

TASMANIA.

THE LAND AND INCOME TAXATION
ACT 1935.

ANALYSIS.

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| <p>1. Short title.</p> <p>2. Repeal.</p> <p>3. Amendment of 1 Geo. V. No. 47.</p> <p style="padding-left: 20px;">New section 2.</p> <p style="padding-left: 40px;">Interpretation.</p> <p style="padding-left: 40px;">Sections 6 to 8 (now 3 to 5).</p> <p style="padding-left: 40px;">Section 10 (now 6).</p> <p style="padding-left: 40px;">Part III.</p> <p style="padding-left: 40px;">Sections 15 to 26 (now 10 to 21).</p> <p style="padding-left: 40px;">Part IV.</p> <p style="padding-left: 20px;">New section 22.</p> <p style="padding-left: 40px;">Income tax.</p> <p style="padding-left: 20px;">New section 23.</p> <p style="padding-left: 40px;">Accounting period.</p> <p style="padding-left: 20px;">New section 24.</p> <p style="padding-left: 40px;">Money credited, reinvested, &c.,
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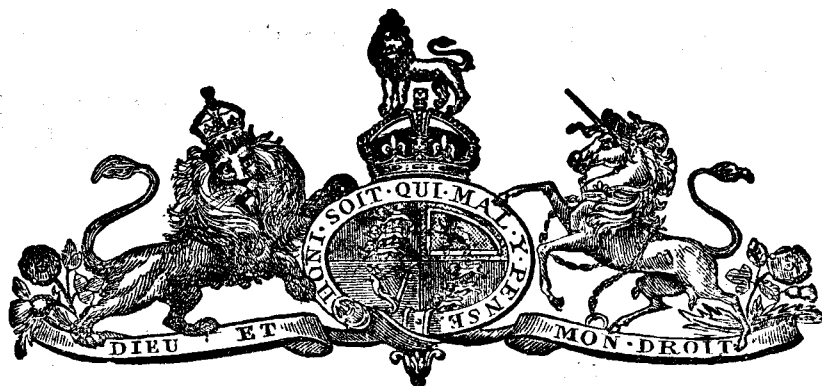
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TASMANIA



1935.

ANNO VICESIMO SEXTO

GEORGI V. REGIS.

No. 91.

AN ACT to amend the *Land and Income Taxation Act 1910.* [16 January, 1936.]

A.D.
1935.

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 1935.*

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2 The enactments enumerated in the schedule are hereby repealed to the extent therein indicated.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I. By substituting for repealed section two thereof the following new section two :—

Amend-
ment of 1
Geo. V.
No. 47.

Land and Income Taxation.

A.D.1935. Interpretation.

New section 2.

“2—(1) In this Act, unless the contrary intention appears—

‘Agent’ includes every person, who, in this State for or on behalf of any other person outside this State (hereinafter called ‘the principal’)—

- i. Has the control, receipt, or disposal of any real or personal property, or of any income or moneys belonging to the principal, or directly or indirectly remits the same to the principal: or
- ii. Directly or indirectly in any manner whatsoever sells or otherwise disposes of any real or personal property belonging to the principal, or negotiates, solicits, or procures any such sale or disposal, or does any act or thing by means of which any such sale or disposal is brought about—

and also includes every person declared by the Commissioner to be an agent for any person for the purposes of this Act:

‘Allowable deduction’ means a deduction allowable under this Act:

‘Annual value’ of a property means the annual rental that is paid or that could be reasonably demanded for the use and occupation thereof:

‘Assessable income’ means all income which is not exempt income under the provisions of this Act:

‘Assessment’ means the ascertainment of the amount of taxable income and of the tax payable thereon:

‘Business’ includes any profession, trade, employment, vocation or calling, but does not include occupation as an employee:

‘Commissioner’ means the Commissioner of Taxes:

‘Company’ includes all bodies or associations corporate or unincorporate, but does not include partnerships:

‘Dividend’ includes—

- i. Any distribution made by a company to its shareholders, whether in money or other property, and any amount credited to them as shareholders:
- ii. The paid-up value of shares distributed by a company to its shareholders to the extent to which the paid-up value represents a capitalization of profits:

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III. Every sum of money intended to be paid or distributed to or amongst the winners of prizes in any lottery authorised by law in this State or any other State—

but does not include a return of paid-up capital or a reversionary bonus on a policy of life-assurance:

‘Exempt income’ means income which is exempt from income tax:

‘Income from personal exertion’ or ‘income derived from personal exertion’ means income consisting of earnings, salaries, wages, commissions, fees, gains, bonuses, pensions, superannuation allowances, retiring allowances, and retiring gratuities, allowances and gratuities received in the capacity of employee or in relation to any services rendered, the proceeds of any business carried on by the taxpayer either alone or as a partner with any other person, any amount received as a bounty or subsidy in carrying on a business, the income from any property where that income forms part of the emoluments of any office or employment of profit held by the taxpayer, and any profit arising from the sale by the taxpayer of any property acquired by him during the year of income, or the three years next prior thereto, and any profit arising from the sale by the taxpayer of any property acquired by him for the purpose of profit-making by sale or from the carrying on or carrying out of any profit-making undertaking or scheme, but does not include—

1. Interest, unless the taxpayer’s principal business consists of the lending of money, or unless the interest is received in respect of a debt due to the taxpayer for goods supplied or services rendered by him in the course of his business: or

II Rents or dividends:

‘Income from property’ or ‘income derived from property’ means all income not being income from personal exertion:

‘Income tax’ means the income tax imposed as such by any Act as assessed under this Act:

‘Land tax’ means the land tax imposed by any Act for the purpose of this Act:

‘Liquidator’ means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company:

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- ‘Livestock’ does not include animals used as beasts of burden or working beasts in a business other than a business of primary production :
- ‘Manager’ or ‘public officer’ includes any agent or other person, not being the manager of any company which has not its head office or chief place of business in this State, who conducts or carries on the business of such company in this State :
- ‘Mercantile business’ means any business in which sales are effected of goods, wares, merchandise, or personal property of any kind :
- ‘Mining company’ means any company carrying on mining operations in this State, or registered under the provisions of the *Mining Companies Act 1884* or the *Mining Companies (Foreign) Act 1884* :
- ‘Mortgage’ includes any charge, lien, or encumbrance to secure the repayment of money :
- ‘Non-resident’ means a person who is not a resident of this State :
- ‘Notice’ means notice in writing :
- ‘Paid,’ in relation to dividends, includes credited or distributed :
- ‘Partnership’ means an association of persons carrying on business as partners or in receipt of income jointly, but does not include a company :
- ‘Primary production’ means production resulting directly from the cultivation of land or the maintenance of animals or poultry for the purpose of selling them or their bodily produce including natural increase, and includes the manufacture of dairy produce by the person who produced the raw material used in that manufacture :
- ‘Relative’ means a husband or wife or a relation by blood, marriage, or adoption :
- ‘Resident,’ in relation to an individual taxpayer, means a person who resides in this State :
- ‘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 :
- ‘Return’ includes all returns, declarations, statements and particulars required to be furnished under this Act :

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- ‘Shareholder’ includes member or stockholder :
- ‘State’ means State of the Commonwealth :
- ‘Taxable income’ means the amount remaining after deducting from the assessable income all allowable deductions :
- ‘Taxpayer’ means a person deriving income, and, in relation to land, means any person who is liable under this Act to pay land tax in respect thereof :
- ‘Trading stock’ includes anything produced, manufactured, acquired, or purchased for purposes of manufacture, sale, or exchange, and also includes livestock :
- ‘Trustee,’ in addition to every person appointed or constituted trustee by act of parties, by order, or declaration of a court, or by operation of law includes—
- i. An executor or administrator, guardian, committee, receiver, or liquidator : and
 - ii. Every person having or taking upon himself the administration or control of income effected by any express or implied trust or acting in any fiduciary capacity, or having the possession, control, or management of the income of a person under any legal or other disability :
- ‘Unimproved value,’ in respect of land means the unimproved value as ascertained under the *Land Valuation Act 1909* :
- ‘Year of income’ means—
- i. The financial year next preceding the year of tax : or
 - ii. The accounting period, if any, adopted under this Act in lieu of that financial year :
- ‘Year of tax’ means the year for which income tax is levied.

(2) For the purposes of this Act the sale price of any mining product produced in this State shall be income derived in this State.”:

II. By renumbering sections six to eight thereof as three, four, and five; and by deleting—

(a) “any Act” to “Act”) in section seven (now four) and substituting “the *Public Service Act 1923*”:

III. As to section ten thereof—

(a) By deleting “(1)” and substituting “(2 ” and deleting “Subject” to “Act” in the first two lines :

(b) By inserting at the beginning as subsection (1)—

“(1) The Governor may appoint some person as Commissioner of Taxes for the purposes of this Act.”:

Sections
6 to 8 (now
3 to 5).

Section 10
(now 6).

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A.D. 1935.

(c) By expunging subsections (2) and (3) and substituting—

“(3) The Deputy Commissioner at Launceston shall have and may exercise, subject to the direction of the Commissioner, all the powers and authority vested in the Commissioner.”; and

(d) By renumbering the section as section six :

IV. By renumbering sections eleven to thirteen thereof as seven, eight, and nine, and by deleting—

(a) “1930” and substituting “1934” :

(b) “on summary conviction” (twice occurring) :

(c) “any term not exceeding” : and

(d) “not more than” (secondly occurring)—

in those sections :

V. As to Part III. thereof—

(a) By deleting—

i. “sterling” and inserting “annually” (after “shall” in the preceding line); “for the time being”; “1906” and substituting “1929”; “any Act” to “societies” (in VIII.) and substituting “the *Friendly Societies Act 1889*” in section fifteen :

ii. “such” (before “land” in the fourth and fifth lines respectively of section twenty-one) and substituting “the”; and substituting “fifteen” for “twenty-one” in subsection (2) thereof; and “such” to “provided” (in the last two lines of subsection (6) thereof) and substituting “the assessment of such tax” :

iii. “and” (in the second line of section twenty-two) :

iv. “makes a” and substituting “has made” (in the first line of section twenty-five); “then” to “as the” and substituting “and such”; “1.” to “then” and inserting (after “occupier”) “of the land in respect of which the tax is payable”; and (after “taxpayer”) “or from the taxpayer”; “II.” and substituting “(2)”; and inserting “(1)” at commencement of the section :

v. “tax or taxes” (in the seventh line of section twenty-six) and substituting “land tax”; and “or taxes” (in the tenth line): and

(b) By renumbering sections fifteen to twenty-six as ten to twenty-one :

Part III.

Sections 15
to 26 (now
10 to 21).

Part IV.

VI. By substituting for repealed sections twenty-seven to sixty-three in Part IV. thereof the following new headings and sections twenty-two to one hundred and thirty-two :—

*Land and Income Taxation.**“ Division 1.—General.*

A.D.1935.

“ **22** Subject to this Act, income tax, at the rates declared by Parliament, shall be levied and paid for the financial year commencing on the first day of July, one thousand nine hundred and thirty-six, and for each financial year thereafter, upon the taxable income arising, accruing, received in, or derived from this State during the year of income by any person.

Income tax. New section 22.

“ **23**—(1) Any person may, with the leave of the Commissioner, adopt an accounting period being the twelve months ending on some date other than the thirtieth day of June His accounting period in each succeeding year shall end on the corresponding date of that year, unless, with the leave of the Commissioner, some other date is adopted.

Accounting period. New section 23.

(2) Where the Commissioner has accepted returns from any person based on an accounting period as defined in the previous Act for the purposes of assessment for the last financial year to which that Act applied, that person shall be deemed to have adopted a corresponding accounting period under this section.

“ **24** Income shall be deemed to have been derived by a person although it is not actually paid over to him but is reinvested, accumulated, capitalized, carried to any reserve, sinking fund, or insurance fund, however designated, or otherwise dealt with on his behalf or as he directs.

Money credited, reinvested, &c., to be income. New section 24.

“ **25** For all the purposes of this Act income wherever derived, any expense wherever incurred, the value of any asset wherever situate, and any amount involved in any calculation, shall be expressed in terms of Australian currency, and, for this purpose, the rates of exchange to be used shall be, respectively, the rates at which exchange could have been effected by telegraphic transfer at the dates when the income was derived, or the expense was incurred, or at which the asset is to be valued, or at which the amount is to be ascertained.

Income to be expressed in Australian currency. New section 25.

“ **26** Where, upon any transaction, any consideration is paid or given otherwise than in cash, the money value of that consideration shall, for the purposes of this Act, be deemed to have been paid or given.

Where consideration not in cash. New section 26.

“ **27** Where any income is received in the year of income as a result of a transaction entered into prior to the commencement of this Part, and that income would have been assessable income under this Act if the former provisions of this Part had continued in force and had applied to the assessment of the income derived in the

Income arising from past transactions. New section 27.

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New section 28. Exemptions.

year of income, that income shall be assessable under this Part notwithstanding that the transaction was entered into prior to that commencement.

“28—(1) The following income shall be exempt from income tax :—

- i. The revenues of marine boards and of municipal corporations, water trusts, and statutory local bodies receiving revenue of any kind for the purposes of, or in relation to, local self-government :
- ii. The incomes of companies (if registered under and in pursuance of section twenty-eight of the *Companies Act 1920*), societies, or public bodies or public trusts—
 - (a) Not carrying on business : and
 - (b) Not being engaged in any trade, adventure, or concern for the purposes of profit or gain to be divided amongst the shareholders or members thereof—

but this paragraph shall not extend to any company which carries on mercantile business in this State, but shall include any society whose principal business is the sale of religious literature :
- iii. The funds and incomes of any registered friendly society or trade union :
- iv. The profits of the Agricultural Bank of Tasmania :
- v. The Police Provident Fund, the Closer Settlement Fund, and any fund exempted from taxation by the statute under which the fund is created :
- vi. The official salary of, and the income derived from sources outside Tasmania by, the Governor of this State :
- vii. The income arising, accruing to any person from debentures, inscribed stock, or Treasury bills, or guaranteed by the Government of Tasmania and redeemable elsewhere than in Tasmania :
- viii. The salaries of the Agent-General and of his officers so far as such salaries are derived from this State :
- ix. Every pension under the *War Pensions Act 1914* of the Commonwealth :
- x. The income of a provident, benefit, or superannuation fund established for the benefit of the employees in any business or class of business, if the Commissioner is satisfied that the particular fund is being applied to the purposes for which it was established :

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- xi. Every old-age and invalid pension granted by the Commonwealth :
- xii. Every pension granted under any Imperial Act or any Act of the legislature of any British possession or territory, in respect of the war which commenced on the fourth day of August, one thousand nine hundred and fourteen, to any person who served in such war in the naval, military, or air forces of His Majesty, and who was disabled in consequence of such war, or to a dependant of any person who served as aforesaid and was killed while in the said service, or died from injuries received or disease contracted by him in the course of such service :
- xiii. Income derived by a *bona fide* prospector from the sale, transfer, or assignment by him of his rights to mine for gold or minerals in this State. For the purposes of this paragraph '*bona fide* prospector' means a person, other than a company, who has personally carried out the whole or major part of the field work of prospecting for gold or minerals in the particular area, or who has contributed to the expenditure incurred in the work of prospecting and development in that area, and includes a company which has itself carried out the whole or major part of such work. This paragraph does not apply to coal-mining.

“ 29—(1) Where any income is exempt from income tax, the exemption shall be limited to the specified or original recipient of the income, and shall not extend to persons receiving payments from that recipient, although the payments may be made wholly or in part out of that income.

Limitation of exemption. New section 29.

(2) The exemption of any income from income tax shall not exempt any person from furnishing any return or information which is required by the Commissioner, or from including in his return such information as is prescribed, or as is required by the Commissioner.

Division II.—Income.

SUBDIVISION A.—ASSESSABLE INCOME GENERALLY.

- “ 30—(1) The assessable income of a taxpayer shall include—
- I. Where the taxpayer is—
- (a) A resident—the gross income arising, accruing, or derived directly or indirectly from all sources in the State, or

Gross income from certain sources.

New section 30.

