

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 16 August 1973

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Hon. Mr Rowling

PROPERTY SPECULATION TAX

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A BILL INTITULED

An Act to make provision for the imposition, assessment, and collection of a tax on profits or gains derived from property speculation

WHEREAS the buying and selling of land for speculative purposes is undesirable and in the public interest such speculative activities should be discouraged and provision be made for the imposition of a tax on profits derived from such activities: 5

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 10

1. Short Title, commencement, etc.—(1) This Act may be cited as the Property Speculation Tax Act 1973.

(2) This Act shall be deemed to have come into force on the 15th day of June 1973, and shall apply to all dispositions of land made on or after that day. 15

(3) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952, and the First Schedule to that Act is hereby accordingly amended by adding a reference to this Act.

5 **2. Interpretation**—(1) In this Act, unless the context otherwise requires,—

“Acquisition”, in relation to land, includes acquisition by way of purchase, grant, exchange, gift, settlement, or otherwise howsoever:

10 “Agent” means any person declared by this Act or by the Commissioner to be the agent of any other person for the purposes of this Act:

15 “Board of Review” means a Board of Review established under the Inland Revenue Department Amendment Act 1960:

“Business” includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit:

20 “Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1952:

25 “Company” means any body corporate, whether incorporated in New Zealand or elsewhere, and includes every person, association, syndicate, trust, or group of persons deemed to be a company for the purposes of the Land and Income Tax Act 1954, but does not include a local or public authority:

“Consideration” means consideration in money or money’s worth:

30 “Date of acquisition”, in relation to the acquisition of land by any person and (*subject to sections 11 and 12 of this Act*) except as otherwise provided in this Act, means the date on which possession of the land is given and taken in respect of that acquisition or, in any case where possession is not taken by that person or where no right to possession exists, the date on which that land becomes vested in that person:

35 “Date of disposition”, in relation to the disposition of land by any person and (*subject to sections 11 and 12 of this Act*) except as otherwise provided in this Act,
40 means the date on which possession of the land is given and taken in respect of that disposition or, in any case where possession of the land is not given and taken or no right to possession exists, the date on which that person divests himself of that land:

“Disposition”, in relation to any land (whether that land constitutes the whole or part of any land to which this Act applies or the whole or part of any land to which this Act applies together with any other land), means any sale, conveyance, transfer, assignment, settlement, or other alienation of that land, whether at law or in equity, and whether by agreement or by force of law, and, without limiting the generality of the foregoing provisions of this definition, includes—

(a) The creation of a trust in respect of that land; and

(b) The release, surrender, forfeiture, or abandonment of any estate or interest in the land;

and “to dispose” has a corresponding meaning:

“Income tax” means income tax levied under section 77 of the Land and Income Tax Act 1954:

“Land” includes—

(a) Any estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and

(b) Any option to acquire land or any such estate or interest in land,—

but does not include a mortgage.

“Local authority” means a local authority as defined in section 2 of the Land and Income Tax Act 1954:

“Maori authority” means a Maori authority as defined in section 158 of the Land and Income Tax Act 1954:

“Person” includes a company, a local authority, a public authority, and a Maori authority; and also includes an unincorporated body of persons:

“Prescribed” means prescribed by the Commissioner or by regulations under this Act:

“Public authority” means a public authority as defined in section 2 of the Land and Income Tax Act 1954:

“Resident in New Zealand” means deemed to be resident in New Zealand within the meaning of Part VI of the Land and Income Tax Act 1954.

(2) For the purposes of this Act, 2 or more persons acting as co-trustees shall be deemed to be 1 person.

(3) For the purposes of this Act, a disposition of land shall include a disposition of an estate or interest subsisting before or created by the disposition, whether or not such estate or interest existed at the date of acquisition of the land.

- (4) For the purposes of this Act—
- 5 (a) The expression “partnership” includes any association of persons in receipt of income jointly or carrying on activities jointly; and the expression “partner” has a corresponding meaning:
- (b) A partner shall be deemed to have a share or interest in every single asset of the partnership in accordance with his interest in the aggregate of the assets of the partnership.

10

PART I

LIABILITY TO PROPERTY SPECULATION TAX

3. Imposition of property speculation tax—(1) Subject to this Act, there shall be levied and paid, for the use of Her Majesty, a tax hereinafter referred to as property speculation
15 tax.

(2) Subject to and in accordance with this Act, property speculation tax shall be levied and paid on the assessable profit derived by any person from the disposition of any land situated in New Zealand at the rate set out in the
20 Schedule to this Act.

4. Assessable profit—(1) The assessable profit derived by any person from the disposition of any land shall consist of the amount by which the sum of—

- 25 (a) The value of that land at the date of its disposition by that person; and
- (b) The assessable revenue derived from that land by that person—
exceeds the sum of—
- 30 (c) The value of that land at the date of its acquisition by that person; and
- (d) The allowable expenses incurred by that person in relation to that land.

(2) For the purposes of this Act, every person shall be deemed to have derived assessable profit although the whole or any part of it has not been actually paid to or received by
35 him, or already become due or receivable, but has been credited in account, or reinvested, or accumulated, or capitalised, or carried to any reserve, sinking, or insurance fund, or otherwise dealt with in his interest or on his behalf.

5. Value of land at date of acquisition—(1) Subject to section 7 of this Act, for the purposes of this Act the value of any land at the date of its acquisition shall be ascertained in accordance with this section.

(2) Where any land is acquired by any person for its market price or its true value on the date on which that person acquired it, the value of the land at the date of its acquisition shall be the value of the consideration. 5

(3) In any case where any land is acquired by any person (hereinafter in this subsection referred to as the donee) without consideration or for a consideration that is less than the market price or the true value of that land on the date on which the donee acquired it and the date of acquisition of that land by the person (hereinafter in this subsection referred to as the donor) from whom the donee acquired that land was on or after the 15th day of June 1971 and 2 years or less before the date of acquisition of that land by the donee, the value of that land at the date of its acquisition by the donee shall be deemed to be an amount equal to the greater of— 10 15

(a) An amount calculated in accordance with the following formula: 20

$$a + b - c$$

where—

- a is the value of that land at the date of its acquisition by the donor, ascertained in accordance with this section; and 25
- b is the allowable expenses incurred by the donor in relation to that land; and
- c is the assessable revenue derived from that land by the donor: 30

(b) The value of the consideration paid or given by the donee for that land.

(4) In any case where any land is acquired by any person without consideration or for a consideration that is less than the market price or the true value of that land on the date on which that person acquired it, not being a case to which subsection (3) of this section applies, the value of the land at the date of its acquisition by that person shall be ascertained in the same manner as the value of land is ascertained for the purposes of gift duty under the Estate and Gift Duties Act 1968, whether or not any gift duty is in fact payable, and that person shall have the same rights of objection to any such value as a donor has in respect of land valued under that Act. 35 40

(5) Where the land acquired by any person is leasehold land, the value of that land at the date of its acquisition, as ascertained in accordance with the foregoing provisions of this section, shall be reduced by an amount equal to the
5 amount of any deduction that has been or will be allowed under section 121A of the Land and Income Tax Act 1954 in calculating the assessable income of that person in respect of any premium paid on the grant of the lease of that land.

