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T A S M A N I A.



1941.

ANNO QUINTO

GEORGII VI. REGIS.

No. 43.

ANALYSIS.

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| <ul style="list-style-type: none"> 1. Short title. 2. Repeal. 3. Amendment of 1 Geo. VI. No. 47. <ul style="list-style-type: none"> Section 2. Section 22. Section 28. Section 30. Section 35. | <ul style="list-style-type: none"> New section 53. Statutory exemptions. <ul style="list-style-type: none"> Section 54. Section 59. Section 71. Section 101. 4. Application of provisions of this Act. |
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AN ACT to amend the *Land and Income Taxation Act 1910.* A.D. 1941.
[13 November, 1941.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Land and Income Taxation Act (No. 2) 1941.* Short title.

6d.]

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A.D. 1941. **2** The enactments enumerated in the schedule are hereby repealed to the extent therein indicated.

Repeal.

Amendment
of 1 Geo. VI.
No. 47.
Section 2.

3 The Principal Act is hereby amended—

I. By inserting at the end of the definition of “assessment” in section two thereof the words “or of the tax payable in respect of any land”:

Section 22.

II. As to section twenty-two thereof by inserting—

(a) “(1)” at the commencement: and

(b) “(2) Where the income of a taxpayer is derived partly from personal exertion and partly from property—

I. The rate of tax to be paid by him shall be based on the aggregate of such income as if the same were all derived from the same source:

II. The tax shall be payable at the rate so determined upon the amount of his income from each of such sources respectively as if his aggregate income had been derived from that source:

III. Any deduction to which he may be entitled under section fifty-three shall be made from his income from personal exertion, but if the amount of the deduction exceeds the income from personal exertion the excess shall be deducted from his income from property.”:

Section 28.

III. As to section twenty-eight thereof—

(a) By deleting the words and figures “under the *War Pensions Act 1914*” in paragraph IX. and substituting therefor the words and figures “and benefits under the *Australian Soldiers Repatriation Act 1920-40*, or the *Seamen’s War Pensions and Allowances Act 1940*”:

(b) By inserting at the end of paragraph XI. the words “and all pensions paid to, or in respect of an officer of the State or Commonwealth Service in respect of injury received by such officer in the execution of his duty as such officer”:

(c) By inserting at the end of paragraph XVII. the following further provisoes—

“Provided also that the exemption granted by this paragraph shall cease at the expiration of three months from the

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date on which the person claiming it has returned to Australia except in the case of an undischarged invalid: A.D. 1941.

Provided also that any permanent member of any of the abovementioned services who is detailed for service outside Australia shall be entitled to the exemption hereby granted during his absence from Australia on such service and no longer.”:

IV. As to section thirty thereof by inserting—

Section 30.

(a) At the end of paragraph IX. of subsection (1) the words “in respect of the use or performance in this State of any property, right, or production in relation to which royalty is payable”: and

(b) After paragraph XVII. of that subsection the following new paragraph XVIII.—

“XVIII. All moneys in respect of which the taxpayer has been allowed or is claiming a deduction under section forty-three or paragraph II. of subsection (1) of section fifty-one, and which, during the year of income, revert to the taxpayer.”:

V. By inserting after “capital” in the sixth line of subsection (2) of section thirty-five thereof the words “not being capital created by a revaluation of assets”:

Section 35.

VI. By substituting for repealed section fifty-three thereof the following new section fifty-three—

New section 53.

“**53**—(1) No person who is resident in this State and whose gross income from all sources during the year of income, after deducting therefrom all allowable deductions except the concessional deductions, did not exceed—

Statutory exemptions.

- I. One hundred and four pounds:
- II. One hundred and fifty pounds, if he is married:
- III. Four hundred pounds, if he is a returned soldier who is totally and permanently incapacitated:
- IV. Five hundred pounds if he is such returned soldier as aforesaid and is married: or
- v. Two hundred pounds if he is married and has any dependent children in respect of whom he is entitled to a deduction under section fifty-two—

shall be liable to income tax imposed under this Act, and no non-resident person whose income

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from all sources during such year did not exceed fifty pounds shall be liable to such tax as aforesaid.”.

