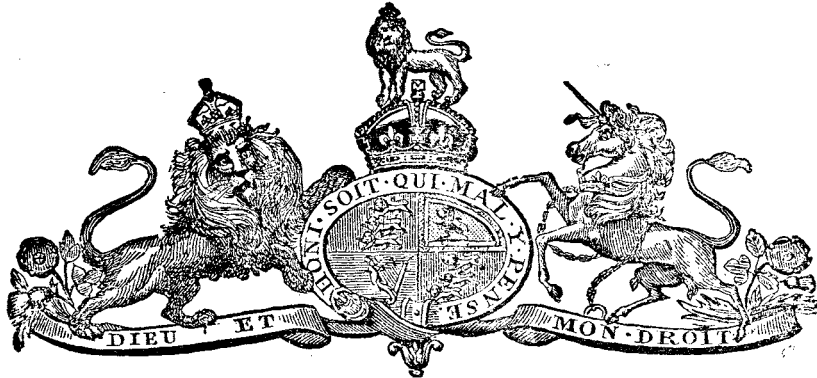


T A S M A N I A.



1923.

ANNO QUARTO DECIMO

GEORGI V. REGIS.

No. 23.

ANALYSIS.

1. Short title.
2. Interpretation.
3. Ratification of agreement.
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AN ACT to ratify and confirm an Agreement entered into between the Commonwealth and the State, for the Collection of the Commonwealth Income Tax payable within the State, and the State Income Tax, by an Officer acting for the Commonwealth and the State, and for other purposes.

A.D. 1923.

[9 November, 1923.]

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 Income Tax Collection Act, 1923." Short title,

8d.]

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2 In this Act—

Interpretation.

“The agreement” means the agreement between the Commonwealth and the State, a copy whereof is set out in the schedule to this Act:

13 Geo. V. No. 25.

“The Public Service” means the Public Service of Tasmania as defined by Section Five of “The Public Service Act, 1923.”

Ratification of agreement.

3—(1) It shall be deemed to have been lawful for the State to have entered into the said agreement, and for the Premier to have executed the same on behalf of the State.

(2) The said agreement is hereby ratified and confirmed, and shall be deemed to have come into operation on the First day of July, One thousand nine hundred and twenty-three.

Premier authorised to give effect to agreement.

4 The Premier is hereby authorised on behalf of the State to do and perform all acts, matters, and things which he may from time to time deem necessary or expedient for the purpose of carrying out or giving effect to the said agreement.

Appointment of Commonwealth officers to State Taxation Department.

5 Notwithstanding any enactment to the contrary—

i. The Governor may, on the certificate of the Public Service Commissioner, appoint to the Taxation Department of the Public Service the Commonwealth officers referred to in Clause Four of the said agreement, who in pursuance of the said clause are to be transferred to the permanent service of the State :

Officers appointed to be subject to provisions of agreement.

ii. Every Commonwealth officer appointed under Paragraph **i.** of this section shall, upon such appointment, be subject to, and be entitled to the benefit of, such of the provisions of the said agreement as relate to—

(a) His employment or status in, or displacement from, the Public Service ;

(b) The abolition of his office, or the dispensing with his services, in the Public Service ; and

(c) His retransfer to the Public Service of the Commonwealth—

in the same manner as if such provisions had been expressly herein enacted with respect to such officer :

Commissioner of Taxes may accept office of Deputy-Commissioner of Taxation for State.

ii. The Commissioner of Taxes may accept the office of Deputy-Commissioner of Taxation for the State, under “The Income Tax Assessment Act, 1922-23,” of the Commonwealth, and may hold such office during the continuance of the said agreement :

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- iv. The Commissioner of Taxes may, at any time during the continuance of the said agreement, allow any officer of the Commonwealth Department of Taxation, authorised in that behalf by the Commonwealth Commissioner of Taxation, to inspect any records kept in the office of the said Commissioner of Taxes. A.D. 1923.
—
Inspection of
State records by
Commonwealth
officers.
- 6** The Governor may make regulations prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act or the said agreement. Regulations.
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SCHEDULE.**INCOME TAX AGREEMENT.**

AN AGREEMENT made the Tenth day of October One thousand nine hundred and twenty-three between THE COMMONWEALTH OF AUSTRALIA (hereinafter called the "Commonwealth") of the one part and THE STATE OF TASMANIA (hereinafter called the "State") of the other part.