6. Value of land at date of disposition—(1) Subject to
10 section 7 of this Act, for the purposes of this Act the value of any land at the date of its disposition shall be ascertained in accordance with this section.

(2) Where any land is disposed of by any person for its market price or its true value on the date on which that person
15 disposed of it, the value of the land at the date of its disposition shall be the value of the consideration.

(3) In any case where any land is disposed of by any person (hereinafter in this subsection referred to as the donor) to another person (hereinafter in this subsection
20 referred to as the donee) without consideration or for a consideration that is less than the market price or the true value of that land on the date on which the donor disposed of it, the value of the land at the date of the disposition shall be an amount equal to the greater of—

- 25 (a) The value of the land at the date of its acquisition by the donor, ascertained in accordance with section 5 of this Act:
(b) The value of the consideration paid or given by the donee for that land.

30 **7. Valuation and apportionment—**Unless otherwise provided by this Act, the Commissioner may, for the purposes of this Act—

- (a) Ascertain the value of any land and any consideration in such manner as he thinks fit:
35 (b) Apportion the value of, or the consideration for, any land in such manner as he thinks fit:
(c) Where any land is disposed of together with any other assets, apportion any consideration therefor between that land and those other assets in such
40 manner as he thinks fit.

8. Assessable revenue—(1) For the purposes of this Act, assessable revenue derived by any person from any land

shall consist of all revenue, whether by way of rent, compensation, fees, insurance, or any other receipts whatsoever (other than consideration received or receivable on the disposition of the land), derived by him from the land during the period commencing on the date of its acquisition by him and ending with the date of its disposition by him, not being revenue which has been *(or will be)* or is to be taken into account for the purposes of ascertaining his liability to income tax. 5

(2) For the purposes of this section every person shall be deemed to have derived assessable revenue although it has not been actually paid to or received by him, or already become due or receivable, but has been credited in account, or reinvested, or accumulated, or capitalised, or carried to any reserve, sinking, or insurance fund, or otherwise dealt with in his interest or on his behalf. 10 15

9. Allowable expenses—(1) For the purposes of this Act and subject to subsection (2) of this section, allowable expenses incurred by any person in relation to any land shall consist of— 20

(a) Any expenditure incurred by him in relation to that land during the period commencing on the date of its acquisition by him and ending with the date of its disposition by him; and

(b) Any expenditure incurred by him in relation to the acquisition of that land by him or to its disposition by him. 25

(2) Allowable expenses incurred by any person in relation to any land shall not include—

(a) Any expenditure to the extent to which it has been *(or will be taken into account)* allowed or is allowable as a deduction for the purposes of ascertaining the liability to income tax of that person; or 30

(b) Any consideration paid or payable by that person on the acquisition of that land; or 35

(c) Any gift duty paid or payable on the acquisition or disposition of that land.

New

(3) For the purposes of paragraph (a) of subsection (1) of this section the date of acquisition shall be deemed to be the date on which that person entered into a binding contract to acquire that land or, in any case where no such contract is 40

New

entered into, the date of acquisition as defined in subsection (1) of section 2 of this Act.

5 (4) Notwithstanding the provisions of subsection (3) of this section and section 12 of this Act, where land is acquired by any person by the exercise of an option to purchase contained in a lease, for the purposes of paragraph (a) of subsection (1) of this section the date of acquisition shall be deemed to be the date on which possession of the land is taken
10 by that person as lessee.

10. Allowable loss—(1) For the purposes of this Act and subject to this section, the allowable loss incurred by any person from the disposition of any land, being a disposition of land for its market price or its true value on the date on
15 which that person disposed of it, shall consist of the amount by which the sum of—

- (a) The value of that land at the date of its acquisition by that person; and
- 20 (b) The allowable expenses incurred by that person in relation to that land—
exceeds the sum of—
- (c) The value of that land at the date of its disposition by that person; and
- 25 (d) The assessable revenue derived from that land by that person—

in any case where, if the sum of the items referred to in paragraphs (c) and (d) had exceeded the sum of the items referred to in paragraphs (a) and (b), the amount of the excess would have been assessable profit liable to property speculation tax.
30

(2) For the purposes of this Act a tax credit, in relation to any allowable loss incurred by any person from the disposition of any land, being a disposition of land for its market price or its true value on the date on which that person disposed of
35 it, shall be an amount equal to the property speculation tax that would have been payable by that person if an assessable profit equal to the amount of that allowable loss had been derived from that disposition of land.

(3) Any person who satisfies the Commissioner that he has
40 incurred an allowable loss from the disposition of any land, being a disposition of land for its market price or its true value on the date on which that person disposed of it, shall, subject

to this section, be entitled to claim that any tax credit in respect of that allowable loss be deducted from the property speculation tax payable by that person in respect of the assessable profit derived by him from the next following disposition of land so far as that property speculation tax extends, and, so far as it cannot then be deducted, be deducted from the property speculation tax payable by him in respect of the assessable profit derived by him from the next following disposition of land so far as that property speculation tax extends, and so on. 5 10

(4) Where any person, being a company having the liability of its members limited by its memorandum of association to the amount, if any, unpaid on the shares respectively held by them, claims to deduct any tax credit (being a tax credit in respect of any allowable loss incurred by it from any disposition of land for its market price or its true value on the date on which that company disposed of it) from any property speculation tax payable by that company in respect of assessable profit derived by it from any subsequent disposition of land, the claim shall not be allowed unless the Commissioner is satisfied that— 15 20

- (a) At the date of each of those dispositions not less than 40 percent in nominal value of the allotted shares in the company was held by or on behalf of the same persons; and 25
- (b) Where the company has paid-up capital at the date of each of those dispositions, not less than 40 percent of the paid-up capital at each date was held by or on behalf of the same persons.
- (5) For the purposes of this section— 30
 - (a) Shares in one company held by or on behalf of another company shall be deemed to be held by the shareholders in the last-mentioned company:
 - (b) Shares held by or on behalf of the trustee of the estate of a deceased shareholder, or by or on behalf of the persons entitled to those shares as beneficiaries under the will or intestacy of a deceased shareholder, shall be deemed to be held by that deceased shareholder: 35
 - (c) Where any company claims to deduct a tax credit (being a tax credit in respect of any allowable loss incurred by it from any disposition of land for its market price or its true value on the date on which that company disposed of it) from any property speculation tax payable by it in respect of any assessable profit derived by it from any subsequent disposition of land, and the Commissioner is of the 40 45

opinion that, at any time during the period commencing on the date of the earlier of those dispositions and ending with the date of the later of those dispositions,—

5 (i) Any shares in that company, being shares held by or on behalf of the same person on each of those dates, have been subject to any transaction, or series of related or connected transactions; or

10 (ii) Any shares so held have had any rights attaching to them extinguished or altered, directly or indirectly, by any means whatever—

in either case for the purpose, or for purposes including the purpose, of enabling the company to meet the requirements of paragraph (a) or paragraph (b) of subsection (4) of this section, the
15 Commissioner may, for the purposes of that subsection, deem those shares not to be held by or on behalf of the same person on both of those dates.