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- received in the State from any source whether in or out of the State : and
- (b) A non-resident—the gross income derived directly or indirectly from all sources in the State—
- which is not exempt income :
- ii. Interest on money secured by mortgage of any property to the following extent—
- (a) Where the whole of the property is in the State—the whole of that interest :
- (b) Where some only of the property is in the State—the whole of that interest if the taxpayer is a resident and income tax (other than Commonwealth income tax) is not paid out of the State on any part of that interest, and, in any other case, a proportionate part of that interest : and
- (c) Where the whole of the property is out of the State, but is in Australia—none of that interest :
- iii. Interest on money lodged or in respect of debts situated in the Territory for the Seat of Government of the Commonwealth and income arising from other investments in that Territory if the taxpayer deriving that interest or income is a resident :
- iv. Profit arising from the sale by the taxpayer of any property acquired by him for the purpose of profit-making by sale, or from the carrying on or carrying out of any profit-making undertaking or scheme :
- v. Beneficial interests in income derived under any will, settlement, deed of gift, or instrument of trust :
- vi. The amount of any annuity, excluding, in the case of an annuity which has been purchased, that part of the annuity which represents the purchase price to the extent to which that price has not been allowed or is not allowable as a deduction in assessments for income tax under this Act :
- vii. Five per centum of the capital amount of any allowance, gratuity, or compensation where that amount is paid in a lump sum in consequence of retirement from, or the termination of any office or employment, and whether so paid voluntarily, by agreement, or by compulsion of law : Provided that this paragraph shall not apply in respect of

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- any amount paid or credited by a private company which, under any provision of this Act, is deemed to be a dividend paid to the recipient :
- VIII. The value to the taxpayer of all allowances, gratuities, compensations, benefits, bonuses, and premiums allowed, given, or granted to him in respect of, or for or in relation directly or indirectly to, any employment of or services rendered by him, whether so allowed, given, or granted in money, goods, land, meals, sustenance, the use of premises or quarters, or otherwise : Provided that this division of this paragraph shall not apply to any allowance, gratuity, or compensation which is included in paragraph VII. hereof, or which, under any provision of this Act, is deemed to be a dividend paid to the recipient :
- IX. Any amount received as or by way of royalty :
- X. Any bounty or subsidy received in or in relation to the carrying on of a business, and such bounty or subsidy shall be deemed to be part of the proceeds of that business :
- XI. The amount of any fee or commission received for procuring a loan of money :
- XII. Any amount received as or by way of bonus other than a reversionary bonus on a policy of life assurance :
- XIII. Any amount received by way of insurance or indemnity for or in respect of any loss—
- i. Of trading stock which would have been taken into account in computing taxable income : or
 - ii. Of profit or income which would have been assessable income—
- if the loss had not occurred, and any amount so received for or in respect of any loss or outgoing which is an allowable deduction :
- XIV. Income received by way of periodical payments in the nature of alimony or maintenance from her husband or former husband :
- XV. The amount or value of any consideration received in connection with a right to remove standing timber from land less the amount, if any, by which the value of the land is or will be diminished by the removal of the timber :
- XVI. The amount of salary, wages, or remuneration derived whilst temporarily engaged on duties out of the State by a taxpayer who ordinarily resides in the State :

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Provided that, where the taxpayer has paid in any place outside the State, income tax (other than Commonwealth income tax) in respect of the whole or part of that salary, wages, or remuneration, he shall be entitled to a rebate in his assessment of an amount equal either to the tax so paid or to the proportion of the tax payable under this Act which is attributable to that salary, wages, or other remuneration, whichever is the less :

xvii. Any gains or profits arising or accruing to a taxpayer, whether or not in connection with any business carried on by him, on the sale by such taxpayer during the year of income of any estate or interest (other than a leasehold estate or interest) in land, including the goodwill of any business carried on on the land, where such estate or interest was bought by him during such year or the three years next prior thereto :

Provided that, if a sale is subsequently cancelled, an allowance may be made to the taxpayer in the year in which the cancellation takes place, or a refund may be made of any tax overcharged in connection with the profit made or supposed to be made :

xviii. The value of anything withdrawn by any person from the saleable stock or produce of any business carried on by him, and applied by him to his personal, family, or domestic use, or other personal benefit or advantage.

(2) For the purposes of paragraph xvi. of subsection (1) hereof 'income tax' means such tax imposed as income tax as in the opinion of the Commissioner is reasonably comparable in its nature to the tax assessed under this Act.

(3) All amounts included under paragraphs xvii. and xviii. of subsection (1) hereof shall be deemed to be income arising from personal exertion.

(4) Where during any year of income sales to which paragraph xvii. of subsection (1) hereof applies have been made, and a profit has accrued upon one or more of such sales, and a loss has accrued upon another or others of such sales, the aggregate loss may be set off against the aggregate profit; but, if such aggregate loss exceeds such aggregate profit, the balance of loss shall not be deducted from any other income of the taxpayer.

SUBDIVISION B.—TRADING STOCK.

“31—(1) Where a taxpayer carries on any business, the value, ascertained under this subdivision, of all trading stock on hand at the beginning of the year of income, and

New section 31.

Computation of profits from trading stock.

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of all trading stock on hand at the end of that year, shall be taken into account in ascertaining whether or not the taxpayer has a taxable income.

(2) Where the value of all trading stock on hand at the end of the year of income exceeds the value of all trading stock on hand at the beginning of that year, the assessable income of the taxpayer shall include the amount of the excess. Value at beginning of year of income.

(3) Where the value of all trading stock on hand at the beginning of the year of income exceeds the value of all trading stock on hand at the end of that year, the amount of the excess shall be an allowable deduction.

(4) The value of livestock and of each article of other trading stock to be taken into account at the beginning of the year of income shall be its value as ascertained under this Act at the end of the year immediately preceding the year of income.

(5) Where the value of livestock at the beginning of the year of income, as ascertained for the purpose of assessment to income tax under the law of the Commonwealth, differs from its corresponding value as ascertained under subsection (4) hereof, and it appears to the Commissioner that, if those values were equal, the corresponding values would remain equal in subsequent years, the taxpayer may, subject to this section, take his livestock into account at the beginning of the year of income at a value equal to its corresponding value under the law of the Commonwealth. Where Commonwealth and State values differ.

(6) Where the value at which that livestock is taken into account at the beginning of the year of income exceeds the value as ascertained under subsection (4) hereof, amounts in the aggregate equal to the excess shall be included in the assessable income of the taxpayer of one or more of the years being the year of income and the four years next succeeding that year.

(7) Where the value of livestock as ascertained under subsection (6) hereof exceeds its value as taken into account at the beginning of the year of income, amounts in the aggregate equal to the excess shall be deducted from the assessable income of the taxpayer of one or more of the years being the year of income and the four years next succeeding that year.

(8) The amounts referred to in subsections (6) and (7) of this section and the years in respect of which they are to be taken into account shall be such amounts and years as are agreed upon by the taxpayer and the Commissioner, and, unless and until those amounts and years are so agreed upon, subsections (5), (6), and (7) of this section shall not apply to the assessment of that taxpayer.

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A.D. 1935. Value at
— end of year
of income.

(9) The value of each article of trading stock (not being livestock) to be taken into account at the end of the year of income shall be, at the option of the taxpayer, its cost price or market selling value or the price at which it can be replaced.

Value of
livestock at
end of year
of income.

(10) The value of livestock to be taken into account at the end of the year of income shall be, at the option of the taxpayer, its cost price or market selling value, and, where a taxpayer does not exercise his option within the time and in the manner prescribed, the value so to be taken into account shall be the cost price :

Provided that, where a taxpayer satisfies the Commissioner that there are circumstances which justify the adoption by him of some value other than cost price or market selling value for the whole or part of his livestock, he may, with the leave of the Commissioner, adopt that other value.

Changes in
basis of
valuation of
livestock.

(11) Except as provided by subsection (13), a taxpayer shall not, except with the leave of the Commissioner adopt a method of ascertaining the value of his livestock brought into account at the end of the year of income different from the method by which the value of his livestock was ascertained when it was last brought into account at the end of a previous year under this Act.

Cost price
of natural
increase.

(12) The cost price per head of natural increase of any class of livestock of a taxpayer shall be—

- I. Where the cost price of natural increase of that class has been previously taken into account under this Act by the taxpayer—the cost price per head at which natural increase of that class was last taken into account unless, with the leave of the Commissioner, the taxpayer selects another cost price : and
- II. Where the cost price of natural increase of that class has not been previously taken into account under this Act by the taxpayer—the cost price selected by him within the limits prescribed in respect of livestock of that class —

and, where a taxpayer does not so select within the time and in the manner prescribed, he shall be deemed to have selected, as the cost price, the lower of the prescribed limits.

Omission
of natural
increase
under pre-
vious Act.

(13) Where prior to the enactment of this section a taxpayer elected to omit from the account of his stock-in-trade the value of natural increase of his livestock, the value of the natural increase omitted in pursuance of that election and on hand at the beginning of the first year to the income of which this Act applies, shall be taken into account as trading stock on hand at the beginning of that year.

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(14) The value at which natural increase shall be taken into account as provided by subsection (13) hereof shall be—

- i. Where the taxpayer had exercised under this Act an option to value livestock at market selling price—the market selling price as at the beginning of the year :
- ii. Where the taxpayer had exercised under this Act an option to value livestock at cost price—a value per head selected by the taxpayer, within the limits prescribed, as cost price for natural increase under this Act, by regulations in force immediately preceding the commencement of this section, or where he does not so select within the time and in the manner prescribed—the lower of those prescribed limits.

(15) The value per head ascertained as the cost price of natural increase under paragraph ii. of subsection (12) hereof shall, unless altered with the leave of the Commissioner, apply also to natural increase of the first year of income to which this section applies and of all subsequent years.

“32—(1) Subject to this section, where the whole or any part of the assets of a business carried on by a taxpayer is disposed of by sale or otherwise howsoever, whether for the purpose of putting an end to the business or any part thereof or not, and the assets disposed of include any property being trading stock, standing or growing crops, or crop-stools, the value of that property shall be included in his assessable income, and any person acquiring that property shall be deemed to have purchased it at the amount of that value.

(2) Where a taxpayer, after the beginning of the first year to the assessment of the income of which this section applies, sells the whole of a business carried on by him—

- i. For the purpose of putting an end to that business :
or
- ii. In consequence of the acquisition or resumption of land, used by him for that business, under the provisions of any Act or Commonwealth Act which contains provisions for the compulsory acquisition or resumption of land—

the value of any livestock included in the sale, being natural increase bred by him which was on hand at the beginning of that first year, and which was, in the opinion of the Commissioner, ordinarily used by him in that business for breeding purposes, shall not be included in his assessable income, and no deduction shall be allowed to him in respect of any such livestock, and no such livestock shall be taken into account in computing his taxable income.

Disposal of New sec-
assets of a tion 32.
business.

Land and Income Taxation.

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(3) For the purposes of this section the value of any property or livestock shall be—

- i. The price specified in any contract of sale or arrangement as the price at which it was disposed of : or
- ii. If a price is not specified in any such contract or arrangement—

(a) The market value of the property or livestock on the day of the disposal : or

(b) If in the opinion of the Commissioner there is insufficient evidence of the market value on that day—the value which in his opinion is fair and reasonable.

New section 33. Devolution on death.

“**33**—(1) Where the assets of a business carried on by a taxpayer devolve by reason of his death, and those assets include any property being trading stock, standing or growing crops, or crop-stools, the value of that property shall be included in the assessable income derived by the deceased up to the date of his death, and the person upon whom the property devolves shall be deemed to have purchased it at that value.

(2) For the purpose of subsection (1) hereof the value of the property so to be included shall be the amount which would have been included in respect of that property in the assessable income of the deceased person, under section thirty-two, if he had not died but had disposed of the property on the day of his death for the purpose of putting an end to the whole of a business carried on by him, and without any price being specified in any contract or arrangement :

Provided that, if the trustee of the deceased and all the beneficiaries, if any, who are liable to be assessed in respect of the income of the business, or of a share in that income, unanimously so agree and give notice of their agreement to the Commissioner at the time and in the manner prescribed, that value shall be the value, if any, at which that property would have been taken into account in an assessment of the deceased person at the date of his death if he had not died but an assessment had been made in respect of the income derived by him up to that date.

SUBDIVISION C.—BUSINESS CARRIED ON PARTLY IN AND PARTLY OUT OF THE STATE.

New section 34. Goods deemed to be sold in the State.

“**34**—(1) Where a person sells goods by means of anything done by himself when in the State, or by means of an agent or representative in the State, and those goods are in the State or are to be brought into the State for the

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purpose, or in pursuance or in consequence of, such sale, he shall for the purposes of this Act be deemed to have sold them in the State.

(2) Where a person sells goods by means of anything done by himself when out of the State, or by means of an agent or representative out of the State, and those goods are out of the State or are to be taken out of the State for the purpose, or in pursuance, or in consequence of, such sale, he shall be deemed to have sold them out of the State. Goods deemed to be sold out of the State.

(3) A sale is deemed to be made by means of a person or of something done when such person or thing done is instrumental in bringing about the sale. Instrumentality.

(4) Where goods manufactured out of this State are imported into and sold in this State by the manufacturer of the goods, the profit deemed to be derived in this State from the sale shall be ascertained by deducting from the sale price of the goods the amount for which, at the date the goods were shipped to this State, goods of the same nature and quality could be purchased by a wholesale buyer in the country of manufacture, and the expenses incurred in transporting them to and selling them in this State. Sales by manufacturers.

(5) Where goods are imported into and sold in this State by a person not being the manufacturer of the goods, the profit deemed to be derived in this State from the sale shall be ascertained by deducting from the sale price of the goods their purchase price and the allowable expenses incurred in transporting them to and selling them in this State. Sales by merchants.

(6) Where the profit cannot be ascertained under either of subsections (4) and (5) hereof to the satisfaction of the Commissioner, it shall be deemed to be such amount as the Commissioner determines. Determination by Commissioner.

(7) Except as provided in this section —

i. Where goods are sold in the State by any person the whole of the profit arising from the sale shall be deemed to be income derived in the State :

ii. Where goods are sold out of the State but in Australia by any person, the whole of the profit arising from the sale shall be deemed to be income derived out of the State.

(8) Notwithstanding anything contained in this section, the following provisions shall, in the cases therein mentioned, apply to the profit derived from the sale anywhere in Australia of goods which are the produce of a business Sales of primary produce.

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of primary production or of coal-mining carried on in Australia—

- i. Where the goods are produced in the State and are sold by or on behalf of a person carrying on the business of which the goods are the produce, the profit shall be deemed to be income derived in the State :
- ii. Where the goods are produced out of the State and are sold by or on behalf of a person carrying on the business of which the goods are the produce, the profit shall be deemed to be income derived out of the State.

Ascertain-
ment of
profits.

(9) The amount of any profit referred to in this section shall be ascertained by adding to the proceeds of sale any bounty or subsidy received in respect of the goods sold, and deducting therefrom all losses and outgoings incurred in deriving the profit, which would have been allowable deductions under this Act in respect of those proceeds if those proceeds had been included in the assessable income of the person deriving the profit, and those losses and outgoings had been wholly incurred in the State.

Assessable
income and
deductions.

(10) The assessable income of a taxpayer shall include any income derived in the year of income by him which under the provisions of this section is deemed to be derived in the State and no amount which is taken into account under subsection (9) hereof in ascertaining the amount of any profit derived by him shall be an allowable deduction.

Determin-
ation of
questions of
doubt.

(11) Where, in any case not specified in this section, a question arises, for any reason whatever, whether any, and, if so, what part of any income or profit is derived in the State, the question shall be determined in accordance with the regulations, or if there is no regulation applying to the case, shall be determined by the Commissioner.

Liability to
tax of non-
resident
person in
certain cir-
cumstances.

(12) Where a non-resident person carries on business with a resident person, and it appears to the Commissioner that, owing to the close connection between the resident person and the non-resident person, and to the substantial control exercised by the non-resident person over the resident person, the course of business between those persons can be so arranged, and is so arranged, that the business done by the resident person in pursuance of his connection with the non-resident person produces to the resident person either no profits or less than the ordinary profits which might be expected to arise from that business, the non-resident person shall be assessable and chargeable to income tax in the name of the resident person as if the resident person were an agent of the non-resident person.

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SUBDIVISION D.—DIVIDENDS.

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“ 35—(1) The assessable income of a shareholder in a company (whether the company is a resident or a non-resident) shall include dividends paid to him by the company out of profits derived by it from any source. Share-holders in companies.

New section 35.

(2) Distributions to shareholders of a company by a liquidator in the course of winding up the company, to the extent to which they represent income derived by the company (whether before or during liquidation) other than income which has been properly applied to replace a loss of paid-up capital, shall, for the purposes of this Act, be deemed to be dividends paid to the shareholders by the company out of profits derived by it; and any such distributions shall, to the extent to which they are made out of any profits or income, be deemed to have been paid wholly and exclusively out of those profits or that income. Distributions by liquidator.

(3) Where the income tax payable in respect of any dividend included in the gross income of a taxpayer has been paid at the source in this State, the amount of such included income so previously taxed shall, for the purpose of calculating the rate of tax to be paid by the taxpayer under any Act declaring the rate of tax, be deemed to form part of the taxable amount of the taxpayer, but shall not be again subject to taxation.

Division III.—Deductions.

“ 36—(1) In calculating the taxable income of a taxpayer, the total assessable income derived by him during the year of income shall be taken as a basis, and from it there shall be deducted all allowable deductions. Allowable deductions.

New section 36.

(2) Where by this Act it is provided that any deduction shall be made successively from two or more classes of income, the deduction shall be set off against the income of the first of those classes, and if it exceeds the income of that class the excess shall be set off against the income of the second class, and so on until either the deduction or the income of the last of those classes is exhausted. Successive deductions.

(3) Where the assessable income is derived from more than one of the following classes of income, that is to say, income from personal exertion, income from property other than dividends, and income from dividends, the following provisions shall apply to all allowable deductions except the statutory exemption:— Deductions in case of composite incomes.

- i. Where a deduction relates directly to the income from dividends, it shall be made successively from that income, from the other income from property, and from the income from personal exertion:

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New section 37.

Losses and outgoings.

- ii. Where a deduction relates directly to the income from property other than dividends, it shall be made successively from that income, from the income from dividends, and from the income from personal exertion : and
- iii. In all other cases, the deduction shall be made successively from the income from personal exertion, from the income from property other than dividends, and from the income from dividends.

“**37**—(1) All losses and outgoings to the extent to which they are incurred in gaining or producing the assessable income, or are necessarily incurred in carrying on a business for the purpose of gaining or producing such income, shall be allowable deductions except to the extent to which they are losses or outgoings of capital, or of a capital, private, or domestic nature, or are incurred in relation to the gaining or production of exempt income.

(2) Expenditure incurred or deemed to have been incurred in the purchase of stock used by the taxpayer as trading stock shall be deemed not to be an outgoing of capital or of a capital nature.

