

TASMANIA.

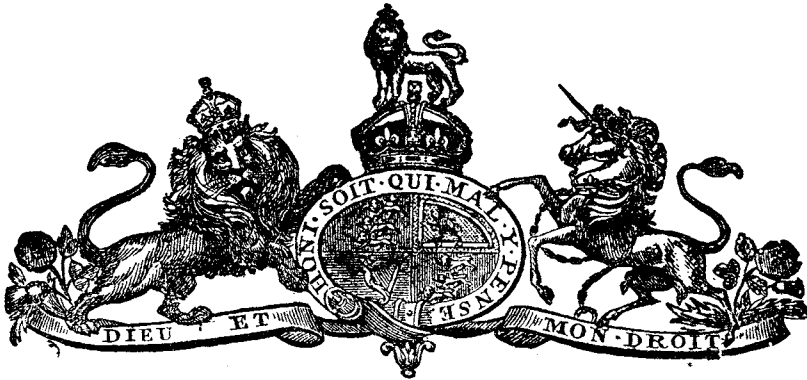
 THE LAND AND INCOME TAXATION
 ACT, 1933.

ANALYSIS.

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TASMANIA.



1933.

ANNO VICESIMO QUARTO

GEORGII V. REGIS.

No. 30.

AN ACT to amend the Land and Income
Taxation Act, 1910. [22 December, 1933.]

A.D.
1933.
—

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, 1933.”

Short title.

2 The enactments enumerated in the schedule are hereby repealed to the extent therein indicated.

Repeal.

3 The Principal Act is hereby amended—

I. As to Section Four thereof—

Section 4.

(a) By deleting from the definition of “Person” all the words from and after the word “company” in the first line thereof to the end of the definition ;
and

Amend-
ment of 1
Geo. V. No.
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(b) By expunging the definition of "Prescribed" and substituting therefor the following new definition :—

"Resides" or "Resident," when either term is used so as to be intended to have relation to a company, shall be deemed to have reference to the place where such company has—

- i. Either its head office or its chief place of business : or
- ii. Its chief place of manufacture or production within the Commonwealth :":

New
Section 27a.

Assessment
of tax
before pass-
ing of
Rating Act.

II. By inserting after Section Twenty-seven thereof the following new Section **27a** :—

"**27a**—(1) Where, under the provisions of this Act, any income tax becomes payable in respect of any dividend or of any lottery during the first six months of any financial year before the passing of an Act to impose an income tax in respect of that financial year, the same may be assessed, levied, and collected at the rate imposed in respect of the like subject-matter for the immediately preceding financial year, and shall be payable and paid accordingly.

(2) If in any such case the rate imposed in respect of the same subject-matter by an Act imposing an income tax in respect of the financial year when such tax became payable is greater or less than the corresponding rate for the preceding financial year, the Commissioner may make any adjustment that may be necessary to ensure that the ultimate incidence of such tax shall be at the rate imposed for the financial year in which it is payable."

Repeal of
Section 33.

New
Section 33.
Representative tax-
payers.

III. By substituting for repealed Section Thirty-three thereof the following new Section Thirty-three :—

"**33**—(1) In respect of all income of which a taxpayer in a representative capacity has the management, receipt, disposal, remittance, payment, or control he shall be chargeable with the same income tax, and be subject to the same duties and liabilities, as if such income were his personal income and were the only income accruing to him or to which he was entitled.

(2) This section shall not have the effect of requiring any such taxpayer as such to pay any sum by way of income tax which is in excess of the amount or value of the income which comes into his possession or control in such capacity as aforesaid.

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“(3) Where any person has the management, receipt, disposal, remittance, payment, or control of separate incomes in different interests, he shall be deemed, for the purposes of this section, to be a separate person in respect of each of such incomes.

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“(4) Nothing herein contained shall authorise any taxpayer in a representative capacity to make or claim any deduction or exemption in respect of income with which he is concerned in that capacity by reason of the fact that, in some other capacity or in respect of some other income, he would be entitled to claim such deduction or exemption.

“(5) The taxable amount of such taxpayer's income shall be the net income ascertained as provided by Paragraph x. of Section Fifty-three, but without the further deduction in respect of children mentioned in that paragraph and without any other deduction or exemption, except as provided by Paragraph xi. of the said section.”

IV. By substituting for repealed Section Forty-three thereof the following new Section Forty-three:— New Section 43.

“**43**—(1) Every person who derives any income by way of interest on money lent by such person upon the security of debentures or other similar security to any local body authorised by law to raise money by the issue and sale of debentures or any similar security, or to any company, and the repayment of such money is secured upon any property in this State, shall be liable to pay income tax under this Act in respect of such income. Liability of debenture-holders.

“(2) Every such local body and company shall pay to the Commissioner, on behalf of the person entitled to receive such interest, the income tax payable in respect thereof, and may deduct from the interest payable to such person the amount of income tax so payable.

“(3) The foregoing provisions of this section shall not apply to any debenture or security which forms part of the funds of any society registered under the Friendly Societies Act, 1888, or the Trades Unions Act, 1889.” 51 Vict. No. 16.