20 **11. Lease with compulsory purchase provision**—Notwithstanding anything in this Act, where a lease or sublease of land is granted with a compulsory purchase provision in respect of any estate or interest in the land retained by the grantor—

25 (a) The date of acquisition of that estate or interest by the grantee and the date of disposition of that estate or interest by the grantor shall be deemed to be the date on which possession of that land as lessee or, as the case may be, sublessee is given and taken; and

30 (b) The date of acquisition of that estate or interest by any assignee of the lease or sublease and the date of disposition of that estate or interest by the assignor of that lease or sublease shall be deemed to be the date on which possession of that land as assignee of the lessee or, as the case may be, of the sublessee is given and taken; and

35 (c) Where the consideration for the acquisition of that estate or interest is not specified in the lease or sublease, then, for the purpose of calculating the assessable profit derived or, as the case may be, the allowable loss incurred by the grantor or, as the case may be, the assignor from the disposition
40 of that estate or interest, the value referred to in paragraph (a) of subsection (1) of section 4 of this

Act or, as the case may be, in paragraph (c) of subsection (1) of section 10 of this Act shall be deemed to be such amount as the Commissioner determines was the market price or true value of that estate or interest at the date on which the grantor or, as the case may be, the assignor is deemed under the foregoing provisions of this section to have disposed of that estate or interest: 5

Provided that if, in the actual event, the consideration for that estate or interest is different from that so determined, the Commissioner shall— 10

(i) Amend the amount of the assessable profit or, as the case may be, the allowable loss on the basis of the actual event; and

(ii) Notwithstanding anything in section 29 of this Act, make or alter any assessment of property speculation tax in respect of that disposition of that estate or interest; and 15

(iii) Refund any property speculation tax which may be paid in excess as a result thereof; and 20

(d) For the purposes of this section an estate or interest includes a part of an estate or interest.

12. Lease with option to purchase—*(Notwithstanding anything in this Act)* Subject to subsection (4) of section 9 but notwithstanding any other provision in this Act, where a lease or sublease is granted with an option to purchase the whole or part of any estate or interest in the land retained by the grantor, the date of acquisition of that estate or interest or of that part by the grantee and the date of disposition of that estate or interest or of that part by the grantor shall be the date on which that option is exercised. 25 30

13. Shares in a company owning land—(1) Where any shareholder or shareholders in a company, being a company—

(a) Which is under the control of that shareholder or those shareholders within the meaning of section 3 of the Land and Income Tax Act 1954 and the assets of which consist wholly or principally of land; or 35

(b) Which is a flat or office owning company as defined in subsection (1) of section 2 of the Companies Amendment Act 1964,— 40

derive any profit or gain from the sale or other alienation or series of sales or other alienations of any shares in that

company, then, to the extent that the Commissioner is of the opinion that the value of those shares represents the value of land at the date of sale or other alienation, this Act shall apply to that sale or other alienation or to that series
 5 of sales or other alienations in the same manner, with any necessary modifications, as it applies to a disposition of land.

New

(2) Where any person or persons derive any profit or gain from the sale or other alienation or series of sales or other
 10 alienations of any option or like interest or right over or in—
 (a) Any shares in a company which is a flat or office owning company as defined in subsection (1) of section 2 of the Companies Amendment Act 1964; or
 15 (b) Any shares in any other company the assets of which consist wholly or principally of land, being shares which in the aggregate—
 (i) Represent more than 50 percent in nominal value of the allotted shares in the company; or
 20 (ii) Carry the right to exercise more than 50 percent of the voting powers in the company,—
 then, to the extent that the Commissioner is of the opinion that the value of those shares represents the value of land at the date of sale or other alienation, this Act shall apply to that sale or other alienation or to that series of sales or other
 25 alienations in the same manner, with any necessary modifications, as it applies to a disposition of land.

14. Arrangements to avoid or reduce liability for property speculation tax to be void—(1) For the purposes of this section the expression “arrangement” means any contract,
 30 agreement, plan, or understanding (whether made or entered into before or after the commencement of this Act and whether enforceable or unenforceable), including all steps and any transaction or series of transactions by which such contract, agreement, plan, or understanding is carried into
 35 effect.

(2) Every arrangement shall be absolutely void as against the Commissioner for the purposes of property speculation tax if and to the extent that its purpose or effect, or one of its purposes or effects, is to avoid or reduce the liability of
 40 any person to pay property speculation tax which would have been payable if it were not for the existence of that arrangement.

(3) In determining the purpose or any of the purposes of an arrangement, all the circumstances surrounding the arrangement shall be taken into account, including whether, having regard to normal commercial or legal practice, the arrangement might reasonably be expected to have been entered into if a purpose of avoiding or of reducing the liability of any person to pay property speculation tax had not existed. 5

(4) Where an arrangement is void under this section, the Commissioner may make an assessment of the amount of property speculation tax that he considers would have been payable, but for that arrangement, on any person by whom he considers it would, but for that arrangement, have been payable. 10

PART II

15

EXEMPTIONS FROM PROPERTY SPECULATION TAX

15. Exemption for dispositions of land held for more than 2 years—(1) Where the date of disposition of any land by any person is more than 2 years after the date of acquisition of the land by that person, any profit derived by that person from that disposition shall be exempt from property speculation tax. 20

New

(2) For the purposes of this section, where land is disposed of— 25

(a) By a beneficiary under a trust, being land acquired by that beneficiary in his capacity as such within the terms of the trust; or

(b) By a shareholder or former shareholder in a company, being land acquired by that shareholder or former shareholder as part of a distribution by the company to its shareholders, whether or not on the winding up of the company,— 30

the date of acquisition of that land by that beneficiary or, as the case may be, that shareholder or former shareholder shall be deemed to be the same date as the date of acquisition of that land by the trustees of that trust or, as the case may be, by that company. 35

16. Exemption for land held by certain persons—Any profit derived by the following persons from any disposition of land shall be exempt from property speculation tax:

- 5 (a) Any public authority that is wholly exempt from income tax:
- (b) *Any local authority:*
- (c) Any executor or administrator in his capacity as such.

17. Exemptions for certain land—Any profit derived from a disposition of land, being a disposition—

- 10 (a) By any will or codicil (including any option to purchase thereunder) or an order of Court varying or modifying the provisions of any will or codicil; or
- (b) On any intestacy (including any partial intestacy), or by any order of Court varying or modifying, in
- 15 relation to any estate, the application of the law relating to the distribution of intestate estates; or
- (c) By an express provision in any enactment vesting the land in any specified person or persons; or
- (d) In order to vary the terms of a will or codicil or, in
- 20 relation to any estate, to vary the application of the law relating to the distribution of intestate estates, in either case for the sole purpose of effecting a settlement out of Court of an application made or proposed to be made under the Family Protection
- 25 Act 1955 or of a claim made or proposed to be made under the Law Reform (Testamentary Promises) Act 1949, where the Commissioner is of the opinion that the terms of the settlement are substantially the same as those likely to have been ordered by the
- 30 Court,—

and any profit derived by any person (being a person who acquired any land under such disposition) from any disposition of that land shall be exempt from property speculation tax.