WHEREAS it is desirable in the public interest and to avoid duplication of services that the income tax payable from time to time to the Commonwealth (hereinafter called the "Commonwealth tax") and the income tax payable from time to time to the State (hereinafter called the "State tax") should so far as practicable be assessed and collected by the one agency.

AND WHEREAS it is necessary that any arrangement for that purpose should preserve inviolate the respective sovereign powers and rights of the Commonwealth and the State.

AND WHEREAS the Commonwealth and the State have agreed to co-operate in the collection of the Commonwealth tax and the State tax under the conditions hereinafter contained.

NOW IT IS AGREED AS FOLLOWS:—

1. The Commonwealth and the State agree to collect the Commonwealth tax within the State and the State tax respectively in the manner and subject to the conditions set forth in this Agreement.

2.—(a) Subject to this Agreement the Commonwealth tax and the State tax shall be collected by an officer acting for the Commonwealth and the State.

(b) The Commonwealth shall appoint the State Commissioner of Taxes for the time being (hereinafter called the "State Commissioner") to be the Deputy-Commissioner for the State under the Income Tax Assessment Acts of the Commonwealth (hereinafter called the "Deputy Federal Commissioner").

3.—(a) The State Commissioner in his capacity as such Deputy Federal Commissioner shall be responsible to the Commonwealth Commissioner of Taxation (hereinafter called the "Commonwealth Commissioner") for the due assessment and collection of the Commonwealth tax and the administration of the laws of the Commonwealth relating thereto and shall in relation to such assessment collection and administration be free from interference or control by the State. The Commonwealth Commissioner shall delegate to the State Commissioner such powers and functions of the Commonwealth Commissioner as are necessary or convenient for the purpose of the administration in the State of the laws of the Commonwealth relating to income tax. Provided that nothing in this subclause shall affect the right of the State Commissioner to have full control of all State officers including officers transferred from the service of the Commonwealth in pursuance of this agreement and employed in the assessment and collection of the Commonwealth tax within the State.

(b) All matters arising in connection with the exercise by the State Commissioner of his powers and functions under the laws of the State shall be determined by him in accordance with those laws and without interference by the Commonwealth.

(c) The receipt of money by any person authorised to receive money in connection with the collection of the Commonwealth tax and the State tax shall be as against the Commonwealth and in favour of the State a receipt thereof by the Commonwealth and as against the State and in favour of the Commonwealth a receipt thereof by the State.

4.—(a) The State shall accept the transfer to the permanent service of the State of all Commonwealth officers who on the First day of July One thousand nine hundred and twenty-three were and at the date when this Agreement is authorised by the Parliament of Tasmania are engaged in income tax work in the State of Tasmania (not including officers employed in what is known as the Central Office of the Commonwealth Taxation Branch) and who in the opinion of the Commonwealth Commissioner are required to perform the normal work (other than arrears in respect of assessments for financial years prior to the 1st July 1922) necessary under the Commonwealth Income Tax Assessment Acts at the date of such transfer.

The Commonwealth Commissioner shall notify the State Commissioner as soon as practicable after the date of this Agreement of the number and grades of the officers who in his opinion are required to perform the normal work as aforesaid.

For the purpose of this subclause "Commonwealth officers" means and includes permanent and probationary permanent officers in the service of the Commonwealth and returned soldiers who have passed the qualifying examination for appointment as permanent officers and who are employed by the Commonwealth in a temporary capacity awaiting appointment as permanent officers in the service of the Commonwealth.

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(b) Subject to this Agreement each officer so transferred—

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- (i) Shall be subject in all respects to the laws of the State regulating the Public Service; and
- (ii) Without prejudice to the last preceding paragraph shall preserve all his existing and accruing rights as at the date of this Agreement and shall be required to continue to contribute to the Superannuation Fund of the Commonwealth such sums as he would have been liable to contribute if he had remained an officer of the Commonwealth and shall be entitled to retire from office at the time and on the pension or retiring allowance which would be permitted by the laws of the Commonwealth if his service with the State were a continuation of his service with the Commonwealth; and
- (iii) Shall so far as practicable be employed on duties of a status not lower than the status of the duties of the class or grade in which such officer is classified at the date of this Agreement.