Head office expenses.

(3) Head office expenses of a company deriving income from sources in and out of the State shall not be an allowable deduction beyond an amount which bears the same proportion to the total head office expenses as the assessable income derived by the company in the State bears to the total assessable income of the company wherever derived, or beyond an amount to be fixed by the Commissioner.

Loss on property acquired for profit-making.

(4) Any loss incurred by the taxpayer in the year of income upon the sale of any property, or from the carrying on or carrying out of any undertaking or scheme, the profit, if any, from which sale, undertaking, or scheme would have been included in his assessable income, shall be an allowable deduction.

New section 38.

Repairs

“**38**—(1) Expenditure incurred by the taxpayer in the year of income for repairs, not being expenditure of a capital nature, to any premises, or part of premises, plant, machinery, implements, utensils, rolling-stock, or articles held, occupied, or used by him for the purpose of producing assessable income, or in carrying on a business for that purpose, shall be an allowable deduction.

(2) Expenditure incurred upon repairs to any premises or part of premises not so held, occupied, or used shall not be an allowable deduction.

New section 39.

Depreciation.

“**39**—(1) Depreciation, during the year of income, of any property, being plant, or articles owned by a tax-

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payer and used by him during that year for the purpose of producing assessable income, shall, subject to this Act, be an allowable deduction.

(2) In this section 'plant' includes animals used as beasts of burden or working beasts in a business other than a business of primary production, and machinery, implements, utensils, and rolling-stock.

(3) In the first calculation of the depreciation to be allowed in respect of any unit of property, an estimate shall be made by the Commissioner of the effective life of the unit assuming that it is maintained in reasonably good order and condition, and the annual depreciation per centum shall be fixed accordingly. Basis of depreciation.

(4) Subject to this section, the depreciation allowable under this Act in respect of any unit of property shall be— Calculation of depreciation.

- i. The percentage fixed under subsection (3) hereof of the depreciated value of that unit at the beginning of the year of income : or
- ii. At the option of the taxpayer (to be exercised within the time, in the manner, and subject to the conditions prescribed) the percentage so fixed of the cost of that unit.

(5) The deduction allowable in respect of any unit of property shall not exceed the depreciated value of that unit.

(6) Where any property has been bought by the taxpayer, no amount paid by him, which has been allowed or is allowable under this or the previous Act as a deduction to him from the assessable income of any year otherwise than on account of depreciation, shall be deemed to be part of the cost of the property.

(7) Where depreciation has been allowed to a taxpayer, whether under this or the previous Act, in respect of any year prior to the year of income, the method of calculating the depreciation to be allowed to him in respect of the year of income shall, unless altered with the leave of the Commissioner, or in the exercise of the option referred to in the last preceding section, be the same as that applied in the last preceding calculation. Alteration of method of calculation.

(8) Where the depreciated value under this Act of any property at the beginning of the year of income is higher than its depreciated value at that time under a Commonwealth Act relating to income tax, and the Commissioner is satisfied that if those values were equal the corresponding values in each subsequent year would remain equal, the Commissioner may allow, in lieu of the depreciation otherwise allowable, an amount of depreciation calculated as if the Depreciation under Commonwealth and State Acts.

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depreciated value at the beginning of the year of income under the Commonwealth Act had been substituted for the depreciated value at that time under this Act.

(9) Where subsection (8) hereof is applied in any assessment, a further amount of depreciation shall also be an allowable deduction in that assessment, being an amount determined by the Commissioner, which shall not be less than one-tenth part of the difference between those depreciated values at the beginning of the year to the assessment of the income of which this section is first applied, provided that the further amount shall not in any case exceed the amount required to make the depreciated values of the property under this and the Commonwealth Act equal.

(10) Where depreciation has been allowed under subsections (8) or (9) in respect of any property in any assessment of a taxpayer, depreciation shall be allowed under this section in all future assessments of that taxpayer in which depreciation in respect of that property is allowable, until the depreciated values under this Act and the Commonwealth Act are equal.

(11) Where a person has acquired, at any time, any property in respect of which depreciation has been allowed or is allowable under this or the previous Act, he shall not be entitled to any greater deduction for depreciation than that which would have been allowed to the person from whom the property was acquired if that person had retained it.

(12) Subsection (11) hereof shall not apply where the Commissioner is of the opinion that the circumstances are such that depreciation based on the actual consideration given should be allowed.

(13) Where the use of any property by the taxpayer has been only partly for the purpose of producing assessable income or for only a part of the year of income only, such part of the deduction otherwise allowable under subsection (1) hereof in respect of that property as in the opinion of the Commissioner is proper shall be an allowable deduction.

(14) In this Division 'depreciated value' of any unit of property at any time means—

- I. Where depreciation has been allowed or is allowable, under this Act or any previous law of the Commonwealth, in respect of that unit in assessments for any period prior to that time—the cost of the property less the amount of all depreciation so allowed or allowable: and
- II. Where depreciation has not been allowed or is not so allowable—the cost of the property.

Acquisition
of depreci-
ated prop-
erty.

Property
used partly
for produc-
ing assess-
able income.

Definition
of "depreci-
ated value."

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“**40**—(1) Debts which are proved to the satisfaction of the Commissioner to be bad debts and to have been written off as such during the year of income, and—

Bad debts. A.D.1935.

—
New section 40.

i. Have—

- (a) Become due to the taxpayer in the ordinary course of his business : and
- (b) Been brought to account by the taxpayer as assessable income of any year : or

ii. Are in respect of money lent in the ordinary course of the business of the lending of money by a taxpayer who carries on that business—

and no other bad debts, shall be allowable deductions.

(2) If a debtor, after incurring a debt so brought to account, or in respect of money so lent, is adjudicated bankrupt, or executes a deed of assignment or arrangement for the benefit of his creditors, the debt (where, in the opinion of the Commissioner, no amount will be paid on account of the debt) or the amount by which, in his opinion, the amount which will be received on account of the debt will be less than the debt, shall be deemed to be a bad debt.

(3) Where in the year of income a taxpayer receives an amount in respect of a debt for which a deduction has been allowed to him under this or the previous Act, his assessable income shall include that amount.

“**41** Expenditure incurred by the taxpayer in the year of income by way of commission for collecting his assessable income shall be an allowable deduction.

Commission.

New section 41.

“**42**—(1) Subject to this section, payments becoming due in the year of income by a taxpayer to a relative shall be allowable deductions only to the extent to which, in the opinion of the Commissioner, they are reasonable in amount and are made in good faith in the production of assessable income.

Payments to relatives. New section 42.

(2) Expenditure incurred, and payments becoming due, by the taxpayer in the year of income in or for the maintenance of his wife or of any member of his family under the age of sixteen years, shall not, whether or not the expenditure was incurred in the production of assessable income, be an allowable deduction.

“**43** Any sum set apart or paid by the taxpayer in the year of income as or to a fund to provide individual personal benefits, pensions, or retiring allowances for his employees shall, to the extent to which those employees are engaged in producing assessable income of the taxpayer, be an allowable deduction where—

Contributions to pension funds.

New section 43.

i. The taxpayer is under a legal obligation to his employees to set apart or pay that sum : and

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- ii. The rights of the employees to receive the benefits from pensions or retiring allowances are fully secured.
- “**44** So much of the expenditure incurred by the taxpayer in borrowing money used by him for the purpose of producing assessable income as bears, to the whole of that expenditure, the same proportion as that part of the period for which the money was borrowed which is in the year of income bears to the whole of that period shall be an allowable deduction: Provided that, if the period for which the money was borrowed is not fixed, or exceeds five years, the period of five years from the date on which the money was borrowed shall be deemed to be the period for which the money was borrowed.
- “**45** Expenditure incurred by the taxpayer in the year of income for the preparation, registration, and stamping of a lease of property to be held by him for the purpose of producing assessable income shall be an allowable deduction.
- “**46**—(1) Where the taxpayer has acquired land carrying standing timber for the purpose of felling that timber for sale and part of the price paid for the land is attributable to that timber, so much of that part as is attributable to the timber felled in the year of income shall be an allowable deduction.
- (2) So much of the amount paid for a right to fell timber for sale not including an amount paid in connection with the purchase of land as is attributable to the timber felled during the year of income shall be an allowable deduction.
- “**47** Where in the year of income a loss is incurred by the taxpayer through the embezzlement or larceny, by a person employed in the taxpayer’s business, of money which is or has been included in the assessable income of the taxpayer, that loss shall be an allowable deduction.
- “**48**—(1) Sums paid in this State by the taxpayer in the year of income for rates or for State or Federal land tax shall, to the extent to which they are charged or levied in respect of property proved to the satisfaction of the Commissioner to have been held by him during the year of income for the purpose of producing assessable income from rental of such property or from any business carried on thereon, be allowable deductions.
- (2) All amounts for which the taxpayer is personally liable and which are paid by the taxpayer by way of special income tax imposed under Division I. of Part V. shall be allowable deductions, but no deduction shall be allowed
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|-----------------|-----------------------------------|
| New section 44. | Expenses of borrowing. |
| New section 45. | Expenses of preparing lease. |
| New section 46, | Timber felled upon acquired land. |
| | Timber felled under right. |
| New section 47. | Losses by embezzlement, &c. |
| New section 48. | Rates and taxes. |

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under this provision in respect of the income of any company or in respect of the calculation of income for the purpose of ascertaining the special income tax payable under Part V.

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(3) Where the taxpayer in the year of income receives a refund of any amount paid for rates or taxes which has been allowed or is allowable as a deduction to him in any assessment for income tax under this Act, his assessable income shall include that amount.

“49—(1) Where the carrying on of a business from which assessable income is derived by the taxpayer is conditional upon membership of any association, any periodical subscription paid by him in the year of income in respect of that membership shall be an allowable deduction. Subscriptions to associations. New section 49.

(2) Where an association carries out, on behalf of its members, in the year of income, any activity of such a nature that, if carried out by the taxpayer on his own behalf, its expense would be an allowable deduction to him, any subscriptions, levies, or contributions, not exceeding in the aggregate ten pounds ten shillings, paid by him in that year in respect of membership of that association, shall be an allowable deduction, and any such subscriptions, levies, or contributions exceeding in the aggregate that amount shall be an allowable deduction to the extent only of the greater of the two following amounts—

(a) Ten pounds ten shillings :

(b) So much of the subscriptions, levies, or contributions as bears to the whole, the same proportion as the losses and outgoings incurred by the association in that year in carrying out that activity bear to its total losses and outgoings in that year, not being losses or outgoings of capital or of a capital nature.

(3) Any periodical subscription, to which the foregoing provisions of this section do not apply, paid by the taxpayer in the year of income in respect of his membership of any trade, business, or professional association, shall be an allowable deduction.

Provided that the total deduction allowable under this subsection in respect of subscriptions to any one association in that year shall not exceed ten pounds ten shillings.

“50—(1) Expenditure lawfully incurred in the year of income by the taxpayer in being elected as a member of the Parliament of the Commonwealth or of the Parliament of a State, or, if the taxpayer was a retiring member at the time of the election, the expenditure lawfully incurred in the year of income by him in seeking to be re-elected, shall be an allowable deduction. Election expenses of members of Parliament. New section 50.

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(2) When a deduction has been allowed or is allowable under subsection (1) hereof in respect of any expenditure and that expenditure or any part of it is reimbursed to the taxpayer or paid for him by any other person or by any organisation the assessable income of the taxpayer of the year in which the amount is so reimbursed or paid shall include that amount.

(3) The respective amounts enumerated hereunder in respect of the travelling and incidental expenses incurred in the year of income by a taxpayer in the capacity of a member of the Parliament of the Commonwealth or of the Parliament of a State where he was such a member for the whole of the year of income, and a proportionate part of those sums respectively where he was such a member for part only of the year of income, shall be an allowable deduction in cases where the taxpayer is—

- i. A member of the Parliament of the Commonwealth—
one hundred and fifty pounds.
- ii. A member of the State Parliament—
 - (a) Representing Denison—seventy-five pounds :
 - (b) Representing any other division—one hundred pounds : or
 - (c) Holding office as a Minister of the Crown or Honorary Minister, or as Leader or Deputy Leader of the Opposition—two hundred pounds —

but such allowances shall in no case be cumulative.

“51—(1) The following shall be allowable deductions—

1. Gifts of the value of five pounds and upwards (in one amount) made by the taxpayer in the year of income to any of the following funds, authorities, or institutions in this State—
 - (a) A public hospital :
 - (b) A public benevolent institution :
 - (c) A public fund established and maintained for the purpose of providing money for public hospitals or public benevolent institutions in this State, or for the establishment of such hospitals or institutions, or for the relief of persons in this State who are in necessitous circumstances :
 - (d) A public authority engaged in research into the causes, prevention, or cure of disease in human beings, animals, or plants, where the gift is for such research : and
 - (e) An institution or public fund for the benefit of persons who are returned soldiers within the meaning of Part III. of the *Australian Soldiers Repatriation Act 1920-1934* :

New section 51. Gifts and contributions.

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- ii. Sums which are not otherwise allowable deductions and which are set apart or paid by the taxpayer in the year of income as or to a fund to provide individual personal benefits, pensions, or retiring allowances for employees who are residents and are engaged in his or any business or class of business, or dependants of such employees, if the rights of the employees or dependants to receive the benefits, pensions, or retiring allowances are fully secured :
- iii. Sums which are not otherwise allowable deductions, and which are paid by the taxpayer during the year of income as retiring allowances or pensions to persons who are or have been employees or dependants of employees, where such persons are residents, shall, to the extent to which in the opinion of the Commissioner those sums are paid in good faith in consideration of the past services of the employees in any business of the taxpayer, be allowable deductions :
- iv. Rent paid by any tenant of land and buildings which are occupied and used by him for the purposes of carrying on his business ; but such deduction shall not include the rent paid for that portion of such land and buildings as is occupied and used for the purposes of the residence of such tenant :
- v. Sums paid by the taxpayer by way of interest upon any money borrowed by him and used for the purposes of his business, or sums paid by him by way of rent-charge, or other charge in respect of land used for the production of assessable income :
- vi. Every insurance premium paid by a taxpayer for—
- (a) Fire insurance in respect of—
 - (i) Buildings, plate-glass, or plant used by him for the purposes of his business : or
 - (ii) Stock-in-trade belonging to his business : or
 - (b) Insurance against—
 - (i) Burglary :
 - (ii) Liability in respect of workers' compensation : or
 - (iii) Damage to plate-glass.
- (2) For the purposes of this section 'gift' shall not include a gift in kind—
- i. Unless it was purchased by the taxpayer within twelve months immediately preceding the making of the gift : or
 - ii. To an extent greater than the sum paid by him for the gift.

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(3) Where any rent or sum in respect of which a deduction is allowed under paragraph iv. or paragraph v. of subsection (1) hereof is payable to a person residing beyond this State, the person paying it shall, for the purposes of this Act, be deemed to be the agent of the person entitled to receive it, and shall be liable to pay income tax thereon as if he were a taxpayer in a representative capacity in respect of such sum.

New section 62.

Concessional deductions.

“52 The following amounts (in this Act called ‘the concessional deductions’) shall be allowable deductions where the taxpayer is a resident :—

- i. The sum of thirty-nine pounds in respect of each child who is a resident and is under the age of sixteen years at the beginning of the year of income and is wholly maintained by the taxpayer.

Provided that, where a child is born during the year of income, or attains the age of sixteen years during the year, or is wholly maintained by the taxpayer during part only of the year, or is only partially maintained by him during the whole or part of the year, the deduction allowable shall be such part of that sum as, in the opinion of the Commissioner, is reasonable in the circumstances :

- ii. Payments not exceeding twenty pounds in the aggregate in any one year made to any superannuation fund for the personal benefit of the taxpayer or his wife or children by a taxpayer who is in receipt of salary, wages, allowances, or stipend.

New section 53.

Statutory exemptions.

“53—(1) Except as provided by this section, the taxable amount of the income of every taxpayer shall be the nett income of such taxpayer.

(2) No person whose total income from all sources during the year of income did not exceed—

- i. One hundred and twenty-five pounds :
- ii. Two hundred pounds, if he is married :
- iii. Four hundred pounds, if he is a returned soldier who is totally and permanently incapacitated : or
- iv. Five hundred pounds if he is such returned soldier as aforesaid and is married—

shall be liable to income tax imposed under this Part.

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

- i. If the taxpayer, not being a returned soldier who is totally and permanently incapacitated, had during the year of income a nett income from all sources not exceeding five hundred pounds if he is married,

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or four hundred pounds in any other case : The sum of one pound for every—

(a) Two pounds comprised in the amount by which such nett income was less than five hundred pounds if the taxpayer is married : or

(b) Six pounds comprised in the amount by which such nett income was less than four hundred pounds if otherwise :

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

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

(b) Four hundred pounds if otherwise.

(4) Where the income of a taxpayer (not being a company) is derived partly from personal exertion and partly from property any deduction to which he is entitled under this section shall be made from his income from personal exertion, but if the amount of the deduction exceeds the income from personal exertion the excess shall be deducted from his income from property.

(5) For the purposes of this section and section fifty-four the term 'married' applied to a taxpayer includes a taxpayer who is a widow or widower who is maintaining a dependent child under the age of sixteen years.

(6) The foregoing provisions of this section shall not apply to any company.

“ 54—(1) Every returned soldier to whom this section applies shall be entitled to a deduction from the amount of income tax which but for this section would be payable by him. Statutory deductions from tax.
 New section 54.