35 18. Exemption of residential land in certain circumstances—

(1) Where, in relation to any disposition of land by any person, the Commissioner is satisfied that—

- (a) Either—
- 40 (i) The land was acquired and occupied, or intended to be occupied, by that person primarily and principally as a residence for that person and any member of his family living with him; or
- (ii) The land was acquired by that person primarily and principally for the purpose of erecting
- 45 a dwellinghouse on that land to be occupied as a residence for that person and any member of his family living with him; and

- (b) The land was not acquired by that person for the purpose or intention, or for purposes or intentions including the purpose or intention, of realising any profit from the disposition of that land; and
- (c) The principal reason for the disposition of the land was not the realisation of any profit from that disposition; and
- (d) The disposition of the land was due to circumstances which had arisen since the date of acquisition of the land by that person,—
- any profit derived by that person from that disposition shall be exempt from property speculation tax.

(2) For the purposes of subsection (1) of this section, where, in relation to any disposition of land, the land to which that subsection would otherwise apply exceeds 4,000 square metres, or such larger area as, in the opinion of the Commissioner, is required for the reasonable occupation of the land, having regard to the size and character of the dwellinghouse on the land, that subsection shall not apply in respect of the disposition of that excess, and the Commissioner may apportion the profit accordingly in such manner as he thinks fair and equitable.

New

(3) For the purposes of paragraph (d) of subsection (1) of this section, in any case where a person has entered into a binding contract to acquire land, the date of acquisition of the land by that person shall be deemed to be the date on which that person entered into the binding contract.

19. Exemption of business land in certain circumstances—

(1) Subject to this section, where, in relation to the disposition of land by any person, the Commissioner is satisfied that,—

- (a) The land was acquired and occupied, or intended to be occupied, by that person primarily and principally for the purpose of or directly related to the carrying on by him of a bona fide business; and
- (b) The land was not acquired by that person for the purpose or intention, or for purposes or intentions including the purpose or intention, of realising any profit from the disposition of the land; and
- (c) Taking into account the nature of and the manner in which that business was carried on by that person and the circumstances surrounding the disposition of the land, the principal reason for the disposition of the land was not the realisation of any profit from that disposition; and

(d) The disposition of the land was due to circumstances which had arisen since the date of acquisition of the land by that person,—

any profit derived by that person from that disposition shall be exempt from property speculation tax.

(2) This section shall not apply to the disposition of any land occupied by any person for or in connection with any business which, in the opinion of the Commissioner, consists principally of—

- 10 (a) Buying and selling land; or
- (b) Developing land or buildings for sale; or
- (c) Erecting buildings on land for sale,—

except to the extent that the Commissioner is satisfied that the land was acquired and occupied by that person as a permanent location for the management and administration of that business and that the disposition of that land otherwise meets the requirements of this section.

New

(3) For the purposes of paragraph (d) of subsection (1) of this section, in any case where a person has entered into a binding contract to acquire land, the date of acquisition of the land by that person shall be deemed to be the date on which that person entered into the binding contract.

20. Exemption of land on which improvements have been made—(1) Where, in relation to the disposition of any land by any person, the Commissioner is satisfied that the cost of improvements to the land made by that person (including, where that person is an individual, the value of his own labour) since the date of its acquisition by him is not less than 40 percent of the total cost of the land and all improvements on the land immediately prior to the date of the disposition of the land by that person, any profit derived by that person from that disposition shall be exempt from property speculation tax.

Struck Out

(2) For the purposes of this section the Commissioner shall determine in such manner as he considers fair and equitable the cost of improvements made by any person with his own labour on any land acquired by him or by any company which is under the control of that person within the meaning of section 3 of the Land and Income Tax Act 1954.

New

- (2) Where, in relation to the disposition of land by any person, the Commissioner is satisfied that—
- (a) Not less than half the cost to that person of the land at the date of its acquisition by him represents the value of improvements on the land at that date; and 5
 - (b) That person is wholly or principally engaged in a business of renovating buildings or in a business of erecting buildings, the activities of which include the renovating of buildings; and 10
 - (c) The cost of improvements on the land by way of renovation made by that person since the date of its acquisition by him (including, where that person is an individual, the value of his own labour) is not less than 20 percent of the total cost to him of the land and all improvements on the land immediately prior to the date of its disposition by him,— 15
- any profit derived by that person from that disposition shall be exempt from property speculation tax.
- (3) For the purposes of this section— 20
- (a) The Commissioner shall determine in such manner as he considers fair and equitable the cost of any improvements made by any person with his own labour on any land acquired by him or by any company which is under the control of that person within the meaning of section 3 of the Land and Income Tax Act 1954: 25
 - (b) The cost of any improvements made to any land by any person shall be deemed to include any contribution made by that person in respect of that land to any local authority under section 351c of the Municipal Corporations Act 1954 or section 28 of the Counties Amendment Act 1961: 30
 - (c) The date of acquisition shall, subject to paragraph (d) of this subsection, be deemed to be the date on which that person entered into a binding contract to acquire that land or, in any case where there is no binding contract entered into, the date of acquisition as defined in subsection (1) of section 2 of this Act: 35
 - (d) Where land is acquired by any person by the exercise of an option to purchase contained in a lease, the date of acquisition of that land shall be deemed to be the date on which possession of the land is taken by that person as lessee. 40

21. Exemption of certain land acquired by the Crown or a local authority—(1) Where, in relation to any disposition of land by any person, the Commissioner is satisfied that—

- 5 (a) The land was not acquired by that person for the purpose or intention, or for purposes or intentions including the purpose or intention, of deriving any profit on any disposition of that land; and
- 10 (b) The land has been acquired by the Crown or a local authority (as defined in section 2 of the Public Works Act 1928), whether the land was taken under that Act or otherwise acquired by the Crown or the local authority; and
- 15 (c) That person had not acquired the land when he knew, or might reasonably have known, that that land was likely to be so acquired by the Crown or the local authority; and
- 20 (d) That person had not taken any steps, by advertisement or otherwise, to dispose of the land or to indicate his willingness to dispose of the land, whether to the Crown or the local authority or to any other person,—

any profit derived by that person from that disposition shall be exempt from property speculation tax.

- 25 (2) Where the profit derived by any person from any disposition of land is exempt from property speculation tax under subsection (1) of this section and the whole or part of the consideration given to that person for that land consists of other land, any profit derived by that person from any disposition of that other land shall be exempt from
- 30 property speculation tax.

- 35 **22. Exemption from property speculation tax by Order in Council**—The Governor-General may from time to time, by Order in Council, exempt from property speculation tax any profit derived from any class or classes of dispositions of land or by any class or classes of persons from such date on or after the commencement of this Act as may be specified in the Order in Council or any subsequent Order in Council.