V. By substituting for repealed Section Forty-seven the following new Section Forty-seven:— 53 Vict. No. 27.

“**47**—(1) Subject to the provisions of this section, the amount of income of every company resident in this State shall be the full amount of the income of such company during the year ending on the thirtieth day of June immediately preceding the year of assessment, after deducting therefrom the amount of such income upon which the company shall have paid income tax in respect of dividends declared or ascertained or become due to shareholders from such income. New Section 47. Company assessments.

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“(2) The taxable amount of the income of any such company shall not be less in any year than the amount of such dividends for that year, except where income tax has been paid in any previous year in respect of any portion of the amount of such dividends, and then to the extent only of such portion.

“(3) The Commissioner may, if he thinks fit, accept as correct the statement concerning any such income as aforesaid contained in any balance-sheet of the company.

“(4) The provisions of Subsection (1) hereof shall not apply to any building society or to any mining company which has its head-office in this State, but which carries on the whole of its mining operations elsewhere than in this State.

“(5) Where any company is incorporated elsewhere than in this State and carries on mining operations in this State—

1. It shall be deemed to have its chief place of business in this State : and
- ii. If it carries on the operations aforesaid in connection with other business and also carries on business outside this State—

(a) The proportion of dividends which may be deducted as provided by Subsection (1) hereof shall be so much only of the dividends as are profits derived from the business of the company carried on in this State: and

(b) The portion of its income which represents profits in respect of any products derived from this State for use outside this State in the processes of any business, other than mining, carried on by it outside this State, may be assessed by the Commissioner at a sum equal to Fifteen Pounds for every one hundred tons of such products derived from this State.”:

Section 50.

VI. As to Section Fifty thereof—

(a) By deleting the word “Fifty” in the fourth line of Paragraph ii. thereof and substituting therefor the word “Twenty-five”:

(b) By inserting in Paragraph iv. thereof—

1. After the word “business” in the second line, the words “or the business of carriage by aircraft”:

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- II. After the word "shipped" in the fifth line,
the words "or embarked" : and
- III. After the word "port" in the sixth line the
words "or place" : and
- (c) By inserting at the end of Paragraph III. thereof
the words "after deducting from such premiums
any sums paid by the company by way of
reinsurance effected in this State with any other
company" :
- VII. As to Paragraph II. of Section Fifty-one thereof— Section 51,
para. II.
- (a) By inserting the words "or aircraft" after the word
"ship" in the fourth and eleventh lines thereof
respectively :
- (b) By inserting the words "or embarked" after the
word "shipped" in the tenth line thereof : and
- (c) By deleting the words "a final destination" in the
eleventh line and substituting therefor the words
"any port or place in or beyond this State" :
- VIII. By expunging Paragraph VIII. of Section Fifty-four thereof and Section 54.
substituting therefor the following new Paragraph VIII. :—
- "VIII. All amounts included as income in any previous
return, which are proved to the satisfaction of the
Commissioner to have been written off by the tax-
payer as bad debts during the year ending on the
thirtieth day of June immediately preceding the
year of assessment, and not previously allowed
as a deduction, but any amount subsequently
received by the taxpayer in respect of any such
bad debt shall be returned as income in respect
of the financial year in which it is received." : and
- IX. By deleting the words "twelve months" in the second line Section 111.
of Section One hundred and eleven thereof, and substitut-
ing therefor the words "two years" .
- 4 The Land and Income Taxation Act, 1930, is hereby amended—
- I. By substituting for repealed Section Three thereof the New
Section 3.
following new Section Three :—
- "3—(1) Subject to the provisions of the Principal Act, Special tax
on certain
classes of
income.
as hereby modified, and of this Act, there shall be charged
levied, collected, and paid to the Commissioner—
- I. For the financial year ending on the thirtieth day of
June, one thousand nine hundred and thirty-
four, and for every subsequent financial year in
respect of all income not being income from
salary or wages, arising, accruing, received in,
or derived from this State, with the exceptions
specified and declared in Section Twenty-seven
of the Principal Act : and
- Amend-
ment of 21
Geo. V.
No. 8.

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11. For the year ending on the thirty-first day of December, one thousand nine hundred and thirty-four, and for every subsequent year, in respect of all income—

(a) From salary or wages paid at a rate of or exceeding Fifty-two Pounds per annum received by or accruing to any person employed in this State by or on behalf of the Government of the Commonwealth (hereinafter called 'Commonwealth officer'); and

(b) Being income from salary or wages received in this State by persons other than Commonwealth officers—

for the use of His Majesty, a special income tax at such rate per pound of such income as Parliament shall declare and enact from time to time, and such special income tax shall be in addition to any tax imposed under the Principal Act, and shall be fixed and declared by an Act separate from the Act fixing and declaring the rate of income tax imposed by the Principal Act.

“(2) The Governor may make arrangements with the Governor-General of the Commonwealth for the deduction from each periodical payment of salary or wages paid at a rate of or exceeding Fifty-two Pounds per annum to each Commonwealth officer, of an amount equal to the special income tax payable at the rate for the time being in force under this section and for the payment to the Commissioner of the amounts so deducted.