(2) Such deduction shall be—

i. Ten per centum if he is married and his nett income from all sources during the year of income did not exceed five hundred pounds :

ii. Ten per centum if he is totally and permanently incapacitated : and

iii. Five per centum in other cases if his nett income from all sources during the year of income did not exceed four hundred pounds—

of the tax which would otherwise be payable.

(3) For the purposes of this Act a returned soldier means a person resident in this State who was a member of the naval or military forces, or the Army Medical Corps Nursing Service of the British Empire or of the Red Cross Service, and who as such member served outside the Commonwealth in the war which commenced on the fourth day of August, one thousand nine hundred and fourteen.

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 ——— of exemp-
 New sec- tions and
 tion 55. deductions.
 Double
 deductions.

“ **55**—(1) No deduction or exemption allowed or provided under this Act shall apply in respect of any income received or receivable by any person as a prize in any lottery authorised by law in this State.

(2) Where, in respect of any amount, a deduction would but for this section be allowable under more than one provision of this Act, and whether it would be so allowable from the assessable income of the same or different years, the deduction shall be allowable only under that provision which in the opinion of the Commissioner is most appropriate.

(3) Where the profit arising from the sale of any property is included in the assessable income of any person, or where the loss arising from the sale is an allowable deduction, and any expenditure incurred by him in connection with that property is an allowable deduction or has been allowed as a deduction under this Act, that expenditure shall not be deducted in ascertaining the amount of the profit or loss.

Division IV.—Leases.

New sec- Interpret-
 tion 56. tion.

“ **56** In this Division—

- ‘ Lease,’ when used in relation to a premium, means the lease granted, assigned, or surrendered, or where the premium is for, or in connection with, any goodwill or licence, means the lease of the land to which such goodwill or licence is attached or connected :
- ‘ Lessor,’ when used in relation to any time, means the person at that time entitled to the reversion :
- ‘ Nett premium ’ means the amount ascertained by deducting from a premium the allowable deductions directly relating thereto :
- ‘ Premium ’ means any consideration in the nature of a premium, fine, or foregift payable to any person for, or in connection with, the grant or assignment by him of a lease, or any consideration for, or in connection with, the surrender of a lease, or for or in connection with any goodwill or licence attached to or connected with land a lease of which is granted, assigned, or surrendered ; and where any of the foregoing considerations is payable in more than one amount, each such amount shall be deemed to be a premium :
- ‘ Term of the lease ’ means the length of time which the lease has to run from the date when the premium is received, and in the case where the

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premium is received for or in connection with the surrender of a lease, the length of time which the lease would have had to run at the date of such receipt if it had not been surrendered.

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“57 The assessable income of a taxpayer shall include, in addition to rent, any premium received by him in the year of income, and any consideration so received for, or in connection with, his assent to any grant or assignment of a lease. Premiums for leases; and sale of leasehold. New section 57.

“58.—(1) Where any premium is included in the assessable income of a taxpayer of the year of income, and— Deductions. New section 58.

i. The premium is received for or in connection with the assignment or surrender of a lease or for or in connection with the goodwill or a licence attached to or connected with land the subject of a lease assigned or surrendered, and the taxpayer has paid any amount—

(a) To acquire that lease or the goodwill or licence attached to or connected with that land : or

(b) Where the lease assigned or surrendered is a lease of land—in effecting improvements on that land : or

ii. The taxpayer has paid any amount for the surrender to him of a lease, goodwill, or licence for the purpose of granting or assigning the lease, goodwill, or licence for or in connection with which the premium was derived—

and the whole or any portion of that amount has not been allowed or is not allowable as a deduction in assessments for income tax under any other provisions of this Act or under any previous law of this State, the amount which bears the same proportion to the amount which has not been so allowed as the premium included in his assessable income bears to the total of the premiums received or to be received by him for the grant, assignment, surrender, goodwill, or licence in respect of which the premium was so included, shall be an allowable deduction.

(2) Where any premium is included in the assessable income of a taxpayer in respect of property to which he has succeeded upon the death of another person, the taxpayer shall be entitled to the deduction to which that other person would have been entitled under this section, if he had lived and the premium had been included in his assessable income and there had been allowed or were allowable as deductions in assessments for income tax, under any other provisions

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of this Act or under any previous law of this State, the same deductions as have been so allowed or are so allowable to the taxpayer in addition to any deductions that in fact have been or are so allowed or allowable to that other person.

(3) Where any premium is paid to a taxpayer for or in connection with the grant by him of a sub-lease, or for or in connection with the goodwill or licence attached to or connected with land the subject of a sub-lease so granted, and is included in the assessable income of the taxpayer of the year of income, and he has paid any amount to acquire the lease of the premises the subject of the sub-lease or the goodwill or licence, so much of the total deductions to which he would, but for this subsection, be entitled in respect of that amount during the period for which that sub-lease is granted as bears to those deductions the same proportion as the premium included in his assessable income bears to the total of the premiums received or to be received by him for the grant of that sub-lease or for the goodwill or licence shall be an allowable deduction, and he shall not during that period be entitled to any further deduction in respect of that amount otherwise than under this subsection.

New section 59. Income of a taxpayer receiving a premium.

“ 59—(1) Where a premium which exceeds the sum of the allowable deductions directly relating thereto, and in respect of which the term of the lease is not less than twenty-five complete months, is included in the assessable income of a taxpayer, the rate of tax to be applied to his taxable income shall be ascertained in accordance with this section.

(2) Where the taxable income exceeds the nett premium, or the sum of the nett premiums if there are more than one of the premiums so included, the rate of tax shall be the rate which is applicable to a taxable income equal to the amount obtained by deducting the nett premium, or sum of the nett premiums, as the case may be, from the taxable income and adding to the result the amount or amounts ascertained by dividing each of the nett premiums by one twenty-fourth of the number of complete months in the term of the lease.

(3) Where the taxable income is less than the nett premium, or the sum of the nett premiums if there are more than one of the premiums so included, the rate of tax shall be—

- I. Where there is only one of those premiums—the rate which would be applicable to a taxable income equal to the amount ascertained by dividing the actual taxable income by one twenty-fourth of the number of complete months in the term of the lease : and

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ii. Where there are more than one of those premiums—the rate which would be applicable to a taxable income equal to the sum of the amounts ascertained by apportioning the actual taxable income among the nett premiums in proportion to their amounts, and dividing the amount so apportioned to each nett premium by one twenty-fourth of the number of complete months in the term of the lease.

(4) This section shall not apply in any case where the taxpayer is a company, except where, in respect of the premium, it is assessable as a trustee.

“60—(1) Where improvements have been made on leased land by a lessee which he is required to make under the terms of the lease, or which are made with the written consent of the lessor, the following provisions shall apply—

Value of improvements included in assessable income. New section 60.

1. There shall be included in the lessor's assessable income of the year in which the improvements have been made, and of each year thereafter until and including the year in which the lease expires, an instalment of the estimated value to the lessor of such improvements as at the expiration of the lease. This instalment shall be an amount which if received at the commencement of each of those years would, with interest at the rate prescribed, accumulate to a sum equal to the estimated value.

Provided that, where in the year of income, a person is the lessor for part only of a year, a proportionate part of the instalment shall be included in his assessable income:

ii. Where in the opinion of the Commissioner the instalment cannot be satisfactorily determined, the value of the improvements at the expiration of the lease shall be included in the lessor's assessable income of the year in which the lease expires.

(2) This section shall not apply where the lessee is required to make the improvements under the terms of a lease entered into before the commencement of this provision, or where the improvements are made in pursuance of a consent given before such commencement or in any of the cases specified in subsection (3) of section sixty-one.

“61—(1) Where a taxpayer has paid any premium, and the lease is a lease of premises or machinery used for the purpose of producing assessable income—

Deductions to lessee. New section 61.

1. If he was entitled to the lease during the whole of the year of income, or in the case of a premium paid for the surrender of a lease, if he would have been so entitled had the lease been transferred to him and he had not been entitled to the reversion—the amount

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ascertained by dividing the amount of the premium by the number of years of the period of the lease unexpired when such payment was made : and

- ii. If he was entitled to the lease during part only of the year of income, or in the case of a premium paid for the surrender of a lease, if he would have been so entitled had the lease been transferred to him and he had not been entitled to the reversion—a proportionate part of the amount so ascertained—

shall be an allowable deduction.

(2) Where a taxpayer has expended money in making on leased land used for the purpose of producing assessable income improvements which are not subject to tenant rights, and which he was required to make under the terms of the lease, or which he has made with the written consent of the lessor given after the commencement of this section—

- i. If he was entitled to the lease during the whole of the year of income—the amount ascertained by dividing the amount of such expenditure, not exceeding the amount which under the terms of the lease he was required to expend, or which he expended with that consent, by the number of years of the period of the lease unexpired when the money was expended : and
- ii. If he was entitled to the lease during part only of the year of income—a proportionate part of the amount so ascertained—

shall be an allowable deduction.

(3) The provisions of subsection (2) hereof shall not apply in any case—

- i. Where the lease is a lease of land to a company from an individual or from a company to an individual, and the individual directly or indirectly controls the voting power of the company :
- ii. Where the lessor is a trustee of the land for the lessee or the lessee is a trustee of the land for the lessor : or
- iii. Where the Commissioner is of the opinion that, in consequence of the terms and conditions of the lease or of any other circumstances, the lessor is in substantial control of the operations of the lessee.

(4) Where any taxpayer succeeds to any lease or share therein upon the death of any person who has paid such premium or expended such money, he shall be entitled to the same deduction, or part thereof proportionate to his share in the lease, as that person would have been entitled to under this section had he lived.

“ 62 This Division shall not apply to any lease from the Commonwealth or a State, with a right of purchase.

New section 62. Not to apply to certain leases.

*Land and Income Taxation.**Division V.—Casual Profits and Losses.*

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“63—(1) Where the proceeds of the sale in the year of income by a taxpayer of any real property situated in the State are not included in his assessable income under any other provision of this Act, and the real property was bought by a taxpayer in the year of income or in any of the three years next preceding that year, his assessable income shall include the nett profit, if any, arising from the sale.

New section 63.

(2) In this section ‘real property’ means any estate or interest in land, including a lease of land and the goodwill of any business carried on on the land, but does not include any premises owned and solely used by the taxpayer before the sale as his principal place of abode for any period of or exceeding four years.

(3) For the purposes of this Division where the real property sold was bought by the taxpayer from the Crown, and prior to the purchase was held by him as a tenant of the Crown, he shall be deemed to have bought the land on the date on which he acquired the tenancy from the Crown.

“64—(1) Where the proceeds of sale in the year of income by a taxpayer of any property other than real property are not included in his assessable income under any other provision of this Act, and the sale was effected in the State, and the property was bought by the taxpayer in the year of income or in any of the two years next preceding that year, his assessable income shall include the nett profit, if any, arising from the sale.

New section 64

(2) This section shall not apply to the sale of any property (other than shares or securities) where the aggregate value of the property sold in the year of income does not exceed two hundred pounds.

(3) For the purposes of this Division—

- i. A sale of rights to take up shares shall be deemed to be a sale of shares :
- ii. Where a shareholder has a number of shares of the same class and sells shares of that class he shall be deemed to have first sold the shares first bought.

“65—(1) The amount of the nett profit to be included in the assessable income under this Division (in this Act called ‘casual profit’) shall be calculated by deducting from the sale price or amount realised by the sale the following amounts :—

Amount of casual profit or loss. New section 65.

- i. The expenses of sale :
- ii. The cost of the property to the taxpayer (less all amounts in respect of that cost or of depreciation of the property which have been allowed or are

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allowable as deductions in the assessments, under this Act, of the taxable income of the taxpayer): and

- iii. Any other expenses (including interest on borrowed money) incurred in connection with the acquisition, improving, or holding of the property, which have not been allowed and are not allowable as deductions in the assessments under this Act of the taxable income of the taxpayer.

(2) Where the amounts so to be deducted exceed the sale price or amount realised, the amount of the excess is in this Act called a 'casual loss,' and the casual loss shall be deemed to have been incurred in the year in which the sale took place.

New section 66.

Sale of property not purchased.

“66—(1) Where a taxpayer has in the year of income sold property which was acquired by him from another person otherwise than by purchase, and that person had bought the property, then for the purpose of this Division the purchase by that person and the expenses incurred by him shall be deemed to have been made and incurred by the taxpayer, and any amounts in respect of cost or depreciation which have been allowed or are allowable to that person as deductions shall be deemed to have been allowed to the taxpayer.

Purchase price payable over period of years.

(2) Where in the case of any sale coming under this Division the payment of the purchase price extends over a period of years, the amount of the casual profit which would have been derived if the sale had been for cash shall be ascertained, and there shall be included in the assessable income of the year of income as a casual profit so much of that amount as bears to that amount the same proportion as the payments received in that year bear to the total purchase price.

New section 67.

Rate of tax.

“67 Where a casual profit is included in the assessable income of a taxpayer, the rate of tax to be applied to his taxable income shall be ascertained as follows :—

- i. There shall be deducted from that casual profit any casual losses which are allowable deductions, and if there is more than one casual profit a proportionate part of the casual losses shall be deducted from each casual profit :
- ii The balance so ascertained in respect of each casual profit shall be divided by the number of years for which the taxpayer had at the time of sale held the property in respect of which that casual profit was derived :
- iii. A calculation shall be made of the amount that would be the taxable income if only that part of each

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casual profit arrived at by that division had been included in the assessable income, and if no casual losses had been allowable deductions :

- iv. The rate of tax to be applied to each pound of the taxable income of the taxpayer from personal exertion shall be the rate which would be applicable to a taxable income from personal exertion equal to the amount so calculated :
- v. The rate of tax to be applied to each pound of the taxable income of the taxpayer from property shall be the rate which would be applicable to a taxable income from property equal to the amount so calculated.

“ **68** For the purposes of this Division—

- (a) The property parted with on an exchange of property or on a statutory resumption shall be deemed to have been sold ; and the property acquired by an exchange of property or by the issue of shares shall be deemed to have been bought. In the case of an exchange, the price paid or received for any property shall be deemed to be the value of the property for which it is exchanged :

Exchange or resumption of property, or purchase under option. New section 68.

- (b) Where any property is purchased in the exercise of an option of purchase, any consideration paid or given to the vendor for the option shall be deemed to be part of the purchase price.

“ **69**—(1) Any casual loss incurred by a taxpayer in the year of income or in any of the three years next preceding that year shall, to the extent to which it has not been allowed or is not allowable as a deduction in the assessments of the taxable income derived by the taxpayer in any year prior to the year of income, be an allowable deduction : Provided that the deductions allowable under this section shall not exceed the amount of the casual profits included in the assessable income of the taxpayer of the year of income.

Deduction of casual losses. New section 69.

(2) Where a deduction is allowable under this section in respect of two or more casual losses they shall be taken into account in the order in which they were made.

Division VI.—Partnerships.

“ **70** In this Division—

- ‘ Nett income ’ in relation to a partnership means the assessable income of the partnership, calculated as if the partnership were a taxpayer, less all allow-

Interpretation. New section 70.

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able deductions except gifts, the concessional deductions, the statutory exemptions, and losses of previous years :

‘Partnership loss’ means the excess, if any, of the allowable deductions, except gifts, the concessional deductions, the statutory exemption, and losses of previous years, over the assessable income of a partnership, calculated as if the partnership were a taxpayer.

New section 71.

Partnerships.

“71—(1) A partnership shall furnish a return of the income of the partnership, but shall not, except as provided in this Division, be liable to pay tax thereon.

Income of partner.

(2) The assessable income of a partner shall include his individual interest in the nett income of the partnership of the year of income, and his individual interest in a partnership loss incurred in the year of income shall be an allowable deduction.

(3) The exempt income of a partner shall include his individual interest in the exempt income of the partnership of the year of income.

Options of partners in respect of livestock.

(4) In calculating the nett income of a partnership, or partnership loss, for the purpose of assessing any partner's share, the partnership shall be deemed to have exercised or failed to exercise all options and rights to select a value for livestock under this Act in the same manner as the partner has in fact exercised or failed to exercise those options and rights, and the partnership shall not, as a partnership, be entitled to exercise any such option or right.

(5) The fact that a taxpayer has entered into a partnership, or that any variation has taken place in the membership of any partnership of which the taxpayer is a member, shall not—

- I. Affect any option or any right to select a value for livestock previously exercised by him under this Act : or
- II. Confer upon him any right to alter any such option or value without the leave of the Commissioner.

(6) Where in respect of a partnership formed before the commencement of this Act, a basis of valuation of livestock of the partnership had, before that commencement, been accepted by the Commissioner for the purposes of the previous Act, nothing in this section shall be deemed to vary, or require the variation of, that basis of valuation unless or until there is an alteration in the membership of that partnership.

New section 72.

Partner not in receipt and control of share.

“72—(1) Where a partnership is so constituted or controlled, or its operations are so conducted, that any partner has not the real and effective control and disposal of his share of the nett income of the partnership, the Commissioner may assess the additional amount of tax that would be

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payable if the share of that partner, or of all such partners if more than one, had been received by the other partner, if only one, or divided between the other partners, if more than one, in proportion to their respective interests in the partnership, and had been added to and included in his or their assessable income, and the partnership shall be liable to pay the tax so assessed.

(2) Where the provisions of this section are applied to a share of the nett income of a partnership, that share shall not be included in the assessable income of any partner.

(3) For the purpose of this section but without limiting its application, a partner shall be deemed not to have the real or effective control and disposal of any money received by him which is applied to meet the private or domestic obligations of any other partner.