PART III

RETURNS

- 40 **23. Returns**—(1) Subject to this section, every person who derives any assessable profit from any disposition of land shall, within 2 months after the date of that disposition, furnish to

the Commissioner a return in the prescribed form setting forth a complete statement of that assessable profit, together with such other particulars as may be prescribed.

(2) The Commissioner, in his discretion, may, for the purpose of meeting the special circumstances of any case or class of cases, vary to such extent and for so long as he thinks fit, the time within which that person is required to furnish returns pursuant to subsection (1) of this section. In every such case the provisions of this section shall apply as so varied, and that person shall furnish returns accordingly.

(3) The exercise by the Commissioner of his discretion under subsection (2) of this section shall not in any case exempt a person from his liability to pay any property speculation tax, notwithstanding that it may have the effect of varying the time for payment of any property speculation tax.

24. Returns by executors or administrators—(1) The executor or administrator of a deceased person shall, in respect of all assessable profit derived by that person in his lifetime, make the same returns as that person ought to have made or would have been bound to make if he had remained alive; and the Commissioner may from time to time require the executor or administrator to make such further returns relative to that assessable profit as the Commissioner thinks necessary. The executor or administrator shall be chargeable with, and assessable and liable for, property speculation tax or further property speculation tax in respect of that assessable profit in the same manner in which that person might have been chargeable, assessable, and liable had he remained alive.

(2) The property speculation tax or further property speculation tax with which the executor or administrator is so chargeable and for which he is so assessable and liable shall be deemed to be a liability incurred by the deceased person in his lifetime, and the executor or administrator of that person shall be liable for the same accordingly.

25. Commissioner may require other returns to be furnished—In addition to the returns specified in sections 23 and 24 of this Act, the Commissioner may require any person to furnish (whether on his own behalf or as an agent or a trustee) to the Commissioner such further or other returns as the Commissioner requires for the purposes of this Act, and that person shall furnish any such further or other returns accordingly.

26. **Presumption as to authority**—A return purporting to be furnished by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved.

PART IV

PAYMENT, ASSESSMENT, AND RECOVERY OF
PROPERTY SPECULATION TAX

27. **Time for payment of property speculation tax**—Every person liable to pay property speculation tax shall pay that tax within the time within which he is required by this Act to furnish, under section 23 of this Act, the return of the assessable profit in respect of which that tax is payable, or within such further time as the Commissioner, in his discretion, may allow to meet the special circumstances of any case or class or classes of cases.

28. **Assessment of property speculation tax**—(1) Where the Commissioner finds in any case that property speculation tax or further property speculation tax is payable by any person, the Commissioner may make an assessment of the amount on which that tax or further tax is payable and of the amount of that tax or further tax.

(2) Where—

- (a) Any person makes default in furnishing any return; or
- (b) The Commissioner is not satisfied with the return made by any person; or
- (c) The Commissioner has reason to suppose that any person, although he has not made a return, is liable to pay property speculation tax,—

the Commissioner may make an assessment of the amount on which, in his judgment, property speculation tax ought to be levied and of the amount of that tax, and that person shall be liable to pay the tax so assessed, save in so far as he establishes on objection that the assessment is excessive or that he is not chargeable with property speculation tax.

(3) Where a person is dissatisfied with any decision or determination of the Commissioner under this Act (not being a decision or determination relating to any matter referred to in subsection (2) of section 30 of this Act) by which the person's liability to pay property speculation tax is affected, the Commissioner shall, if so required by the person by notice in writing given—

(a) Within 1 month after the date on which notice in writing of that decision or determination is given to the person by or on behalf of the Commissioner; or

(b) Within such further time as the Commissioner, in his discretion, may allow,—

5
make an assessment of the amount of assessable profit and of the amount of property speculation tax or further property speculation tax affected by that decision or determination.

(4) Subject to section 29 of this Act, the Commissioner may from time to time and at any time make all such alterations in 10 or additions to an assessment made under this section as he thinks necessary to ensure the correctness thereof, notwithstanding that property speculation tax or further property speculation tax already assessed may have been paid.

(5) As soon as conveniently may be after an assessment or 15 amended assessment is made under this section, the Commissioner shall cause notice of the assessment or amended assessment to be given to the person liable to pay the property speculation tax or further property speculation tax.

(6) Where any property speculation tax or further property 20 speculation tax assessed under an assessment or amended assessment made under this section is not paid within the time specified in section 27 of this Act, or within such further time as the Commissioner allows under that section, the Commissioner may, in any case where he considers that the circum- 25 stances warrant it, specify in the notice of the assessment or amended assessment such later date as he, in his discretion, determines for the payment of that property speculation tax or further property speculation tax and, in that event, that property speculation tax or further property speculation tax 30 shall be payable on or before that date.

(7) The omission to give any such notice under subsection (5) of this section shall not invalidate the assessment or in any manner affect the operation thereof.

(8) Sections 25, 26, and 27 of the Land and Income Tax 35 Act 1954, as far as they are applicable and with the necessary modifications, shall apply with respect to every assessment or amended assessment made under this section, as if—

(a) Every reference in those sections to an assessment were a reference to an assessment made under this section; 40 and

(b) The reference to a taxpayer in the said section 26 were a reference to a person chargeable with property speculation tax; and

- (c) For the words "this Act" in the said section 25 there were substituted a reference to this Act; and
- (d) The reference to a return in the said section 27 were a reference to a return made under this Act.

5 **29. Limitation of time for amendment of assess-**
ment—(1) Where any person has made a return in respect
of any assessable profit and has paid, or has been assessed for,
property speculation tax or further property speculation tax
in respect of that assessable profit, it shall not be lawful for
10 the Commissioner—

- (a) Where an assessment has not been made, to make an
assessment:
 - (b) Where an assessment has been made, to alter the assess-
ment so as to increase the amount thereof—
- 15 after the expiration of 4 years from the end of the year in
which the return was made.

(2) Notwithstanding the provisions of subsection (1) of
this section, in any case where, in the opinion of the Commis-
sioner, the return so made is fraudulent or wilfully misleading,
20 it shall be lawful for the Commissioner—

- (a) Where an assessment has not been made, to make an
assessment at any time:
- (b) Where an assessment has been made, to alter the
assessment at any time so as to increase the amount
25 thereof.

30. Objections to assessments—(1) Subject to the provisions
of this section, an assessment made under section 28 of this
Act shall be subject to objection in the same manner as an
assessment of income tax levied under section 77 of the
30 Land and Income Tax Act 1954, and the provisions of sections
29 to 34 of that Act, as far as they are applicable and with
the necessary modifications, shall apply to an objection to
an assessment made under the said section 28 of this Act as
if—

35 (a) Every reference in the said sections 29 to 33 to income
tax or to tax were a reference to property speculation
tax; and

(b) Every reference in the said section 34 to income were a
reference to assessable profit.