“(3) The amounts so deducted shall be accepted by the Commissioner as payment of the special income tax payable under this section in respect of the salary or wages from which the deductions were made.

“(4) In any case where the special income tax payable by any officer under this section is paid in accordance with an arrangement as provided by Subsection (2) hereof, the provisions of Subsection (1) of Section Five of this Act shall not apply in respect of that officer, and the special income tax under this section shall be based on the amount of salary which becomes payable to him from time to time in the year in respect of which such tax is payable, and shall be payable in respect of every periodical payment of such salary made at a rate of or exceeding Fifty-two Pounds per annum.

“(5) For the purposes of this section all allowances, bonuses, and other benefits received by a taxpayer in respect of services rendered by him to an employer shall be deemed to be income from salary or wages except as provided by Subsections (1) and (5) of Section **7a**.

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- “(6) The provisions of Subsections (2) and (5) of this section shall be deemed to have had effect from the first day of July, one thousand nine hundred and thirty-two, and in all other respects the said section shall operate and take effect on and from the first day of January, one thousand nine hundred and thirty-four.” :
- II. By deleting the numeral “ III.” and substituting therefor the numeral “ II.”—
- (a) In Subsection (1) of Section Five ; and
- (b) In the second line of Subsection (2) of Section Seven—
- respectively:
- III. By expunging Paragraphs I. and II. of Subsection (5) of Section 7a thereof and substituting therefor the following new Paragraphs I. and II.—
- “ I. By way of directors’ fees which are prescribed by the articles or rules of any company of which he is a director and not in the nature of salary : or
- “ II. In the course of carrying on his profession or business in connection with which he—
- (a) Provides any office accommodation or clerical assistance or any horse, vehicle, or plant which is used in connection with such services ; or
- (b) Provides for the upkeep, maintenance, or running expenses of any horse, vehicle, or plant.”—
- and by deleting the numeral “ III.” at the end of the first line of Subsection (6) of that section, and substituting therefor the numeral “ II.” :
- IV. By inserting after Paragraph v. of Subsection (1) of Section 7c thereof the following new Paragraph vi.:—
- “ vi. Pay or accept any smaller sum than the employee is entitled to receive so that the amount of wages tax in respect thereof is evaded or reduced.”
- V. By substituting for repealed Section Nine thereof the following new Sections Nine and Ten—
- “ 9—(1) Where the Commissioner finds that any person—
- I. Has paid wages tax under this Act and has also paid in respect of the same matter special income tax under Paragraph I. of Subsection (1) of Section Three : or

Sections
5-(1) and 7a
(inserted by
23 Geo. V.
No. 1).

Section 7a.

Section 7c
(inserted by
23 Geo. V.
No. 1)

New
Section 9.

Powers of
Commis-
sioner.

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ii. Has failed to pay any amount in the nature of tax upon salary or wages made payable by him by any repealed enactment relating to stamp duties —

the Commissioner may make such adjustments and refunds as he may think fit or may recover from such person the amount so payable by him, as the case may require.

“(2) Where the Commissioner finds that, by reason of any change of occupation, or of any alteration in his conditions of employment, any person has ceased, in respect of his income or of some portion thereof during any taxing year, to be taxable under either one of the paragraphs of Subsection (1) of Section Three, and has become taxable under some other one of those paragraphs, and that, as a result thereof, the whole or any portion of the income of such person has not been assessed, and, for special income tax under this Act, such person has not paid such tax in respect of any period for which he was taxable, the Commissioner at any time may make an assessment of such income in respect of such period, and may recover from such person the amount payable by him in respect of such period.

“(3) For the purposes of this section, the Commissioner at any time may require any person to furnish him with a return of his income in respect of any period specified by the Commissioner.

“(4) In any case where doubt arises as to which of the several paragraphs of Subsection (1) of Section Three is applicable to the income, or some portion of the income, of any person the Commissioner, in his discretion, may direct under which of the said paragraphs such person shall be taxable in respect thereof, and thereupon such person shall be taxable accordingly.”

“(5) No claim for refund under this section shall be granted unless it is made within two years after the date of the payment in respect of which it is made.

“**10** No tax shall be payable by any person in respect of any payments made, or goods supplied, to such person out of any moneys provided by Parliament in any annual Appropriation Act for the relief of, or assistance to, destitute persons.”

Exemption
of certain
payments.

5 The Land and Income Taxation Act, 1932, is hereby amended by expunging Paragraphs I., II., and VI. of Section Three thereof.

Amend-
ment of 23
Geo. V.
No. 1.
Section 3.

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SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.
1 Geo. V. No. 47	The Land and Income Taxation Act, 1910	Sections 33, 41, 42, 43, 43a, and 47
3 Geo. V. No. 35	The Land and Income Taxation Act, 1912	Section 2
6 Geo. V. No. 40	The Land and Income Taxation Act, 1915	Section 2
21 Geo. V. No. 8	The Land and Income Taxation Act, 1930	Sections 3 and 9
22 Geo. V. No. 44	The Land and Income Taxation Act, 1931	Section 4