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Division VII.—Trustees.

“**73**—(1) In this Division ‘the nett income of a trust estate’ means the total assessable income of the trust estate calculated under this Act as if the trustee were a taxpayer in respect of that income, less all allowable deductions—

Nett income of trust estate. New section 73.

I. Except the concessional deductions and the statutory exemption : and

II. Except also in respect of any beneficiary who has no beneficial interest in the corpus of the trust estate, or in respect of any life tenant, the deduction of such of the losses of previous years as are required to be met out of corpus.

(2) Except as provided in this Act, a trustee shall not be liable as trustee to pay income tax upon the income of the trust estate.

Trustees.

“**74**—(1) Where any beneficiary is presently entitled to a share of the nett income of a trust estate and is not under any legal disability, his assessable income shall include that share.

Beneficiary not under any disability. New section 74.

(2) The exempt income of any such beneficiary shall include his individual interest in the exempt income of the trust estate, except to the extent to which that exempt income is taken into account in calculating the nett income of the trust estate.

(3) Where any beneficiary is presently entitled to a share of the income of a trust estate but is under a legal disability, the trustee shall be assessed and liable to pay tax in respect of that share of the nett income of the trust estate as if it were the income of an individual, and were not subject to any deduction other than the concessional deductions which would have been allowable to the beneficiary if he had been assessed in respect of that share, and the statutory exemption.

Beneficiary under disability.

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A.D. 1935. Where no person presently entitled.

(4) Where there is no beneficiary presently entitled to any part of income of a trust estate, or where there is a part of that income to which no beneficiary is so entitled, the trustee shall be assessed and liable to pay tax on the nett income of the trust estate or on the part of that nett income as the case may be, as if it were the income of an individual, and were not subject to any deduction other than the statutory exemption applicable to an unmarried taxpayer.

Beneficiary under disability deriving income from other sources.

(5) The assessable income of any beneficiary who is under a legal disability, and who is a beneficiary in more than one trust estate, or derives income from any other source, shall include his individual interest in the nett income of the trust estate or estates.

(6) There shall be deducted from the income tax assessed against such beneficiary the tax paid or payable by any trustee in respect of that beneficiary's interest in the nett income of the trust estate.

Discretionary trusts.

(7) For the purpose of this Division, where a trustee has a discretion to pay or apply income of a trust estate to or for the benefit of specified beneficiaries, a beneficiary in whose favour the trustee exercises his discretion shall be deemed to be presently entitled to the amount paid to him or applied for his benefit by the trustee in the exercise of that discretion.

Income of deceased received after death.

(8) Where in the year of income, the trustee of the estate of a deceased person receives any amount which is in the nature of corpus in the hands of the trustee, but which would have been assessable income in the hands of the deceased person if it had been received by him during his lifetime, that amount shall be included in the assessable income of that year of the trust estate.

New section 75.

Revocable trusts and trusts for minors.

“75—(1) Where a person has created a trust in respect of any income or income-producing assets, and—

- i. He has a power, whenever exercisable, to revoke or alter the trusts so as to acquire a beneficial interest in the income derived during the year of income, or the assets producing that income or any part of that income or of those assets : or
- ii. Income is under that trust, in the year of income, payable to, or accumulated for, or applicable for the benefit of, a child or children of that person who is or are under the age of twenty-one years and unmarried—

the Commissioner may assess the trustee to pay income tax, under this section, and the trustee shall be liable to pay the tax so assessed.

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(2) The amount of such tax shall be the amount by which the tax actually payable on his own taxable income by the person who created the trust is less than the tax which would have been payable by him if he had received so much of the nett income of the trust estate as is attributable to the beneficial interest which he had power so to acquire, or to the share or shares of that child or children, in addition to any other income derived by him.

(3) Where this section is applied to the assessment of the income of a trust estate or part thereof derived in the year of income, no beneficiary shall be assessed in his individual capacity in respect of his individual interest in the income or part to which this section has been so applied, and the trustee shall not be assessed in respect of that income or part otherwise than under this section.

(4) In this section 'child' includes step-child and adopted child.

"76—(1) Where the income of a trust estate is derived wholly from personal exertion or wholly from property income as the case may be, such income when assessed in the hands of the beneficiary shall be treated wholly as income from personal exertion or wholly income from property.

Applica-
tion of tax
to trust
income.
New sec-
tion 76.

(2) If the trust income is derived partly from personal exertion income, partly from property income and partly from exempt income the proportionate part of each class of income to which a beneficiary is entitled shall be included in his individual income: Provided that, where the nett income of the trust is ascertainable but the class of income cannot be determined, the allocation as between the different classes of income shall be determined by the Commissioner.

Division VIII.—Private Companies.

"77—(1) In this Division, unless the contrary intention appears—

Definitions.
New sec-
tion 77.

'Distributable income' means the amount obtained by deducting from the taxable income of a company all taxes, which, in the year of income, are paid under this Act, or paid in any country outside this State in respect of income of the company which is taxable income under this Act:

'Investment company' means a company the income of which, other than dividends from private companies, is ordinarily derived solely or principally from such sources that income derived from those sources by an individual would be income from property:

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- ‘Nominee’ of any person means one who may be required to exercise his voting power at the direction of, or holds shares directly or indirectly on behalf of, that person and includes a relative of that person :
- ‘Private company’ means a company which is under the control of not more than seven persons, and which is not a company in which the public are substantially interested or a subsidiary of a public company :
- ‘Undistributed amount’ means—
- i. The amount by which the dividends paid by a private company out of its taxable income of the year of income fall short of a sufficient distribution : or
 - ii. Where no dividends have been so paid, the amount which would have been a sufficient distribution.
- (2) For the purposes of this Division—
- i. A company shall be deemed to be a company in which the public are substantially interested if shares of the company (not being shares entitled to a fixed rate of dividend, whether with or without a further right to participate in profits) carrying not less than twenty-five per centum of the voting power, have been allotted unconditionally to, or acquired unconditionally by, and are at the end of the year of income beneficially held by, the public (not including a private company) and any such shares have in the course of that year been quoted in the official list of a stock exchange :
 - ii. A company shall be deemed to be a subsidiary of a public company if, by reason of the beneficial ownership of the shares, the control of the company is in the hands of one or more companies none of which is a private company :
 - iii. A company shall be deemed to be under the control of any persons where the major portion of the voting power or the majority of the shares is held by those persons or is held by those persons and nominees of those persons or where the control is, by any other means whatever, in the hands of those persons :
 - iv. Persons in partnership and persons interested in the estate of a deceased person or in property held in trust shall respectively be deemed to be a single person :
 - v. A private company shall be deemed to have made a sufficient distribution of its income of the year

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of income, if, before the expiration of nine months after the close of the year, it has paid in dividends out of the taxable income of that year—

(a) Where it is an investment company—the whole of its distributable income: or

(b) Where it is not an investment company—

(i) If the whole or part of its distributable income consists of dividends received from other private companies—that whole or part, together with two-thirds of the remainder, if any, of the distributable income; and

(ii) In any other case—two-thirds of its distributable income.

“**78**—(1) Where a private company has not, before the expiration of nine months after the close of the year, made a sufficient distribution of its income, the Commissioner may assess the aggregate additional amount of tax which would have been payable by its shareholders if the company had, on the last day of the year of income, paid the undistributed amount as a dividend to the shareholders who would have been entitled to receive it, and the company shall be liable to pay the tax so assessed. Assessment New section 78. of additional tax.

(2) Where there is more than one class of shareholders of the company, then for the purpose only of determining which shareholders would have been so entitled, dividends paid within nine months after the close of the year of income out of the taxable income of that year shall be deemed to have been paid in the order in which they were actually paid, but before the last day of that year.

“**79** Any dividend paid by a company on or before the thirty-first day of March out of the taxable income of the last preceding year of income shall be deemed to have been paid within nine months after the close of that year. Dividends paid before 31st March. New section 79.

“**80**—(1) Where, in relation to any private company, there is an undistributed amount, and any person (not being a company, trustee, or partnership) would, otherwise than as a shareholder of the private company, have received a part of that amount if there had been successive distributions of the relative parts of that amount to and by each of any companies, trustees, or partnerships interposed between the private company and that person, the Commissioner may also, in addition to any other tax assessable under this Division, assess the additional amount of tax, if any, which would in that event have been payable by that person, and the private company shall be liable to pay the tax so assessed. Interposition of companies trustees and partnership. New section 80.

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New section 81. Excess distribution of previous years.

(2) If any company so interposed between the private company and that person is not incorporated in this State, and the Commissioner is unable to ascertain the identity of that person, or the part of the amount which he would have received, the Commissioner may assess the additional amount of tax, if any, which would have been payable if the company so interposed had only one shareholder, and the private company shall be liable to pay the tax so assessed.

“**81**—(1) Where the total amount of dividends paid by a private company out of its taxable income of the period of four years next preceding the year of income exceeds the aggregate of the smallest amounts that would have been a sufficient distribution in each of those years, the excess shall, for the purpose of calculating the undistributed amount, be deemed to be a dividend paid out of the taxable income of the year of income.

(2) For the purpose of calculating the excess—

i. Any part of the company's taxable income of that period upon which it has paid or is liable to pay tax under this Division shall be deemed to be a dividend paid by the company during that period : and

ii. Any dividend or part of a dividend paid out of that part of the company's taxable income shall be deemed not to be a dividend.

New section 82. Rebates.

“**82** A shareholder shall be entitled to a rebate of the amount by which his income tax is increased by the inclusion in his assessable income of dividends paid to him by the company in respect of which the company has paid or is liable to pay tax under the division.

New section 83. Loans to shareholders.

“**83**—(1) If any amounts are advanced or any assets distributed by a private company to any of its shareholders by way of advances or loans, or any payment is made by the company on behalf of, or for the individual benefit of, any of its shareholders, so much, if any, of those advances, loans, or payments, as in the opinion of the Commissioner, represents distributions of income shall, for all purposes of this Act, be deemed to be dividends paid by the company to those shareholders out of profits derived by it.

(2) Where the amount of any advance, loan, or payment is deemed, under the last preceding subsection, to be a dividend paid by a company to its shareholders, and in any year subsequent to that in which the dividend is so deemed to be paid, the company sets off any dividend, distributed by it in that subsequent year, in satisfaction in whole or in part of the amount of that advance, loan, or payment, that dividend shall, to the extent to which it is so set off, be deemed not to be a dividend for any purpose of this Act,

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“84 So much of any sum paid or credited by a private company and being, or purporting to be—

- I. Remuneration for services rendered by any person being a shareholder or director of the company or being a relative of any such shareholder or director: or
- II. An allowance, gratuity, or compensation in consequence of the retirement of any such person from any office or employment held by him in that company, or upon the termination of any such office or employment—

as exceeds an amount which, in the opinion of the Commissioner, is reasonable, shall not be an allowable deduction and the excess shall, for all purposes of this Act, be deemed to be a dividend paid out of profits derived by it to the recipient and received by him as a shareholder of the company.

Payments to shareholders and directors. A.D. 1935. New section 84.

Division IX.—Banks.

“85—(1) In this Division—

‘Gross income from all sources’ means the gross income derived from sources in and out of the State, including the profit, if any, derived from the sale, conversion, or redemption of Government or other securities; but does not include discount or interest derived from exempt assets, or any profit assessable under Division (Casual Profits), or which would be assessable under that Division if derived from a source in the State:

‘Bank’ means a company which carries on in the State the business of banking as its principal business, but does not include a company of the assets of which at least seventy-five per centum in value are situate out of Australia, or a savings bank established under the *Savings Banks Act* 1848:

‘Exempt assets’ means bonds, debentures, stocks, or other securities issued by the Commonwealth, and includes any securities issued by a State or by any authority constituted by a law of a State the interest on which is exempted by the law of that State from income tax:

‘Non-exempt assets’ means property other than exempt assets:

‘Specific exempt assets’ means exempt assets purchased with money which was specifically drawn for that purpose from the shareholders’ funds comprising paid-up capital, premiums on the issue of shares, and undistributed profits.

Definitions. New section 85.

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New section 86. Net income from all sources.

New section 87. Deductions allowable.

(2) Interest accrued at the date of the sale of a security shall be deemed to be income derived by the vendor, and shall not be taken into account in determining the profit or loss upon the sale of the security.

(3) Interest paid or payable by a bank upon money invested in the purchase of a security shall not be taken into account in determining the profit or loss upon the sale, redemption, or conversion of the security.

(4) Underwriting commission or brokerage on the issue of a loan shall be deemed to be income of the year in which the loan is issued.

“86 The nett income of a bank from all sources shall be its gross income from all sources less the deductions allowable under section eighty-seven.

“87 The deductions allowable under this Division shall be—

- i. The deductions (except interest paid or payable) which would be allowable deductions if the gross income from all sources were derived from a source in the State:
- ii. The sum which bears to the total interest payable by the bank for the year of income the same proportion as the average value over that year of its non-exempt assets bears to the average value over that year of its total assets except specific exempt assets:
- iii. Where the gross income from all sources includes a profit arising from the sale, conversion, or redemption of exempt assets except specific exempt assets and Commonwealth Treasury Bills, the sum which bears to the total amount of interest payable by the bank for the year of income the same proportion as the average value of such exempt assets sold, converted, or redeemed bears to the average value over that year of its total assets (except specific exempt assets), not exceeding the amount of the profit so included.

In this paragraph ‘average value of such exempt assets’ means one fifty-second of the value of such exempt assets sold, converted, or redeemed, multiplied by the number of weeks during which they were held in the year of income:

- iv. Any loss arising from the sale, conversion, or redemption of Government or other securities.

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“**88**—(1) The assessable income of a bank shall include so much of the nett income of the bank from all sources as bears to that nett income the same proportion as the average value over the year of income of its non-exempt assets in the State bears to the average value over that year of its non-exempt assets in and out of the State.

Assessable income. A.D. 1935.
New section 88.

(2) Any amount which is included in the gross income from all sources of a bank shall not, except to the extent provided in this Division, be included in the assessable income of the bank, and any deduction which is taken into account in ascertaining the nett income from all sources of the bank shall not, except to the extent so provided, be an allowable deduction.

Division X.—Life Assurance Companies.

“**89** The taxable amount of the income of every company which carries on life assurance business in this State shall be a sum equal to twenty pounds per centum of all premiums received by the company in this State during the year of income after deducting from such premiums any sums paid by the company by way of reinsurance effected in this State with any other company.

Income of life assurance companies. New section 89.

Division XI.—Co-operative and Mutual Companies.

“**90** In this Division ‘co-operative company’ means a company other than a building society the rules of which limit the number of shares which may be held by, or by and on behalf of, any one shareholder, and prohibit the quotation of the shares for sale or purchase at any stock exchange or in any other public manner whatever, and includes a company which has no share capital, and which in either case is established for the purpose of carrying on any business having as its primary object or objects one or more of the following :—

Co-operative companies. New section 90.

- i. The acquisition of commodities or animals for disposal or distribution among its shareholders :
- ii. The acquisition of commodities or animals from its shareholders for disposal or distribution :
- iii. The storage, marketing, packing, or processing of commodities of its shareholders :
- iv. The rendering of services to its shareholders :
- v. The obtaining of funds from its shareholders for the purpose of making loans to its shareholders to enable them to acquire land or buildings to be used for the purpose of residence or of residence and business.

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A.D. 1935. Company
 ——— not co-op-
 New sec- erative if
 tion 91. less than
 90 per cent.
 of business
 with mem-
 bers.

“**91** If, in the ordinary course of business of a company in the year of income, the value of commodities and animals disposed of to, or acquired from, its shareholders by the company, or the amount of its receipts from the storage, marketing, packing, and processing of commodities of its shareholders, or from the rendering of services to them, or the amount lent by it to them, is less respectively than ninety per centum of the total value of commodities and animals disposed of or acquired by the company, or of its receipts from the storage, marketing, packing, and processing of commodities, or from the rendering of services, or of the total amount lent by it, that company shall in respect of that year be deemed not to be a co-operative company.

New sec- Sums
 tion 92. received to
 be taxed.

“**92** The assessable income of a co-operative company shall include all sums received by it, whether from shareholders or from other persons, for the storage, marketing, packing, or processing of commodities, or for the rendering of services, or in payment for commodities or animals or land sold, whether on account of the company or on account of its shareholders.

New sec- Rebates on
 tion 93. purchases.

“**93**—(1) So much of the assessable income of a co-operative company as is distributed among its shareholders as rebates or bonuses based on business done by shareholders with the company shall be an allowable deduction.

(2) No such rebate or bonus based on purchases made by a shareholder from the company shall be included in his assessable income except where the price of such purchases is allowable as a deduction in ascertaining his taxable income of any year.

New sec- Mutual
 tion 94. insurance
 associations.

“**94** Every association of persons formed for the purpose of insuring those persons against loss, damage, or risk of any kind in respect of property shall, for the purposes of this Act, be deemed to be a company carrying on the business of insurance, and the assessable income of any such company shall include all premiums derived by the company, whether from its shareholders or not, other than premiums received in respect of policies of life assurance or considerations received in respect of annuities granted.

Division XII.—Interest Paid by Companies.

New sec- Interest
 tion 95. paid by a
 company to
 a non-resi-
 dent.

“**95**—(1) Where interest is paid or credited by a company to any person who is a non-resident—

- i. On money secured by debentures of the company and used in this State, or used in acquiring assets for use or disposal in this State : or

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ii. On money lodged at interest in this State with the company—

the company shall be liable without affecting its liability, if any, in respect of other income tax payable by it, to pay income tax upon that interest at the rate declared by Parliament in respect thereof.