40 (2) Except so far as may be expressly provided to the
contrary in this Act, the provisions of subsection (1) of this
section shall not confer any right of objection with respect
to—

- (a) Any decision or determination of the Commissioner made in exercise of any power or discretion conferred upon him to enlarge or extend the time for giving any notice, making any application, furnishing any return, or doing any other act, matter, or thing: 5
- (b) Any matter which is left to the discretion, judgment, approval, consent, or determination of the Minister of Finance or any act, matter, or thing done or omitted by the Minister under or pursuant to any of the provisions of this Act or of any regulations made under this Act: 10
- (c) Any matter in respect of which provision is made by this Act or by any regulations made under this Act— 15
- (i) For any matter to be inquired into, considered, reported upon, heard, decided, determined, or otherwise dealt with by; or
- (ii) For the matter to be the subject of any recommendation of— 20
- any special committee, tribunal, or authority (other than a Board of Review) established in that behalf or any person or official (other than the Commissioner); or
- (d) Any matter which by any provision in Part III, Part IV (except section 29), Part V, Part VI, Part VII (except section 51), or Part VIII of this Act is left to the discretion, judgment, opinion, approval, consent, or determination of the Commissioner; or 25
- (e) Any matter in respect of which it is expressly provided 30
- in this Act, or in any provision of the Land and Income Tax Act 1954 applied to property speculation tax by this Act, that there shall be no right of objection to the decision or determination of the Commissioner. 35

31. Person leaving New Zealand—Where the Commissioner has reason to believe that any person may leave New Zealand before any property speculation tax or further property speculation tax becomes due and payable by him, the property speculation tax or further property speculation tax shall be 40

due and payable on such date as the Commissioner fixes and notifies in writing to the person.

32. Additional property speculation tax for default in payment of property speculation tax—(1) If any property speculation tax or further property speculation tax is not paid within the time specified in section 27 of this Act, or
5 within such further time as the Commissioner allows under that section or specifies, pursuant to subsection (6) of section 28 of this Act, in a notice of an assessment or amended assessment, 5 percent on the amount of the property speculation tax unpaid shall be and be deemed to be added thereto by way
10 of additional property speculation tax and shall be payable accordingly:

Provided that, on application for relief made in writing by or on behalf of any person who has become liable for the payment of any additional property speculation tax under the
15 foregoing provisions of this subsection, the Commissioner, if having regard to the circumstances of the case he thinks it equitable so to do, may, subject to the provisions of subsection (2) of this section, grant relief to the person—

- 20 (a) By the remission of the whole or part of the additional property speculation tax; or
- (b) Where the additional property speculation tax has been paid in whole or in part, by the refund to the person of the the whole or any part of that tax that has been paid, with or without the remission of any part
25 of the additional property speculation tax that has not been paid.

(2) No amount of additional property speculation tax in excess of \$500 in any case shall be remitted or refunded under the proviso to subsection (1) of this section except with the
30 approval of the Minister of Finance, given either specifically with respect to that case or generally with respect to a class of cases.

(3) Any amount imposed by way of additional property speculation tax under this section shall be in addition to any
35 other penalty to which the person may be liable, and shall for all purposes be deemed to be of the same nature as the unpaid property speculation tax in respect of which it is imposed, and shall, except to the extent that relief is granted in respect thereof under the proviso to subsection (1) of this section,
40 be recoverable accordingly.

33. Application of certain provisions of the Land and Income Tax Act 1954 relating to recovery procedures—The provisions of sections 205, 209, 210 (except subsection (3)), 211 to 217, and 221 of the Land and Income Tax Act 1954, as far as they are applicable and with the necessary modifications, shall apply for the purposes of this Act, as if— 5

- (a) Every reference in those provisions to income tax or to tax were a reference to property speculation tax; and
- (b) Every reference to a taxpayer in the said section 210 (except subsection (3)) were a reference to a person chargeable with property speculation tax; and 10
- (c) Every reference to a year of assessment in the said section 210 were omitted; and
- (d) The reference to an assessment in the said section 215 were a reference to an assessment made under section 28 of this Act; and 15
- (e) For the words “this Act” wherever they occur in the said sections 217 and 221 there were substituted the words “the Property Speculation Tax Act 1973”.

PART V

20

REFUNDS AND RELIEF FROM PROPERTY SPECULATION TAX

34. Refund of excess property speculation tax—(1) Where the Commissioner is satisfied that property speculation tax paid by any person in respect of any assessable profit derived by him is in excess of the property speculation tax properly payable by him, the Commissioner shall refund the amount paid in excess: 25

Provided that, subject to subsection (2) of this section and paragraph (c) of section 11 of this Act, no refund shall be made under this subsection after the expiration of the period of 8 years immediately after the date on which the assessable profit was derived by him, unless written application for the refund is made by or on behalf of the person before the expiration of that period. 30

- (2) In any case where— 35
 - (a) An assessment in respect of the assessable profit derived by the person has been made and the Commissioner is satisfied that by reason of the assessment property speculation tax has been paid in excess of the amount properly payable by him; or 40

(b) An assessment in respect of the assessable profit derived by the person has been altered so as to increase the amount of property speculation tax payable, and the Commissioner is satisfied that by reason of that alteration property speculation tax has been paid in excess of the amount properly payable,—
5 the Commissioner shall, notwithstanding that the time limited by subsection (1) of this section for the making of a refund may have expired, refund the amount so paid in excess by
10 reason of that assessment, or, as the case may be, that alteration:

Provided that, in any such case, no refund shall be made under this subsection after the expiration of the period of 8 years immediately after the date on which the assessment
15 or, as the case may be, the alteration was made, unless written application for the refund is made by or on behalf of the person before the expiration of that period.

35. Relief in cases of serious hardship—(1) In any case where it is shown to the satisfaction of the Commissioner—

20 (a) That any person (not being a company or a Maori authority or an unincorporated body) has suffered such loss or is in such circumstances that the exaction of the full amount of any property speculation tax has entailed or would entail serious
25 hardship; or

(b) That, owing to the death of any person, the dependants of that person are in such circumstances that the exaction of the full amount of any property speculation tax has entailed or would entail serious
30 hardship,—

he may, subject to the provisions of this section, release the person liable to pay property speculation tax wholly or in part from his liability, and the Commissioner may take such steps as are necessary for that purpose; and may, if the
35 property speculation tax or any part thereof has already been paid, refund the whole or any part of the amount paid.

(2) No amount of property speculation tax in excess of \$500 in any case shall be remitted or refunded under this section except with the approval of the Minister of Finance.

40 **36. Appropriation of refunds**—Any refund of property speculation tax under this Act may be made without further appropriation than this section.