(2) In the following cases the taxable amount shall be ascertained by deducting from the nett income—

i. If the taxpayer is a returned soldier who is totally and permanently incapacitated and his nett income from all sources during the year of income exceeded five hundred pounds if he is married or four hundred pounds if otherwise: the sum of—

(a) Five hundred pounds if he is married: or

(b) Four hundred pounds if otherwise:

ii. Where the tax assessed, as provided by this Act, in respect of the income of the taxpayer would amount to less than one pound five shillings—the amount of his nett income.

(3) For the purposes of this section and section fifty-four the term ‘married’ applied to a taxpayer includes a taxpayer who is a widow or widower and who, during the year of income, maintained a dependent child under the age of sixteen years.

(4) The foregoing provisions of this section shall not apply to any company.”:

Section 54.

VII. By inserting at the end of subsection (3) of section fifty-four thereof the words “or in the war which commenced on the third day of September one thousand nine hundred and thirty-nine”: and

Section 59.

VIII. As to section fifty-nine thereof—

(a) By deleting the word “less” in the first line of subsection (3) and substituting “not more”: and

(b) By inserting at the end of subsection (4) the words “or where a premium is payable in each of three or more years”:

Section 71.

IX. As to section seventy-one thereof by inserting—

(a) “Except as provided by subsection (7) hereof” at the commencement of subsection (2):

(b) The following new subsections (7) to (10) at the end—

“ (7) If two or more members of any partnership are relatives, the Commissioner, in his discretion, may select one

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or more partners, and thereupon, in A.D. 1941.
respect of each partner so selected—

- I. The assessable income shall include the individual interest in any nett income of the partnership:
- II. The allowable deductions shall include the individual interest in any partnership loss: and
- III. The exempt income shall include the individual interest in any exempt income of the partnership:

of any of his relatives whom the Commissioner may nominate; but the Commissioner shall not nominate any such relative who, not being the wife of a selected partner, was over the age of twenty-one years at the beginning of the year of income, and who, during the greater part of that year, was actively engaged in the production of the assessable income of the partnership.

(8) If during the year of income a wife carries on any business individually or as a partner of any persons (not including her husband), and, in the opinion of the Commissioner, not less than three-fourths of her capital in such business has been derived directly or indirectly from, or through the instrumentality of, her husband—

- I. Her income from such business, if carried on individually or her individual interest in any nett income of such partnership, shall be included in the assessable income of her husband:
- II. Any nett loss from such business, if carried on individually, or her individual interest in any loss made by such partnership, shall be included in her husband's allowable deductions, together with such amount, if any, as the Commissioner may consider just and reasonable as an allowance in respect of services rendered by the wife in the production of such income or loss, and any amount so allowed in respect of such services shall be deemed to be income received by the wife.

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(9) Payments made during the year of income by a partnership to a partner for services rendered shall be allowable deductions to the extent only to which the Commissioner considers that they are reasonable in amount and have been made in good faith for the purposes of the production of assessable income.

(10) Where the assessable income of a taxpayer includes the individual interest of a relative in the nett income of a partnership, or where the allowable deductions of a taxpayer include the individual interest of a relative in a partnership loss, any allowable deductions to which such relative is entitled on account of assets used by the partnership rent free in production of such partnership nett income or loss shall be taken into account only in the assessment of such taxpayer.”.

Section 101.

X. As to section one hundred and one thereof—

- (a) By deleting “thirty” in subsection (2) and substituting “twelve pounds ten shillings”: and
 (b) By expunging the proviso to subsection (2).

Application
of provisions
of this Act.

4 The amendments effected by this Act shall apply to all assessments for the financial year which commenced on the first day of July, one thousand nine hundred and forty-one, and every subsequent financial year.

SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.
1 Geo. V. No. 47	The <i>Land and Income Taxation Act</i> 1910.	Section 53.
4 Geo. VI. No. 15	The <i>Land and Income Taxation Act</i> 1940.	Paragraph VII. of section 3.