(2) The company may deduct and retain for its own use so much of the amount payable to that person as is necessary to pay the tax.

(3) Where a company establishes, to the satisfaction of the Commissioner, that a person can enforce payment, without any deduction under this section, of interest on any such money secured by debentures issued prior to the first day of January, one thousand nine hundred and twenty-seven, or on money lodged at interest with it prior to that date, this section shall not apply in respect of the interest paid or credited to that person.

(4) This section shall not apply to interest paid or credited to a company which is carrying on business in this State, and which has a public officer duly appointed under this Act, unless the Commissioner, by notice in writing to the company paying or crediting the interest, directs that the section shall so apply.

“96—(1) Where interest is paid or credited by a company in respect of debentures payable to bearer the names and addresses of the holders of which are not supplied to the Commissioner by the company, the company shall be liable without affecting its liability, if any, in respect of other income tax payable by it, to pay income tax upon the total amount so paid or credited in respect of those debentures at the rate of tax which would be applicable if that amount were the taxable income of one individual.

Interest paid by a company on bearer debentures. New section 96.

(2) The company may deduct and retain for its own use from the amount payable to any person who is a holder of any of those debentures an amount bearing the same proportion to the amount of tax payable by the company under this section as the interest payable to that person bears to the total interest payable in respect of those debentures.

(3) Where the Commissioner is satisfied that that person is not liable to furnish a return, he shall refund to him the amount of tax paid by the company in respect of his debentures.

“97—(1) Where the company pays tax under this Division on any interest, and that interest is included in the assessment of the person to whom it was paid or credited, the proportionate amount of tax paid by the company in respect of the interest shall be deducted from the total tax payable by that person.

Rebate of tax paid by company. New section 97.

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(2) Where that person is a resident of this State and is not liable to pay income tax, or the tax paid by the company exceeds the amount of tax payable by that person, the amount of tax paid by the company or, as the case may be, the amount of the excess, shall be refunded to that person.

New section 98. Tax on interest.

“98 Where in any financial year interest is paid by a company in respect of which it is liable under this Division to pay income tax, the company shall be liable for income tax on that interest to the extent to which it would have been so liable if an assessment had been made in respect of that interest at the date when it was paid.

Division XIII.—Oversea Ships and Aircraft.

New section 99. Assessment in respect of ship or aircraft owners not residing in this state.

“99—(1) Where any person resident outside this State, or whose head office or chief place of business is outside this State (hereinafter called ‘the principal’), carries on business in this State as owner or charterer of any ship or aircraft, the agent in this State of such principal shall be assessed and be liable to income tax on an amount equal to seven pounds ten shillings in every one hundred pounds payable to such principal or to such agent whether the same be payable in or outside this State) in respect of passengers, livestock, mails, and goods shipped or embarked in this State and carried by any such ship or aircraft to any port or place in or beyond this State during the year of income.

Liability to tax of master of ship or person in charge of aircraft.

(2) In all cases where the principal has no recognised agent in this State other than the master of the ship, or the person in charge of the aircraft, as the case may be, or the agent fails to make returns, the Commissioner may make such assessment from such information as may be available to him, and the income tax thereon shall be payable by the master or the person in charge of the aircraft, as the case may be, to the Commissioner prior to the clearance of such ship or aircraft.

(3) The master, person in charge, or agent upon paying the same shall be entitled to a certificate from the Commissioner that the amount so paid has been paid under the provisions of this Act, and to be indemnified against the principal in respect of such payment.

Master liable to pay.

(4) Where the assessment is made on the agent or representative, and the tax is not paid forthwith upon receipt of notice of the assessment, the master or person in charge shall be liable to pay the tax assessed.

(5) Nothing in this section shall, so long as any tax for which the master or person in charge becomes liable under

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this section remains unpaid, relieve any other person to whom notice of assessment has been given in respect of that tax, from liability to pay the tax remaining unpaid.

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(6) Where any person is liable to pay tax under this Notice of Division, the Commissioner shall give notice to him of the assessment, and he shall forthwith pay the tax.

Division XIV.—Australian Business Controlled Abroad.

- “**100** Where any business carried on in this State— Australian business controlled abroad. New section 100.
- i. Is controlled principally by non-residents :
 - ii. Is carried on by a company a majority of the shares in which is held by or on behalf of non-residents : or
 - iii. Is carried on by a company, which holds or on behalf of which other persons hold a majority of the shares in a non-resident company—

and it appears to the Commissioner that the taxable income disclosed in respect of the business is less than the amount of taxable income which might be expected to arise from that business, the person carrying on the business in this State shall, notwithstanding any other provision of this Act, be liable to pay income tax on a taxable income of such amount of the total receipts (whether cash or credit) of the business as the Commissioner determines.

Division XV.—Film Business Controlled Abroad.

“**101**—(1) Where any non-resident derives income under any contract or agreement with any person in relation to the carrying on in this State by that person of a business of distributing, exhibiting, or exploiting motion picture films, or of leasing such films to other persons, or of licensing other persons to exhibit or display such films, or in relation to the acquisition of any advertising matter for use in connection with such films, and that business— Film business controlled abroad. New section 101.

- i. Is controlled principally by non-residents :
- ii. Is carried on by a company, a majority of the shares in which is held by or on behalf of non-residents : or
- iii. Is carried on by a company which holds, or on behalf of which other persons hold, a majority of the shares in a non-resident company—

the non-resident deriving that income shall be liable to pay income tax thereon.

(2) Where any non-resident has derived such income, an amount equal to thirty per centum of the gross income so derived shall be included in his taxable income.

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Provided that, where it is proved to the satisfaction of the Commissioner that that amount should be varied, he may assess the amount to be so included at such other amount as he determines.

Liability of agent.

(3) Any person carrying on business in this State, who has entered into any such contract or agreement with any non-resident, shall for all purposes of this Act be the agent of that non-resident, and shall not make any payment of any income assessable under this Division to such non-resident, or transfer out of this State any such income for the purpose of making such payment, unless and until arrangements have been made to the satisfaction of the Commissioner for the payment of any income tax which has been or may be assessed to be paid by that non-resident.

Penalty.

(4) Any person who makes any payment or transfers any income in contravention of the last preceding section shall be guilty of an offence.

Penalty : The amount of tax which is or becomes payable in respect of that income by the non-resident for whom the person paying or transferring the income is the agent, and in addition a fine not exceeding one hundred pounds.

Division XVI.—Insurance with Non-Residents.

New section 102.

Definitions.

“**102** In this Division—

‘ Insurance contract ’ means a contract or guarantee whereby liability is undertaken, contingent upon the happening of any specified event, to pay any money or make good any loss or damage, but does not include a contract of life assurance :

‘ Insured event ’ means an event upon the happening of which the liability under an insurance contract arises :

‘ Insured person ’ means a person with whom any insurance contract is entered into by an insurer :

‘ Insured property ’ means the property the subject of an insurance contract made or given by an insurer :

‘ Insurer ’ means any non-resident who undertakes liability under an insurance contract.

New section 103.

Income derived by non-resident insurer.

“**103**—(1) Where an insured person, whether a resident or non-resident, has entered into an insurance contract with an insurer, and the insured property at the time of the making of the contract is situate in this State, or the insured event is one which can happen only in this State, the premium paid or payable under the contract shall be included in the assessable income of the insurer, and shall be deemed to be derived by him from sources in

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this State, and unless the contract was made by a principal office or branch established by the insurer in this State, this Division shall apply to that premium.

(2) Where an insured person who is a resident has entered into an insurance contract with an insurer, and an agent or representative in this State of the insurer was in any way instrumental in inducing the entry of the insured person into that contract, any premium paid or payable under the contract shall, wherever the insured property is situate, or the insured event may happen, be included in the assessable income of the insurer and shall be deemed to be derived by him from sources in this State, and, unless the contract was made by a principal office or branch established by the insurer in this State, this Division shall apply to that premium.

“**104** The insurer shall be deemed to have derived in any year, in respect of the premiums paid or payable in that year under such contracts, a taxable income equal to twenty-five per centum of the total amount of such premiums, excluding any portion thereof actually paid away by way of reinsurance effected in this State with any other person. Taxable income of non-resident insurer. New section 104.

“**105**—(1) The insured person and any person in this State acting on behalf of the insurer shall be the agents of the insurer, and shall be jointly and severally liable as such for all purposes of this Act. If either of those persons pays or credits to the insurer any amount in respect of the insurance contract before arrangements have been made to the satisfaction of the Commissioner for the payment of any income tax which has been or may be assessed under this Division in respect of that amount, that person shall be personally liable to pay that tax. Liability of agents of insurer. New section 105.

(2) Notwithstanding any other provision of this Act, no such premium shall be an allowable deduction to the insured person unless arrangements have been made to the satisfaction of the Commissioner for the payment of any income tax which has been or may be assessed in respect of that premium. Deduction of premiums.

(3) Every person who has paid any premium due under an insurance contract shall furnish, with his return for the year of income in which the payment was made, particulars as to the name and address of the insurer and the amount paid to him. Information to be furnished.

“**106** Where the insurer satisfies the Commissioner that, on account of special circumstances, it is necessary that the rate of tax payable by him under this Division should be ascertained at the time when premiums are paid Rate in special circumstances. New section 106.

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to him, the Commissioner may direct that the tax so payable in respect of premiums paid during any financial year shall be calculated at the rate which would have been payable if an assessment had been made in respect of those premiums at the date when they were paid.

Division XVII.—Special Provisions Relating to Companies.

New section 107. Company's assessments.

“107—(1) Subject to the provisions of this section, the taxable income of every company resident in this State shall be the full amount of the income of such company during the year of income after deducting therefrom the amount of the 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.

(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 accounts of the company.

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

i. 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.

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“**108**—(1) The assessable income of any—

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| | Assessable
income of
certain
companies. | A.D. 1935. |
| i. 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, shall be one-half of all dividends declared or ascertained or becoming due to the shareholders of such company : | Mining
companies. | New sec-
tion 108. |
| ii. Bank for savings established under the <i>Savings Banks Act</i> 1848 shall be an amount equal to five pounds per centum of the amount of its reserve fund on the thirtieth day of June in the year of income : | Savings
banks. | |
| iii. Company, the head office or chief place of business of which is not in this State and which carries on in this State fire, accident, fidelity guarantee, or marine insurance business, shall be a sum equal to twenty-five pounds per centum of the nett premiums, excluding any portion of such premiums actually paid away by way of reinsurance effected in this State with any other person, received by such company in this State in the year of income, and no deductions shall be allowed in respect thereof. | Non-
resident
insurance
companies. | |

(2) The taxable amount of the income of any company not having its head office or chief place of business in this State and not being a company which carries on mercantile business in this State shall be the nett income of such company during the year of income from its business in this State; such nett income to be determined as provided by this Part, but, if the same cannot be satisfactorily determined by the Commissioner from the information available to him, the Commissioner may make an assessment of the amount upon which, in his judgment, income tax ought to be charged, and the company assessed shall be liable to income tax thereon, excepting in so far as it establishes on objection that the assessment is excessive.

(3) In cases not otherwise specifically provided for by this Act, the assessable income of any company entitled to income arising, accruing, received in, or derived from this State shall be the income of such company during the year of income, and such company shall pay income tax upon the taxable amount of such income ascertained as provided by this Part.

“**109**—(1) Subject to the provisions of subsection (5) hereof, the taxable amount of the income of every company which is not resident in this State, and which carries on mercantile business in this State, shall be the amount of the nett income derived or deemed to be

Income of non-resi- dent per- sons carry- ing on mercantile business in the State.	New section 109.
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derived from, or received in, this State by such company during the year of income.

(2) For the purposes of this section, where a company which is not resident in this State (herein termed 'the principal'), by means of a company registered or carrying on business in this State, or by means of any person in this State (herein termed 'the agent') sells or disposes of any goods, whether such goods are in this State or are by the contract to be brought into this State, and whether the contract is made by the agent in this State or by or on behalf of the principal out of this State, and whether the moneys arising therefrom are paid to or received by the principal directly or otherwise, the total amount for which such goods were sold or disposed of in the year of income shall be deemed to be income accruing to the principal in that year from a business carried on by him in this State.

Liability of
agent.

(3) If any such company has not a public officer, every such agent as aforesaid, unless exempted by the Commissioner, shall, as regards such income, make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act. and to do all acts and things thereunder as if such income were actually the income of the agent, and the tax shall be assessed as if the income were the income of one company; but nothing herein contained shall exempt or discharge the principal from liability to pay income tax upon such income; and the agent shall have the same right to indemnity against the principal in respect of the tax paid by him as is conferred upon a representative taxpayer in other cases.

Regula-
tions.

(4) The regulations may provide for the making, obtaining, adjusting, and settling of returns by or with any such agent as aforesaid, in such manner and form, and with such particulars and proof as may be prescribed, and the making, completing, and enforcing of assessments under this section, and generally for the purposes thereof.

Alternative
method of
assessment.

(5) If in any year of tax the Commissioner is—

- I. Of opinion from the information available to him that the nett income of the company, or any other particulars required by him for assessing the taxable amount of the income of the company in the manner provided by subsection (1) hereof, cannot be accurately ascertained : or
- II. Not satisfied that the return furnished by or on behalf of the company discloses a true and accurate statement of the affairs of the company with respect to such nett income or other particulars—

the Commissioner may assess the taxable amount of the income of the company, in so far as it arises from the

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sales of any goods belonging to the company and sold by it as aforesaid, at a sum which he considers reasonable, being not less than two pounds ten shillings per centum, and not more than twenty pounds per centum, of the gross amount of the sales of such goods as aforesaid, and the company shall be liable to income tax in respect of such assessment, except in so far as it establishes on objection that the assessment is excessive.

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(6) Where the taxable amount of the income of such company is assessed in accordance with the provisions of subsection (5) hereof, such taxable amount shall not be subject to any exemption or deduction under any other provision of this Act.

(7) All the foregoing provisions of this section for assessing the taxable income of a company which is not resident in this State and which carries on mercantile business in this State shall, with any necessary alteration of terms, apply as well to the assessment of the taxable amount of the income of a person, not being a company, and not being a resident in this State, who carries on mercantile business in this State; but such person shall not be liable to any income tax in respect of the moneys arising from sales made by him in the manner described in subsection (2) hereof if the total amount so arising in the year of income is less than five hundred pounds.

Application of section to persons other than companies.

(8) If for the purpose of any business of his principal resident outside this State an agent does in this State for or on behalf of such principal any of such acts or things as are included in the definition of 'agent' as defined in section two, the principal shall be deemed, for the purposes of this section, to carry on business in this State, and the income derived by the principal from the business so deemed to be carried on by him shall be deemed to be income of the principal derived from or received in this State.

Division XVIII.—Relief Against Double Taxation.

“110—(1) Except as provided by this section, where a resident taxpayer derives income from any source outside this State, he shall be entitled to deduct from the amount of income tax payable by him under Part IV. in respect of the income so derived—

Deduction of tax paid abroad. New section 110.

- i. Such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him by way of income tax in respect of such income in the State, Dominion, or country whence the same was so derived: or
- ii. A sum equal to a tax upon the amount of such income calculated at the average rate payable by

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such taxpayer under Part IV. on the whole of his income which is of the same class as the income derived as aforesaid—

whichever is the less.

(2) The deduction provided by subsection (1) hereof shall not—

- i. Include or have relation to any income tax paid under any law of the Commonwealth :
- ii. Apply in respect of income tax payable under Part V. : or
- iii. Apply to any taxpayer who is assessable under the provisions of section one hundred and eleven.

(3) Where any resident taxpayer derives any income from mortgage upon land situate outside this State, and land tax is levied upon or in respect of the amount of such mortgage under the law of the State, Dominion, or country in which the land comprised in such mortgage is situate, such taxpayer shall be entitled to deduct, from the amount of income tax payable by him under Part IV. upon the income so derived, such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him in such State, Dominion, or country during the year of income by way of land tax upon or in respect of the amount of such mortgage.

New section 111. Rebate of tax in the case of certain manufacturers.

“ **111**—(1) A person who is not resident in this State—

i. If he—

- (a) Carries on manufacturing business in this State :
- (b) Sells outside this State, during any year of income, not less than six-tenths in value of the products manufactured by him in this State during such year : and
- (c) Has proved to the satisfaction of the Commissioner that he has paid any sum by way of income tax in some other State or in some Dominion or country beyond this State, upon any income arising from the sale in such other State, or in such Dominion or country, of any portion of the products so manufactured by him as aforesaid : and

ii. If he—

- (a) Is chargeable with income tax under this Act in respect of the sale by him in any year in this State of goods manufactured by him in some other State or in some Dominion or country outside this State : and

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(b) Has proved to the satisfaction of the Commissioner that he has paid any sum by way of income tax in such other State or in such Dominion or country as aforesaid, upon any income arising in such year from such sale as aforesaid—

A.D. 1925.

shall be entitled to deduct, from the amount of income tax which would otherwise be payable by him under this Part, the sum so paid, or the amount payable under this Part by way of income tax, calculated as hereinafter provided, on the amount of income in respect of which such sum was so paid whichever is the less; but the deduction allowed by this section shall not in any case exceed two-thirds of the amount of income tax imposed under this Part which, but for such deduction, would be payable by the taxpayer in respect of the income to which such deduction relates, and no deduction shall be allowed under this section in respect of any income tax paid under any Commonwealth Act.