(c) The Commonwealth shall provide all moneys necessary for the payment of any compensation bonuses retiring allowances and payments in lieu of furlough payable to officers so transferred on the lawful termination of their service with the State and the moneys so provided shall not be included in the cost of collection of the Commonwealth tax and the State tax for the purposes of Clause 10 (a) of this Agreement.

(d) Any contributions to any superannuation fund of the Commonwealth in respect of an officer so transferred (other than contributions payable by the officer) shall be paid by the Commonwealth.

(e) On the determination of this Agreement from any cause whatever the Commonwealth shall retransfer to the Commonwealth Service all officers of the State who have pursuant to this Agreement been transferred from the Commonwealth Service to the State Service and the State shall permit such retransfer.

(f) Where—

- (i) An officer so transferred from the Commonwealth Service to the State Service has while in the State Service been promoted to a higher position in the Income Tax Office not previously occupied by the officer so transferred or to any position in the State Service other than a position in the Income Tax Office; and
- (ii) The officer so promoted elects to remain in the State Service; and
- (iii) The State desires to retain the services of such officer—

he shall not be retransferred to the Commonwealth Service in accordance with the last preceding paragraph but the Commonwealth shall transfer to the Commonwealth Service in his place another State officer holding a position of equal status and with similar duties to that from which the first-named officer was promoted (if there be any such officer) and the State shall permit such transfer.

5.—(a) All officers and employees of the State employed in the Income Tax Branch of the State and all Commonwealth officers transferred to the State pursuant to this Agreement shall be merged into and form one combined staff.

(b) The State shall provide all office accommodation required.

6.—(a) If by reason of any economy effected by this Agreement the staff of Commonwealth officers transferred to the State Service in accordance with Clause 4 of this Agreement together with the existing State Income Tax staff (including temporary officers engaged upon permanent duties) is greater than is required for the work to be performed and a reduction is necessary the number and grades of positions to be abolished and the number and grades of the officers or employees to be displaced shall as between the officers and employees who prior to this Agreement were respectively State and Commonwealth officers or employees be as far as practicable proportionate to the numbers and grades of the positions and of the officers and employees of the respective staffs.

(b) Whenever during the currency of this Agreement a diminution in the work required to be performed for the Commonwealth occurs by reason of any amendment subsequent to the date of this Agreement of the Commonwealth Income Tax Assessment Acts and it is necessary or advisable for officers or employees to be dispensed with the State may if it shall think fit for that reason dispense only with officers who were transferred from the Commonwealth pursuant to Clause 4 (a) of this Agreement.

(c) The Commonwealth Commissioner and the State Commissioner shall jointly determine the numbers grades and identities of the officers and employees whose income tax services are to be dispensed with pursuant to Subclauses (a) and (b) of this clause.

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7. Should any dispute or difference arise between the Commonwealth Commissioner and the State Commissioner on any administrative matter arising under this Agreement and not otherwise herein provided for the Treasurers of the Commonwealth and the State respectively shall confer and in the event of their failure to agree on the matter it shall be referred for settlement to some independent person selected for that purpose by the Treasurers and the decision of that person shall be final and conclusive.

8. In order to secure uniformity throughout the Commonwealth of the interpretation of the laws of the Commonwealth the State Commissioner shall apply the rulings of the Commonwealth Commissioner in the interpretation of the laws of the Commonwealth.

9. Nothing in this Agreement shall be deemed to restrict or impede the Commonwealth or the State in the exercise of its rights and powers under the constitution of the Commonwealth or the State and the laws of the Commonwealth or the State now or hereafter in force.

10.—(a) The cost of collection of the Commonwealth tax and the State tax as provided for in this Agreement shall in each financial year ending Thirtieth June be apportioned and borne by the Commonwealth and the State respectively on the basis of the actual cost of performing the work in connection with the administration assessment and collection of the respective taxes but so that the cost of administration assessment collection and recovery of the Commonwealth tax assessable for periods up to and including the Thirtieth June One thousand nine hundred and twenty-two shall be borne solely by the Commonwealth.