PART VI

PENALTIES

- 37. Penalty for failure to furnish returns, etc.**—(1) Every person commits an offence against this Act who—
- (a) Refuses or fails to furnish any return or information as and when required by this Act or the regulations made thereunder or by the Commissioner; or 5
 - (b) Wilfully or negligently makes any false return, or gives any false information, or misleads or attempts to mislead the Commissioner or any other officer, in relation to any matter or thing affecting his own or any other person's liability to property speculation tax; or 10
 - (c) Obstructs any officer acting in the discharge of his duties or in the exercise of his powers under this Act; or 15
 - (d) Acts in contravention of or, without lawful justification or excuse, fails to comply in any respect with any provision of this Act or of the regulations made thereunder or any requirement imposed under this Act or the regulations; or 20
 - (e) Aids, abets, or incites any other person to commit any offence against this Act or against any regulations made thereunder.
- (2) Every person who commits an offence against this Act for which no other penalty is prescribed shall be liable to a fine not exceeding \$200. 25

38. Proceedings to be taken summarily—All proceedings for offences against this Act shall be taken by way of summary prosecution before a Magistrate, and only upon the information of the Commissioner, or of some person authorised in writing by the Commissioner in that behalf, and the signature of the Commissioner to any warrant of authority under this section shall be judicially noticed. 30

39. Information may charge several offences—(1) Any information may charge the defendant with any number of offences against this Act, if those offences are founded on the same set of facts, or form or are part of a series of offences of the same or a similar character. 35

(2) Where any information charges more than one such offence, particulars of each offence charged shall be set out separately in the information.

5 (3) All such charges shall be heard together, unless the Court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.

40. Information may be laid within 10 years—Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of any offence against this Act or against any regulations made thereunder may be laid at any time within 10 years after the termination of the year in which the offence was committed.

41. Penal property speculation tax in case of evasion—
15 (1) If any person evades or attempts to evade, or does any act with intent to evade, or makes default in the performance of any duty imposed upon him by this Act or the regulations thereunder with intent to evade, the payment or assessment of any sum which is or may become chargeable against him
20 by way of property speculation tax or further property speculation tax (which sum is hereinafter referred to as the deficient property speculation tax), he shall be chargeable, by way of penalty for that offence, with additional tax (hereinafter called penal property speculation tax) not exceeding an
25 amount equal to treble the amount of the deficient property speculation tax.

(2) Penal property speculation tax imposed under this section shall be in addition to any other penalty to which the person may be liable, and shall for all purposes be deemed to
30 be of the same nature as the deficient property speculation tax and shall be deemed to have become payable on the day on which the deficient property speculation tax became payable, and shall be recoverable accordingly.

42. Assessment of penal property speculation tax—(1) The
35 Commissioner shall make an assessment of penal property speculation tax in the same manner, so far as may be, as an assessment of the deficient property speculation tax, but separately therefrom.

(2) An assessment of penal property speculation tax may
40 be amended from time to time in the same manner as any other assessment.

(3) It shall be lawful for the Commissioner to make or amend an assessment of penal property speculation tax at any time.

43. Objections to penal property speculation tax—(1) Any assessment of penal property speculation tax shall be subject, in the same manner as any other assessment of property speculation tax, to objection on the ground that the person so assessed is not chargeable with penal property speculation tax, or on the ground that the amount so assessed is excessive having regard to the nature and degree of the offence or to the reason for the imposition of the penal property speculation tax, and notwithstanding that the amount so assessed is not in excess of treble the amount of the deficient property speculation tax:

Provided that, where the person so assessed is chargeable with penal property speculation tax, the amount of penal property speculation tax assessed by the Commissioner shall not be reduced by a Board of Review or any Court below the smaller of the following amounts:

(a) The amount of penal property speculation tax so assessed:

(b) An amount calculated, in respect of the period commencing with the day immediately following the day on which the deficient property speculation tax became payable and ending with the day on which the assessment of the penal property speculation tax is made by the Commissioner, at the rate of 10 per cent per annum of the amount of the deficient property speculation tax.

(2) Subject to the provisions of subsection (1) of this section, the provisions of section 30 of this Act shall apply to an objection to an assessment of penal property speculation tax, save that the burden of proving the offence in respect of which penal property speculation tax is chargeable shall lie upon the Commissioner.

44. Recovery of penal property speculation tax from executors and administrators—(1) Penal property speculation tax shall be assessable against and recoverable from the executors or administrators of a deceased person, but, if so assessed, the amount thereof shall be recoverable only as a debt incurred by the deceased in his lifetime.

(2) Subject to Part VII of this Act, no penal property speculation tax shall be recoverable from any person other than the person himself, or his executors or administrators.

5 **45. Recovery of penal property speculation tax not affected by conviction of person**—The assessment or recovery of penal property speculation tax in respect of any offence shall not be in any manner barred or affected by the fact that the person has been convicted under this Act of the same or any other
10 speculation tax assessed against him for any offence shall be thereafter convicted of the same offence.

46. Publication of names of property speculation tax evaders—The provisions of section 238 of the Land and Income Tax Act 1954, as far as they are applicable and with
15 the necessary modifications, shall apply for the purposes of this Act, as if—

- 20 (a) For the words “paragraph (b) of subsection (1) of section 228 of this Act” in paragraph (a) of subsection (1) there were substituted the words “paragraph (b) of subsection (1) of section 37 of the Property Speculation Tax Act 1973”; and
- (b) For the word “taxation” in paragraph (a) of subsection (1) there were substituted the words “property speculation tax”; and
- 25 (c) For the word “tax” in paragraph (b) of subsection (1) and in paragraphs (d) and (e) of subsection (3) there were substituted the words “property speculation tax”; and
- 30 (d) For the word “taxpayer” wherever it occurs in subsection (2) and in paragraph (a) of subsection (3) there were substituted the words “person chargeable with property speculation tax”; and
- (e) For the word “income” in paragraph (d) of subsection (3) there were substituted the words “assessable
35 profit”.

PART VII

AGENTS

47. Interpretation—For the purposes of this Part of this Act—

“Absentee” means—

(a) Any person (other than a company) who is for the time being out of New Zealand: 5

(b) Any overseas company, unless it has a fixed and permanent place of business in New Zealand at which it carries on business in its own name: 10

(c) Any overseas company which is declared by the Commissioner to be an absentee for the purposes of this Act by notice given to that company or to its agent or attorney in New Zealand, so long as that declaration remains unrevoked: 15

“Overseas company” means any company other than one incorporated in New Zealand.

Agents Generally

48. Commissioner may declare a person to be the agent of another person—The Commissioner may from time to time declare any person to be the agent of any other person for the purposes of this Act. 20

49. General provisions—With respect to every agent, the following provisions shall apply:

(a) He shall, in respect of the assessable profit in respect of which he is an agent, make the returns and be chargeable with property speculation tax thereon as if he were the principal, and each return shall, except as otherwise provided by this Act, be separate and distinct from any other: 25 30

(b) Where as agent he pays any property speculation tax, he may recover the amount so paid from his principal, or may deduct the amount from any money in his hands belonging or payable to his principal:

(c) He may from time to time retain out of any money belonging or payable to his principal such sums as may reasonably be deemed sufficient to pay the property speculation tax for which he is or may become liable: 35

(d) He shall be personally liable for the property speculation tax payable in respect of the assessable profit in respect of which he is an agent if, after the Commissioner has required him to make a return, or
5 while any such property speculation tax remains unpaid, he disposes of or parts with any fund or money which is in his hands or comes to him, being a fund or money from or out of which property speculation tax could legally be paid, but he shall
10 not otherwise be so personally liable.