(2) For the purpose of calculating any deduction as provided by subsection (1) hereof, the rate to be applied shall be the rate of income tax which would be payable under this Part upon an amount equal to the whole of the taxpayer's income of the class in respect of which the deduction is applicable.

" PART V.

Division I.—Unemployed Relief Tax.

SPECIAL INCOME TAX.

" 112—(1) Subject to the provisions of Part IV., as hereby modified, and of this Part, there shall be charged, levied, collected, and paid to the Commissioner—

Special tax on certain classes of income. New section 112.

- i. For the financial year ending on the thirtieth day of June, one thousand nine hundred and thirty-six, 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-eight: and

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ii. For the year ending on the thirty-first day of December, one thousand nine hundred and thirty-six, 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, and such special income tax shall be in addition to any tax imposed under Part IV., and shall be fixed and declared by an Act separate from the Act fixing and declaring the rate of income tax imposed under Part IV.

(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 one hundred and thirteen 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 one hundred and sixteen.

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“**113**—(1) Where the nett income of any person from all sources during the year of income did not amount to fifty-two pounds, such person shall not be liable to the special income tax under this Act except in any case to which the provisions of paragraph ii. of subsection (1) of section one hundred and six apply.

Exemption from tax. **A.D. 1965.**

New section 113.

(2) For the purposes of this section ‘nett income’ shall mean the gross income of the taxpayer, after subtracting therefrom all deductions as provided by sections thirty-six to fifty.

Nett income.

(3) Dividends shall be included for the purpose of calculating a taxpayer’s gross income, but where income tax is payable under this Act in respect of the profits from which such dividends are derived, or where such dividends consist of prizes in any lottery authorised by law in this State, the amount of such dividends shall not be subject to taxation under this Part.

(4) Invalid and old-age pensions shall not be subject to taxation under this Part.

“**114**—(1) Except where otherwise provided, the provisions of section one hundred and twenty-two shall apply in respect of returns to be made by taxpayers for the purposes of this Part.

Returns. **New section 114.**

(2) Such returns as aforesaid shall be furnished by every person whose gross income from all sources for the year of income amounted to or exceeded fifty-two pounds, and who has not furnished a return for the purposes of the income tax imposed under Part IV.

“**115**—(1) The income tax imposed under paragraphs i. and ii. of subsection (1) of section one hundred and twelve shall be payable—

Assessment of tax. **New section 115.**

- i. Where the income comprises only income from sources other than salary or wages : or
- ii. Where the taxpayer is a person employed by or on behalf of the Commonwealth—

in respect of the whole of the taxpayer’s nett income as defined by section one hundred and thirteen, and in all other cases in respect of that part only of such nett income as represents income from sources other than salary or wages, and in the assessment and collection of such tax no deduction shall be allowed in any case from such nett income or part thereof, as the case may be, or from the amount of such tax assessed as herein provided.

(2) The income tax imposed under paragraph ii. of subsection (1) of section one hundred and twelve (hereinafter called the ‘wages tax’) shall be payable in respect of

of 24 Geo. V. No. 30, s. 4, p. 11.

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New section 116. Collection of wages tax.

every receipt given by any person for any sum amounting to or exceeding one pound paid to such person for salary or wages due to him, and payable at a rate equal to or exceeding one pound per week, on whatever basis the same is calculated, whether hourly, daily, weekly, or otherwise, and whether payable at piecework rates or otherwise, and shall be payable as provided by sections one hundred and sixteen and one hundred and seventeen.

“116—(1) Except where otherwise provided, the wages tax shall be payable, and the payment thereof denoted, by the affixing to every receipt for salary or wages in respect of which the same is payable of a duty stamp to the amount of tax so payable in respect of the amount for which such receipt is given.

(2) The wages tax shall be payable in respect of every payment made by or on behalf of an employer to or on account of an employee, unless, at the time such payment is made, it is shown to the satisfaction of the Commissioner that such payment is not for salary or wages, or that the amount, if any, of salary or wages included therein is not taxable.

(3) Except where otherwise expressly provided, every person who—

- i. Receives any payment in respect of which wages tax is payable under this Part shall give to the person making the same :
- ii. Makes any payment of salary or wages in respect of which wages tax is payable under this Part shall obtain from the person receiving the same —

a receipt for such payment.

(4) For the purposes of this Part, except where otherwise provided, every payment made by or on behalf of an employer to an employee by way of remuneration for services rendered by such employee to such employer shall be deemed to be salary or wages if the relationship of master and servant obtains between such persons.

(5) Where any such payment as aforesaid is made to any person in respect of services rendered by him—

- 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

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(b) Provides for the upkeep, maintenance, or running expenses of any horse, vehicle, or plant—

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the same shall be deemed not to be salary or wages, but shall be subject to tax under the provisions of paragraph i. of subsection (1) of section one hundred and twelve.

(6) No special income tax imposed under paragraph ii. of subsection (1) of section one hundred and twelve shall be payable in respect of any salary or wages received by a person, not ordinarily resident in this State, who is employed in any capacity on any ship trading between this State and any place beyond this State.

“**117**—(1) The Commissioner, in his discretion, may accept from any public department, or any employer approved by the Commissioner in writing, payment of a sum equal to the total amount of wages tax payable by the employees of such department or employer in respect of a prescribed period for wages tax. Special provision for wages tax in certain cases. New section 117.

(2) Any such employer as aforesaid may make to the Commissioner application in the prescribed form and containing such particulars as may be prescribed for permission to pay wages tax as hereinbefore provided.

(3) The Commissioner may require from any such employer such undertaking or other security as may be prescribed or as he may think necessary in each case for the payment of wages tax as provided by this section.

(4) For the purposes of any payment as herein provided, the employer shall lodge with the Commissioner a statement in duplicate in the prescribed form and containing such particulars as may be prescribed, together with the full amount of wages tax payable in relation thereto.

(5) On payment of wages tax as herein provided the Commissioner shall denote on one of the copies of the statement lodged as aforesaid that the tax to which the statement relates has been paid, and shall return such copy statement to the employer with a certificate to that effect endorsed thereon.

(6) In any case to which this section applies—

- i. The amount of wages tax payable under this Act by each employee shall be paid by him to the employer, and such employee shall not be required to give a stamped receipt for his salary or wages in respect of any period in respect of which the employer has paid the tax as herein provided: and
- ii. The employer may recover from any employee any amount of wages tax payable under this Act and paid by the employer on behalf of such employee, or may deduct such amount from any salary or

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wages payable to such employee, and the provisions of section forty-one of the *Wages Boards Act* 1920 shall not apply in respect of any such deduction.

(7) For the purposes of this Act the Commissioner or any officer authorised by him in that behalf may require any employer at any reasonable time to produce for inspection any books, documents, vouchers, or accounts in his possession or control relating to the payment of salaries or wages by or on behalf of the employer, and may inspect the same and take copies thereof or extracts therefrom.

(8) The powers hereby conferred shall be in addition to, and not in substitution for, the powers conferred by the Principal Act.

(9) In relation to all payments of salary and wages made by the Treasurer from the Consolidated Revenue, the wages tax payable in respect of each amount which but for this Act would be payable to the officer may be deducted from such amount and the balance only paid to such officer, who, where such deduction is made, shall not be required to give a stamped receipt for the amount paid to him.

(10) Where any taxpayer has, elsewhere than in this State, been paid or credited with income in the nature of salary or wages for or in relation to services rendered by him in this State and in respect of which, by reason of the employer having paid the same elsewhere than in this State to some person for or on behalf of such taxpayer, wages tax was not payable as provided by this section, the Commissioner may assess such taxpayer in respect of such income as if the same were income other than salary or wages, and the taxpayer shall pay special income tax in respect thereof accordingly.

(11) Except as hereinbefore provided, the wages tax payable under this Act in respect of every payment of salary or wages shall be paid by means of duty stamps printed on adhesive paper specially printed and issued for that purpose by the Treasurer which shall be affixed to the receipt given for such payment, and every such stamp shall be cancelled by the person using the same in the manner and at the time provided by section seven of the *Stamp Duties Act* 1931.

(12) All such duty stamps as aforesaid shall have the words 'Wages Tax' overprinted thereon by the Government Printer, and no such receipt as aforesaid shall be taken to be duly or properly stamped unless those words are printed on the stamp.

“118—(1) No person shall, in relation to any payment of salary or wages—

- i. Fail, neglect, or refuse to give a receipt for any payment in respect of which wages tax is pay-

New section 118. Offences

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- able under this Part in any case where he is required by this Part to give the same :
- ii. Fail, where required by this Part so to do, to obtain a receipt for any payment of salary or wages made by him :
 - iii. Give or accept any such receipt as aforesaid not stamped as required by this Part :
 - iv. Upon payment of any amount in respect of which wages tax is payable under this Part, give or accept a receipt for any sum less than the amount so paid :
 - v. Separate or divide any such payment as aforesaid with intent to evade the wages tax payable in respect thereof or any part thereof :
 - 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 :
 - vii. Use for any purpose other than as provided by this Part any stamp issued as provided by subsection (11) of section one hundred and seventeen :
 - viii. Use for any purpose under this Act any stamp which has been used for any other purpose.

Penalty : Not less than one pound nor more than fifty pounds.

(2) If in any case the Commissioner is satisfied that any person has contravened any of the provisions of subsection (1) hereof and that the circumstances are such as not to call for a prosecution, the Commissioner may impose on such person a penalty not exceeding one pound, or double the amount of the wages tax in relation to which such contravention has occurred, whichever is the greater, or may waive any penalty in respect thereof.

“ **119**—(1) Where the Commissioner finds that any person—

- i. Has paid wages tax under this Part and has also paid in respect of the same matter special income tax under paragraph i. of subsection (1) of section one hundred and twelve : or
- 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

Powers of
Commis-
sioner. New sec-
tion 119.

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income or of some portion thereof during any taxing year, to be taxable under either one of the paragraphs of subsection (1) of section one hundred and twelve, and has become taxable under some other one of those paragraphs, and that, as 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 one hundred and twelve 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.

New section 120. Exemption of certain payments.

“**120** 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.

New section 121. Special tax in respect of liquor.

Division II.—Special Tax on Profits from Liquor.

“**121**—(1) In any case in which the taxable amount of the income of any taxpayer or any part thereof is derived from the profits on the manufacture by him, or on the sale by him or any person on his behalf, of any liquor as defined by the *Licensing Act* 1932, under a wholesale or importer's licence under that Act, there shall be charged, collected, levied, and paid to the Commissioner by such taxpayer for the year ending on the thirty-first day of December, one thousand nine hundred and thirty-six, and for every subsequent year, in respect of such taxable amount or part thereof (as the case may be) so derived, an income tax at such rate per pound as Parliament shall declare and enact in respect of such year.

(2) The tax payable under this section shall be in addition to any other tax payable by such taxpayer under this Act.

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(3) Such taxpayer shall be entitled to a rebate from any tax payable by him under this section equal to the amount of the fee paid by him in respect of any such licence as aforesaid in the year in which such profits were derived, but such rebate shall not exceed the amount of such tax.

(4) Where such taxpayer is a company, the taxable amount of the income of the company shall, for the purposes of this section, be deemed to be the full income of the company before any deduction has been made therefrom in respect of any dividends declared, ascertained, or become due by the company.

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"PART VI.

RETURNS AND ASSESSMENTS.

Division I.—Returns.

"122—(1) Every person shall, if required by the Commissioner by notice published in the Gazette, furnish to the Commissioner in the prescribed manner, within the time specified in the notice, or such extended time as the Commissioner may allow, a return signed by him setting forth a full and complete statement of the total income derived by him during the year of income, and of any deductions claimed by him.

Annual returns.

New section 122.

Provided that the Commissioner may in the notice exempt from liability to furnish returns such classes of persons not liable to pay income tax as he thinks fit, and any person so exempted need not furnish a return unless he is required by the Commissioner to do so.

(2) If the taxpayer is absent from the State or is unable from physical or mental infirmity to make such return, the return may be signed and delivered by some person duly authorised.

(3) Every person shall, if required by the Commissioner, whether before or after the expiration of the year of income, furnish to the Commissioner, in the manner and within the time required by him, a return, or a further or fuller return, of the income or any part of the income derived by him in any year, whether on his own behalf or as agent or trustee, and whether a return has or has not previously been furnished by him for the same period.

Further returns, &c.

(4) If no income has been so derived by the person so required to furnish a return, he shall nevertheless furnish a return stating that fact.

(5) Every person, whether a taxpayer or not if required by the Commissioner, shall in the manner and within the time required by him, furnish any return required by the Commissioner for the purposes of this Act.

Special returns.

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Returns deemed to be duly made.

(6) Every return purporting to be made or signed by or on behalf of any person shall be deemed to have been duly made by him or with his authority until the contrary is proved.

(7) It shall be the duty of every taxpayer and of every person by whom a return is prescribed to be made or from whom a return is required by the Commissioner, to procure the prescribed form for such return; and no person shall be relieved from liability by reason of his not having received a form of return or notice to furnish a return.

New section 123. Certificate of sources of information.

“123—(1) Any person who charges directly or indirectly any fee for preparing or assisting in the preparation of a return required by this Act or the regulations or by the Commissioner shall sign a certificate (in this Act called ‘an agent’s certificate’) in the prescribed form to be endorsed on or annexed to the return setting out the sources of information from which the return was compiled.

(2) Every person carrying on business who does not furnish with his return an agent’s certificate shall furnish particulars in the prescribed form, endorsed on or annexed to the return, setting out the sources of information from which the return was compiled.

Division II.—Assessments.

New section 124. Assessments.

“124—(1) From the returns, and from any other information in his possession, or from any one or more of these sources, the Commissioner shall make an assessment of the amount of the taxable income of any taxpayer, and of the tax payable thereon.

(2) If—

- i. Any person makes default in furnishing a return :
- ii. The Commissioner is not satisfied with the return furnished by any person : or
- iii. The Commissioner has reason to believe that any person who has not furnished a return has derived taxable income—

the Commissioner may make an assessment of the amount upon which in his judgment income tax ought to be levied, and that amount shall be the taxable income of that person for the purposes of subsection (1) hereof.

Special assessments.

(3) The Commissioner may at any time during any year, or after its expiration, make an assessment of the taxable income derived in that year by any taxpayer, and of the tax payable thereon.

(4) In making such assessments—

- i. The accounts of income from business and of income from property shall be calculated separately :

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- ii. In assessing the income tax for any year the gross amount of the whole income of the taxpayer, from all sources during the year of income, and whether previously taxed at the source or not, shall be taken as the basis of calculation :
- iii. The income received by any taxpayer in a representative capacity shall, for the purposes of taxation, be deemed separate and distinct from income arising or accruing to him beneficially, and where a taxpayer is trustee of two or more estates under different instruments or appointments, the income of each such estate shall, for purposes of taxation, be deemed separate and distinct from that of the others.

“**125**—(1) Wherever any person temporarily exercising any calling in the State will in the opinion of the Commissioner leave the State before income tax will be recoverable from him in the ordinary course, income tax shall be calculated and payable by him daily while he is in the State, and the Commissioner may assess the same for each day, or include the tax for any number of days in one assessment

Persons temporarily in the State. New section 125.

(2) The Commissioner may at any time require such taxpayer to give security by way of bond or deposit or otherwise to the satisfaction of the Commissioner for the due assessment and payment of income tax on the profits derived from any such calling.

(3) The tax payable at any time under this section shall be at the rate in force in respect of income derived from personal exertion during the year immediately preceding the last previous first day of July ; but if at the time when the tax becomes payable no rate of tax has been fixed for the income derived during that year, the tax shall be payable at the rate then last previously in force.

“**126**—(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 year of tax before the passing of an Act to impose an income tax in respect of that year, the same may be assessed, levied, and collected at the rate imposed in respect of the like subject-matter for the immediately preceding year of tax, and shall be payable and paid accordingly.

Assessment of tax before passing of Rating Act. New section 126.

(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 year of tax, when such tax became payable, is greater or less than the corresponding rate for the preceding year of tax, the Commissioner may make any

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New section 127. Assessments on all persons liable to tax.

New section 128. Amendment of assessments.

adjustment that may be necessary to ensure that the ultimate incidence of such tax shall be at the rate imposed for the year of tax, in which it is payable.

“**127** Where under this Act any person is liable to pay tax, the Commissioner may make an assessment of the amount of such tax.

“**128**—(1) The Commissioner may, subject to this section, at any time amend any assessment by making such alterations therein or additions thereto as he thinks necessary, notwithstanding that tax may have been paid in respect of the assessment.

(2) Where a taxpayer has made to the Commissioner a full and true disclosure of all the material facts necessary for his assessment, and an assessment is made after that disclosure, no amendment of the assessment increasing the liability of the taxpayer in any particular shall be made except to correct an error in calculation or a mistake of fact ; and no such amendment shall be made after the expiration of three years from the date upon which the tax became due and payable under that assessment.

(3) No amendment effecting a reduction in the liability of a taxpayer under an assessment shall be made except to correct an error in calculation or a mistake of fact ; and no such amendment shall be made after the expiration of three years from the date upon which the tax became due and payable under that assessment.

(4) Provided that, where an assessment has, under this section, been amended in any particular, the Commissioner may, within three years from the date upon which the tax became due under the amended assessment, make, in or in respect of that particular, such further amendment in the assessment as, in his opinion, is necessary to effect such reduction in the liability of the taxpayer under the assessment as is just.