(b) The said cost of collection shall include—

(i) Salaries of officers and employees including the State Commissioner and officers and employees of the Crown Law Department of the State properly referable to the assessment and collection of the said taxes.

(ii) All relevant contingent expenditure.

(iii) All other expenditure properly referable to the assessment and collection of the said taxes including rent of and interest payable on the cost of premises occupied for the assessment and collection of the said taxes and costs and expenses of legal proceedings for recovery.

(c) The said cost and the apportionment thereof shall be determined by agreement between the Commonwealth Commissioner and the State Commissioner and in default of agreement shall be determined by a person nominated by the two Commissioners or if they cannot agree on a nomination shall be determined by the Auditor-General for the Commonwealth. The State Commissioner will from time to time furnish to the Commonwealth Commissioner such information as the Commonwealth Commissioner may require to enable him to ascertain the amount of such cost and the proper apportionment thereof.

(d) The estimated proportion of the said cost payable by the Commonwealth shall be paid by the State in quarterly instalments during each financial year and shall be adjusted at the end of such financial year.

(e) If the remuneration of an officer transferred to the State in accordance with this Agreement differs at the date of such transfer from the remuneration of an officer or employee employed under the State Commissioner and occupying a position of corresponding classification and status and performing approximately similar duties or if any such difference in remuneration arises after the said date by reason of an officer so transferred being granted after the said date an increment or increments of salary in satisfaction of an existing or accruing right of such officer at the said date the amount of the difference in remuneration shall be excluded from the said cost of collection and shall be paid wholly by the Government which but for this Agreement would be liable to pay it. As soon as the difference ceases the full remuneration received by the officer or employee shall form part of the said cost of collection.

(f) The said cost of collection and the apportionment thereof shall commence on the date at which the respective staffs are merged into one combined staff pursuant to Clause 5 (a) of this Agreement. The date of such merger shall be determined by the Commonwealth Commissioner and the State Commissioner jointly. All costs and expenses incurred by the Commonwealth or the State respectively in respect of matters occurring prior to such merger shall be borne by the party to whom they were incurred.

11. In order that the work of assessment and collection of taxes may proceed expeditiously and economically the Governments of the Commonwealth and the State respectively will submit to Parliament before the Thirtieth day of September in each year or as early as practicable thereafter—

(a) Proposed laws fixing respectively the rates of the Commonwealth tax and the State tax for that year; and

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(b) Proposed amendments of the income tax laws of the Commonwealth and State respectively; A.D. 1923.

and endeavour to have these proposed laws dealt with by the respective Parliaments without delay.

12.—(a) The State Commissioner in his capacity as Deputy Federal Commissioner shall in the manner required from time to time by the Commonwealth Treasurer deal with and account for all Commonwealth tax collected pursuant to this Agreement; and

(b) The State Commissioner shall from time to time furnish to the Commonwealth Commissioner any information which the Commonwealth Commissioner may require in respect of the operation within the State of the laws of the Commonwealth relating to income tax.

13. With a view to securing the greatest possible economy from the operation of this Agreement and to simplify the procedure in relation to the furnishing of taxation returns and information the Commonwealth and the State agree as far as practicable to have uniform income tax laws enacted by the respective Parliaments. The respective parties by their Governments undertake to endeavour to have these laws enacted before the Thirtieth day of September One thousand nine hundred and twenty-three.

14.—(a) There shall be prepared a joint form of (Income Tax Return suitable for both Commonwealth and State Tax purposes in the State of Tasmania.

(b) Returns furnished in the joint form by taxpayers deriving income from sources in the State of Tasmania only shall be accepted as sufficient so far as form is concerned.

(c) Taxpayers deriving incomes from sources in the State of Tasmania and elsewhere in Australia will be required to furnish returns in the Commonwealth prescribed form at the Commonwealth Central Income Tax Office and in addition returns in the joint form at the office of the State Commissioner in respect of income derived from sources in the State of Tasmania only.

(d) Any officer of the Income Tax Office of the State thereto authorised in writing by the State Commissioner may inspect any records kept in the Central Office of the Commonwealth Department of Taxation and any officer of the Commonwealth Department of Taxation thereto authorised in writing by the Commonwealth Commissioner may inspect any records kept in the Income Tax Office of the State and the State undertakes to enact any necessary legislation for this purpose.