50. Liability of principal not affected—(1) Nothing in this Act relating to an agent shall be so construed as to release the principal from liability to make returns and to be chargeable with, and assessable and liable for, property speculation tax
15 or further property speculation tax.

(2) No assessment of the agent shall preclude an assessment of the principal for the same property speculation tax or further property speculation tax, nor shall an assessment of the principal preclude an assessment of the agent for the
20 same property speculation tax or further property speculation tax, and the principal and agent shall be jointly and severally liable for all property speculation tax or further property speculation tax for which the agent is liable.

(3) Where 2 or more persons are chargeable as agents with
25 the same property speculation tax or further property speculation tax, they shall be jointly and severally liable therefor.

51. Relation of principal and agent arising in effect—When the Commissioner is satisfied that any person in New Zealand (hereinafter called the agent) is so far under the control of
30 any other person in New Zealand or elsewhere (hereinafter called the principal) that the relation between them is in effect that of agent and principal, he may require returns to be made, and may make assessments accordingly, and the principal and agent shall be liable for property speculation
35 tax or further property speculation tax accordingly.

Special Cases of Agency

52. Guardian or committee of person under disability to be his agent—Every person who, as guardian, committee, or otherwise, has—

40 (a) The possession, control, or management of any real or personal property of; or

(b) The receipt, control, or disposition of any income derived by, or of any money belonging to,—
 any other person who is under any legal or other disability shall for the purposes of this Act be the agent of that other person in respect of all assessable profit derived by that other person, and shall make returns and shall be chargeable with, and assessable and liable for, property speculation tax or further property speculation tax accordingly. 5

53. Liability of new companies for property speculation tax payable by former companies with substantially the same shareholders or under the same control—The provisions of section 185 of the Land and Income Tax Act 1954, as far as they are applicable and with the necessary modifications, shall apply for the purposes of this Act, as if every reference therein to income tax or to tax were a reference to property speculation tax. 10 15

Agents of Absentees

54. Liability of agent of absentee principal for returns and property speculation tax—Every person who in New Zealand, for or on behalf of a principal who is an absentee, carries on, holds, or has the management or control of any business shall for the purpose of this Act be the agent of that principal in respect of all assessable profit derived from that business, and shall make returns and shall be chargeable with, and assessable and liable for, property speculation tax or further property speculation tax accordingly. 20 25

55. Person having possession or control of property to be agent of absentee—Every person who has the possession, control, or management of any real or personal property of any other person who is an absentee and who is liable to pay property speculation tax under this Act shall, for the purposes of this Act, be the agent of that other person in respect of that property or of any business in which that property is used, and shall make returns and shall be chargeable with, and assessable and liable for, property speculation tax or further property speculation tax accordingly. 30 35

PART VIII

GENERAL PROVISIONS

56. **Exemption of assessable profit from income tax**—Where any property speculation tax has been paid in respect of the assessable profit derived by any person, to the extent that the Commissioner is satisfied that the assessable profit represents income of that person which, if it were not for this section, would be liable for income tax, that income shall be exempt from income tax.

10 57. **Instruments presented for stamping**—(1) Every instrument relating to the disposition of land which is presented to the Commissioner for stamping under the Stamp and Cheque Duties Act 1971 shall be accompanied by—

15 (a) A certificate by the person named in the instrument as disposing of the land (or by his solicitor or other agent acting on his behalf) stating—

(i) The date of acquisition of the land by him; and

20 (ii) If the person named in the instrument as acquiring the land is not the person who originally acquired or agreed to acquire the land from him, particulars of any intermediate dispositions of the land (including the nature and date of any such dispositions and the names of the parties thereto) which are within his knowledge; and

25 (b) A certificate by the person named in the instrument as acquiring the land (or by his solicitor or other agent acting on his behalf) stating whether he is the person who originally acquired or agreed to acquire the land from the person named in the instrument as disposing of the land and, if not, giving particulars of any intermediate dispositions of the land (including the nature and dates of any such dispositions and the names of the parties thereto) which are within his knowledge.

30 (2) Where an instrument, not being an instrument which is accompanied by a certificate pursuant to subsection (1) of this section, is presented to the Commissioner for stamping under the Stamp and Cheque Duties Act 1971, or is produced to him for any other purpose, and he is of the opinion that the instrument creates or evidences or may create or evidence a disposition of land in respect of which assessable profit has

been derived by any person, the Commissioner may impound the instrument until he has ascertained whether any return is required to be furnished under this Act and, if so, by whom it is to be furnished.

New

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(3) Notwithstanding the foregoing provisions of this section, where, pursuant to subsection (1) of this section, any instrument relating to the disposition of land has been presented to the Commissioner for stamping accompanied by the appropriate certificate, this section shall not apply to any subsequent instruments relating to the same disposition presented to the Commissioner for stamping or produced to him for any other purpose.

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58. Keeping of records—(1) Subject to subsection (2) of this section, every person who derives any assessable profit shall, for the purposes of this Act, keep sufficient records to enable his liability for property speculation tax to be readily ascertained by the Commissioner or any officer authorised by him in that behalf, and shall retain all such records for a period of at least 7 years after the completion of the transactions to which they relate.

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(2) This section shall not require the retention of any records—

- (a) In respect of which the Commissioner has notified the person that retention is not required;
- (b) Of a company which has been wound up and finally dissolved.

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59. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for such matters, not inconsistent with this Act, as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

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60. Transitional provisions—(1) Notwithstanding anything in this Act, where any person has entered into a contract which became legally binding on him before the 15th day of June 1973 in respect of any disposition of land by him, any profit derived by him from that disposition shall be exempt from property speculation tax.

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New

(2) Notwithstanding anything in this Act, where land was disposed of by any person before the 15th day of June 1973 to his or her spouse or infant child or to a trustee for that spouse or infant child, the date of acquisition of that land by that spouse or that infant child or that trustee shall be deemed to be the same date as the date of acquisition of that land by that person.

SCHEDULE

Section 3 (2)

RATES OF PROPERTY SPECULATION TAX

Period Commencing on the Date of Acquisition of any Land by any Person and Ending with the Date of Disposition of the Land by that Person.	Rate of Property Speculation Tax on Assessable Profit Derived by that Person from the Disposition of that Land
6 months or less	90 percent of that assessable profit
Exceeding 6 months, but not exceeding 9 months	85 percent of that assessable profit
Exceeding 9 months, but not exceeding 12 months	80 percent of that assessable profit
Exceeding 12 months, but not exceeding 15 months	75 percent of that assessable profit
Exceeding 15 months, but not exceeding 18 months	70 percent of that assessable profit
Exceeding 18 months, but not exceeding 21 months	65 percent of that assessable profit
Exceeding 21 months	60 percent of that assessable profit