or profits shall be issuable, charged, or secured of all moneys then payable, or which shall thereafter become payable, for income tax upon the said income of such person. If such person be a registered proprietor under "The Real Property Act, 1886," or any Act amending or substituted for that Act, the Commissioner shall have the same rights and powers as if such charge were created by a memorandum of encumbrance executed by such registered proprietor in favor of the Commissioner as encumbrancee, but subject to all existing encumbrances.

(3) Upon payment of any income tax on any such income, the Commissioner shall give a receipt therefor in the prescribed form, and such receipt shall be registered by the Registrar-General on production to him.

(4) After such notice as aforesaid to the person liable to pay the rent, interest, or other profits, such person shall, while he continues so liable, be a taxpayer in a representative capacity in respect of such income. Such notice shall be conclusive evidence of the

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the fact stated therein in all matters, suits, actions, or proceedings by or against such person against or at the suit of the person entitled to the income, or any other person. All moneys payable when such notice is given or afterwards payable by the person to whom the notice is given shall be deemed to be property over which such person has control. Such person having paid any tax by virtue of this section may deduct and retain the same out of any moneys then payable or thereafter to become payable by him on account of such rent, interest, or other profits.

Inquiries by Commissioner.

Amendment.

21. Section 68 of the principal Act is amended by striking out the first two lines thereof and inserting in lieu of the words in such two lines the words "The Commissioner from time to time after making any assessment, or before and in contemplation of making any assessment, or with a view to determining whether an assessment should or should not be made, and whether any return shall have been made by the person or persons against whom any assessment has been or is proposed to be made or not, may make".

Returns of interest, etc.

22. Returns in the prescribed manner and form may be required by the Commissioner from any person or company in South Australia of all payments of interest or rent by such person or company.

Penalty.

23. Any person who shall fail to furnish any such return when required, or shall wilfully furnish any false return, shall be liable to a penalty not exceeding Fifty Pounds.

Deduction for services of sons and daughters.

24. The Commissioner may allow every taxpayer to deduct from his income a reasonable amount for the services of his sons and daughters over the age of sixteen years whilst employed by him in his trade or occupation.

Disputed assessments.

25. The Commissioner shall in all cases of disputed assessment render to the taxpayers a full and particular account of his claim.

Copies of regulations saleable.

26. The Commissioner shall, on payment of the sum of One Shilling, furnish to every applicant a printed copy of all regulations for the time being in force.

Farmers' returns.

27. Farmers' income tax returns shall henceforth be made up to the thirty-first day of March in every year.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

GEORGE R. LE HUNTE, Governor.