15.—(a) Prosecutions for offences against the laws of the State relating to the State tax shall be conducted by and at the expense of the State and prosecutions for offences against the laws of the Commonwealth relating to the Commonwealth tax shall be conducted at the expense of the Commonwealth and may be conducted by the State Commissioner in his capacity as Deputy Federal Commissioner.

Provided that when the Commonwealth Commissioner and the State Commissioner agree or have agreed that the act or omission constitutes an offence under both the law of the Commonwealth and the law of the State or that the decision of the question under the law of one party is likely to be useful in the administration of the law of the other party the expense of the prosecution shall be borne jointly.

(b) When an act or omission constitutes an offence under both the law of the Commonwealth and the law of the State—

(i) As a general rule the prosecution shall be instituted under the law which provides the greater penalty;

(ii) Any monetary penalty recovered shall be paid into the Consolidated Revenue of the party under whose law the prosecution is instituted; and

(iii) The party into whose revenue the penalty is paid shall pay or credit to the other party One-half of the amount of the penalty;

(iv) The expenses of such prosecution shall be shared equally by the Commonwealth and the State.

(c) When an act or omission constitutes an offence under one law only any monetary penalty covered shall be paid into the Consolidated Revenue of the party under whose law the prosecution is instituted and be retained wholly by that party.

16. Where by reason of any act default or omission of a taxpayer a sum has been collected as penalty or additional tax by way of penalty (not being a penalty imposed by a court) such sum shall be applied as follows:—

(a) If the sum is recoverable under one law only it shall be retained wholly by the party under whose law it is recovered; or

(b) If the sum is recoverable under both the law of the Commonwealth and the law of the State it shall be divided between the Commonwealth and the State proportionately to the penalties provided for in the respective laws of the Commonwealth and of the State.

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17. If a taxpayer at any time pays less than the full amount due and payable by him for Commonwealth tax and State tax the amount paid shall (unless the taxpayer otherwise directs) be credited to the Commonwealth and the State respectively *pro rata* to the full amount then due and payable by the taxpayer to the Commonwealth and the State.

18. No appeal against an assessment under the law of the Commonwealth shall be referred to a court by the State Commissioner in his capacity of Deputy Federal Commissioner but every such appeal shall be submitted by him for consideration of the Commonwealth Commissioner provided that nothing herein contained shall preclude the State Commissioner in such capacity as aforesaid from dealing with objections to assessments.

19.—(a) The Commonwealth will by its Government take any action within its power to obtain such amendments of any laws of the Commonwealth as may be necessary or advisable to enable this Agreement to be fully and effectively performed on its part.

(b) The State will by its Government take any action within its power to obtain such amendments of any of the laws of the State as may be necessary or advisable to enable this Agreement to be fully and effectively performed on its part.

20. Any notice to be given by either party to the other under this Agreement shall be deemed to have been duly given if signed by the Prime Minister or the Premier as the case may be on behalf of the party giving it and sent by prepaid post addressed to the Premier or Prime Minister as the case may be on behalf of the other party.

21. This Agreement shall come into operation on the First day of July One thousand nine hundred and twenty-three and shall continue in force for a period of Five years and thereafter until the expiration of not less than Six calendar months' notice in writing given by either party to the other of intention to determine it.

22. This Agreement is subject to the Government of Tasmania being empowered by Parliament to enter into any such Agreement.

As WITNESS the hand of the Acting Prime Minister of the Commonwealth of Australia for and on behalf of the said Commonwealth and the hand of the Premier of the State of Tasmania for and on behalf of the said State the day and year first above written.

Signed by the ACTING PRIME MINISTER OF THE
COMMONWEALTH OF AUSTRALIA for and on behalf
of the said Commonwealth in the presence of—

(Signed.) H. J. SHEEHAN.

(Signed.) EARLE PAGE.

Signed by the PREMIER OF THE STATE OF TASMANIA
for and on behalf of the said State in the presence
of—

(Signed.) P. J. STRUTT.

(Signed.) W. H. LEE.