(5) Provided further that, where an application for an amendment in his assessment is made by a taxpayer within three years from the date upon which the tax became due and payable under that assessment, and the taxpayer has supplied to the Commissioner within that period all information needed by the Commissioner for the purpose of deciding the application, the Commissioner may amend the assessment when he decides that application notwithstanding that that period has elapsed.

(6) Nothing contained in this section shall prevent the amendment of any assessment in order to give effect to the decision upon any appeal or review, or its amendment by way of reduction in any particular in pursuance of an

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objection made by the taxpayer or pending any appeal or review.

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(7) Where—

- I. Any provision of this Act is expressly made to depend in any particular upon a determination, opinion, or judgment of the Commissioner: and
- II. Any assessment is affected in any particular by that determination, opinion, or judgment—

then if after the making of the assessment it appears to the Commissioner that the determination, opinion, or judgment was erroneous, he may correct it and amend the assessment accordingly in the same circumstances as he could under this section amend an assessment by reason of a mistake of fact.

(8) Notwithstanding anything contained in this section, when the assessment of the taxable income of any year includes an estimated amount of income derived by the taxpayer in that year from an operation or series of operations the profit or loss on which was not ascertainable at the end of that year owing to the fact that the operation or series of operations extended over more than one or parts of more than one year, the Commissioner may at any time within three years after ascertaining the total profit or loss actually derived or arising from the operation or series of operations, amend the assessment so as to ensure its completeness and accuracy on the basis of the profit or loss so ascertained.

(9) Where by reason of any amendment the taxpayer's liability is reduced, the Commissioner may refund any tax overpaid. Refund of tax overpaid.

(10) Except as otherwise provided every amended assessment shall be an assessment for all the purposes of this Act. Amended assessment to be an assessment.

“129—(1) Where a taxpayer has duly furnished to the Commissioner a return of income, and no notice of assessment in respect thereof has been served within twelve months thereafter, he may in writing by registered post request the Commissioner to make an assessment. Where no notice of assessment served. New section 129.

(2) If within three months after the receipt by the Commissioner of the request a notice of assessment is not served upon the taxpayer, any assessment issued thereafter shall in respect of that income be deemed to be an amended assessment, and for the purpose of determining whether such amended assessment may be made, the taxpayer shall be deemed to have been served on the last day of the three months with a notice of assessment in respect of which income tax was payable on that day.

“130 As soon as conveniently may be after any assessment is made, the Commissioner shall serve notice thereof in writing by post or otherwise upon the person liable to pay the tax. Notice of assessment. New section 130.

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A.D. 1935. Validity of
assessment.

New section 131.

New section 132. Separate assessment of different interests.

“**131** The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

“**132**—(1) Income which is received by a taxpayer in a representative capacity shall be assessed separately from and independently of any income received by or accruing to such taxpayer beneficially.

(2) Where a taxpayer represents several estates or interests under separate instruments or appointments the income received by him in respect of each such estate or interest shall be assessed separately from and independently of the income received in respect of the other or others.” :

Part VI.

VII. By substituting for repealed sections sixty-five to sixty-nine and the sub-heading thereto the following new sub-headings and sections one hundred and thirty-three to one hundred and thirty-five—

“*Division I.—Courts of Review.*”

New section 133. Appointment of courts.

“**133**—(1) The Governor may appoint any—

i. Judge : or

ii. Commissioner appointed under the *Local Courts Act 1896*—

as a court of review for the purposes of this Act.

(2) Upon the gazettal of a notice of such appointment the court of review so constituted shall have jurisdiction subject to this Act to hear and determine objections to assessments lodged as hereinafter provided within the limits set forth in such notice.

Division II.—Review of Assessments.

New section 134. Objections.

“**134**—(1) A taxpayer dissatisfied with any assessment under this Act may, within sixty days after service of the notice of assessment, post to or lodge with the Commissioner an objection in writing against the assessment stating fully and in detail the grounds on which he relies.

Provided that, where the assessment is an amended assessment, the taxpayer shall have no further right of objection than he would have had if the amendment had not been made, except to the extent to which by reason of the amendment a fresh liability in respect of any particular is imposed on him or an existing liability in respect of any particular is increased.

(2) The Commissioner shall consider the objection, and may either disallow it, or allow it either wholly or in part, and shall serve the taxpayer by post or otherwise with written notice of his decision.

Decision of Commissioner.

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(3) A taxpayer dissatisfied with the decision may, within sixty days after such service, in writing request the Commissioner to refer the decision to a court of review for review. Application for appeal or review. A.D.1935.

(4) If within sixty days after receiving the request the Commissioner does not refer the decision or forward the objection, the taxpayer may at any time thereafter give him notice in writing to do so, and the Commissioner shall within sixty days after receiving the notice refer the decision or forward the objection to a board or court accordingly. Notice to refer.

Provided that, if, within sixty days after receiving the request, the Commissioner requires the taxpayer in writing to furnish information relating to the decision or objection, the Commissioner shall not be bound to refer the decision or forward the objection to a board or court until the expiration of sixty days after the receipt by him of that information.

(5) Upon every such reference or appeal—

- i. The taxpayer shall be limited to the grounds stated in his objection : and
 - ii. The burden of proving that the assessment is excessive shall lie upon the taxpayer.
- Grounds of objection and burden of proof.

(6) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment to be dealt with on the reference or appeal. Reduced assessments.

“135—(1) A court of review shall have power to review such decisions of the Commissioner or a Deputy Commissioner as are referred to it under this Act. Review by court. New section 135.

(2) For the purposes of reviewing such decisions the court of review shall have all the powers and functions of the Commissioner in making assessments, determinations, and decisions under this Act, other than decisions to remit additional tax or any part thereof, and such assessments, determinations, and decisions of the court and its decisions upon review, shall for all purposes (except for the purpose of objections thereto and review thereof and appeals therefrom) be deemed to be assessments, determinations, or decisions of the Commissioner. Powers of court.

(3) Upon every reference to the court of review it shall give a decision in writing and may either confirm, reduce, increase, or vary the assessment.

(4) Upon the request of the Commissioner or the taxpayer, made at the hearing, the court when giving its decision shall state in writing its findings of fact and its reasons in law for the decision.” : Decision of court.

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A.D.1935. Sections 70
— to 91.

VIII. By deleting the words—

- (a) “circulating” to “heard” in section seventy :
- (b) “or” and substituting “and” ; and “not been withdrawn” and substituting “been transmitted at the request of the taxpayer to a court of review for determination—” in section seventy-one :
- (c) “fails to duly” (twice occurring) and “duly” in section eighty-six and inserting “fails to” after “appellant” in the second line thereof—

and by inserting “Division III.” at the beginning of the sub-heading to section eighty-three ; and by renumbering sections seventy to ninety-one as sections one hundred and thirty-six to one hundred and fifty-seven, and substituting for repealed sections ninety-two and ninety-three the following new sections one hundred and fifty-eight to one hundred and sixty :—

New section 158. Rules of court.

“**158** The judges in the exercise of their powers under the *Supreme Court Civil Procedure Act 1932* may make rules of court for the purposes of this Act.

New section 159. Pending appeal not to delay payment of tax.

“**159** The fact that an appeal or reference is pending shall not in the meantime interfere with or affect the assessment the subject of the appeal or reference ; and income tax may be recovered on the assessment as if no appeal or reference were pending.

New section 160. Adjustment of tax after appeal.

“**160** If the assessment is altered on the appeal or reference a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded, and amounts short paid shall be recoverable as arrears.” :

Part VII.

IX. As to Part VII. thereof—

(a) By inserting—

- (i) The word “PAYMENT” (at the beginning of the heading thereto) and the sub-heading “*Division I.—Persons Responsible for Payment*” (in the next line) : and
- (ii) The following new sections one hundred and sixty-one to one hundred and sixty-nine :—

New section 161. Persons by whom income tax is payable.

“**161**—(1) Subject to the provisions of this Act, income tax shall be payable—

- i. In respect of the income of a company, by the public officer thereof :
- ii. In respect of the income of every person permanently or temporarily absent from or resident out of this State, by the agent of such person :

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- iii. In respect of the income of *cestuis que trust*, infants, lunatics, and persons under any legal disability, by the trustee, guardian, committee, or other person entitled for the time being to the receipt, management, disposal, or control of such income, or remitting or paying the same :
- iv. In respect of income paid under the decree or order of any court or judge to any receiver or other person, by such receiver or person, and independently of the title to such income, or any contingency or uncertainty in respect of such title :
- v. In respect of every other income, and in all other cases, by the person to whom the income arises or accrues, or who is legally or equitably entitled to the receipt thereof, or who is declared by this Act to be liable for the payment thereof.

(2) The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act.

(3) The persons by whom income tax is payable under paragraphs i., ii., iii., and iv. of subsection (1) hereof, shall be deemed to be 'taxpayers in a representative capacity' within the meaning of this Act.

(4) Nothing in this section shall relieve the person receiving the income from a taxpayer in a representative capacity from any tax due or payable in respect thereof.

"162—(1) The tax payable in respect of such portion of the income of every company as is represented by dividends shall be paid in the manner and at the times hereinafter mentioned ; that is to say—

In what New sec-
manner and tion 162.
at what
times com-
panies to
pay tax.

- i. The public officer of every company having its head office or chief place of business in Tasmania, when and so often as any dividend has been declared or become due to any shareholders in such company, shall, within seven days from the time when such dividend has been declared or become due, forward to the Commissioner a declaration in such form as may be prescribed, under his hand, stating the amount of such dividend, and showing the date when the same was so declared or became due, and shall, except as otherwise provided, at the same time pay to the Commissioner income tax upon the amount of such dividend :
- ii. The public officer of every other company shall, in such form and at such times as may be prescribed, furnish the Commissioner with such statements of the income of the company as he may require, and shall pay to the Commissioner the tax due and payable by the company.

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(2) Where income tax in respect of any portion of the amount of any dividend declared as aforesaid has been paid in any previous year, such portion shall not be again subject to tax.

(3) It shall not be lawful for the person charged with the payment of any dividend to distribute the same amongst the persons entitled thereto until the income tax payable in respect thereof shall have been paid.

(4) The public officer of any company who shall pay the income tax shall be entitled to deduct and retain for the use of such company, from the dividend payable to any person entitled thereto, a sum bearing the same proportion to the said tax as the amount payable to such person bears to the dividend upon which such tax has been paid.

New section 163. Temporary business.

“**163**—(1) Where the Commissioner has reason to believe that any person establishing or carrying on business in this State intends to carry on that business for a limited period only, or where the Commissioner for any other reason thinks it proper so to do, he may at any time and from time to time require that person to give security by bond, or deposit or otherwise to the satisfaction of the Commissioner for the due return of, and payment of income tax on, the income derived by that person.

(2) A person who fails to give security when required to do so under this section shall be guilty of an offence.

Penalty: Not less than two pounds or more than one hundred pounds.

New section 164. Liquidators, &c.

“**164**—(1) Every person (in this section called ‘the trustee’)—

- I. Who is liquidator of any company which is being wound up :
- II. Who is receiver for any debenture-holders, and has taken possession of the assets of a company : or
- III. Who is agent for a non-resident and has been required by his principal to wind up the business or realise any assets of his principal—

shall, within fourteen days after he has become liquidator, or after he has so taken possession of assets, or after he has been so required by his principal, give notice thereof to the Commissioner.

(2) The Commissioner shall, as soon as practicable thereafter, notify to the trustee the amount which appears to the Commissioner to be sufficient to provide for any tax which then is or will thereafter become payable by the company or principal, as the case may be.

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(3) The trustee—

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- (a) Shall not, without the leave of the Commissioner, part with any of the assets of the Company or principal until he has been so notified :
- (b) Shall set aside out of the assets available for the payment of the tax assets to the value of the amount so notified, or the whole of the assets so available if they are of less than that value : and
- (c) Shall, to the extent of the value of the assets which he is so required to set aside, be liable as trustee to pay the tax.

(4) If the trustee fails to comply with any provision of this section (or fails as trustee duly to pay the tax for which he is liable under subsection (3) hereof), he shall, to the extent of the value of the assets of which he has taken possession, and which were available at any time for the payment of tax, be personally liable to pay the tax, and shall be guilty of an offence.

Penalty : Not less than one pound or more than fifty pounds.

(5) Where more than one person is the trustee, the obligations and liabilities attaching to the trustee under this section shall attach to those persons jointly.

“**165** The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having made full, complete, and accurate returns :—

When tax not paid during life-time. New section 165.

- I. The Commissioner shall have the same powers and remedies against the trustees of the estate of the taxpayer in respect of the taxable income of the taxpayer as he would have against the taxpayer if the taxpayer were still living :
- II. The trustees shall make such returns as the Commissioner requires for the purpose of an accurate assessment :
- III. The trustees shall be subject to additional tax to the same extent as the taxpayer would be subject to additional tax if he were still living :
 Provided that the Commissioner may in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof : and
- IV. The amount of any tax payable by the trustees shall be a first charge on all the taxpayer's estate in their hands.

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A.D.1935. Provision
 ——— for payment
 New section of tax by
 166. trustees of
 deceased
 person.

“**166**—(1) Where, at the time of a person's death, tax has not been assessed and paid on the whole of the income derived by that person up to the date of his death, the Commissioner shall have the same powers and remedies for the assessment and recovery of tax from the trustees of that person's estate as he would have had against that person, if that person were alive.

(2) The trustees shall furnish a return of any income derived by the deceased person in respect of which no return has been lodged by him.

(3) Where the trustees are unable or fail to furnish a return, the Commissioner may make an assessment of the amount on which, in his judgment, tax ought to be levied, and the trustees shall be liable to pay tax as if that amount were the taxable income of the deceased.

New sec-
 tion 167. Commis-
 sioner may
 collect tax
 from person
 owing
 money to
 taxpayer.

“**167**—(i) The Commissioner may, by notice in writing (a copy of which shall be forwarded to the taxpayer at his last place of address known to the Commissioner), require—

(a) Any person by whom any money is due or accruing or may become due to a taxpayer :

(b) Any person who holds or may subsequently hold money for or on account of a taxpayer :

(c) Any person who holds or may subsequently hold money on account of some other person for payment to a taxpayer : or

(d) Any person having authority from some other person to pay money to a taxpayer—

to pay to him, forthwith upon the money becoming due or being held, or within such further time as the Commissioner, Second Commissioner, or Deputy-Commissioner allows, the money or so much thereof as is sufficient to pay the amount due by the taxpayer in respect of any tax and of any fines and costs imposed upon him under this Act.

(2) Any person who fails to comply with any notice under this section shall be guilty of an offence.

Penalty : Fifty pounds.

(3) Where the amount payable to the taxpayer by the person so notified is less than the amount due by the taxpayer, that person shall pay to the Commissioner in reduction of the amount so due the amount payable by that person to the taxpayer.

(4) Any person making any payment in pursuance of this section shall be deemed to have been acting under the authority of the taxpayer and of all other persons concerned and is hereby indemnified in respect of such payment.

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(5) If the Commissioner receives any payment in respect of the amount due by the taxpayer before payment is made by the person so notified, he shall forthwith give notice thereof to that person.

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(6) In this section 'tax' includes any judgment debt and costs in respect of any tax; and 'person' includes the Crown.

"168 Where several persons are in receipt of income for or on behalf of a non-resident or a person absent from this State, the Commissioner, if it appears to him to be expedient to do so, may consolidate all or any of the assessments thereof, and declare any one of such persons to be the agent of the non-resident or absent person in respect of the consolidated assessment, and require him to pay income tax on the amount thereof, and thereupon the person so declared to be agent shall be liable to pay the tax.

Consolidation of assessments. New section 168.

"169—(1) Where, in respect of the estate of any deceased taxpayer, probate has not been granted or letters of administration have not been taken out within six months of his death, and tax has not been assessed and paid out on the whole of the income derived by that person up to the date of his death, the Commissioner may make an assessment of the amount of tax payable in respect of that income.

Where no administration. New section 169.

(2) The Commissioner shall cause notice of the assessment to be published twice in a daily newspaper circulating in the State in which the taxpayer resided.

(3) Any person claiming an interest in the estate of the taxpayer, may, within sixty days of the first publication of notice of the assessment, post to or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies, and the provisions of this Act relating to objections and appeals shall thereupon apply in relation to the objection as if the person so claiming an interest were the taxpayer.

(4) Subject to any amendment of the assessment by the Commissioner or by a court, the published notice of the assessment so made shall be conclusive evidence of the indebtedness of the deceased to the Commissioner.

(5) If at any time probate of the will of the deceased is granted to, or letters of administration of the estate are taken out by, a person, that person may, within thirty days after the date on which probate was granted or letters of administration were taken out, lodge an objection against the assessment, stating fully and in detail the grounds on which he relies, and the provisions of this Act relating to objections and appeals shall thereupon apply in relation to the objections as if that person were the taxpayer.

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- (b) By inserting the sub-heading—
“ Division II.—Collection and Recovery.”
 (before section ninety-four):
- (c) By deleting—
- (i) “ tax ” (in the first line of section ninety-four):
 - (ii) “ Specified ” to “ ninety-four ” and substituting “ prescribed ” (in section one hundred and one A):
 - (iii) “ the proviso ” to “ and one ” (in sections one hundred and three and one hundred and seven respectively):
 - (iv) “ and constables ” and “ or constable ” (in section one hundred and six): and
- (d) By renumbering sections ninety-four to one hundred and nineteen (where not repealed), as sections one hundred and seventy to one hundred and ninety-three:

Section
120.

X. As to section one hundred and twenty thereof—

- (a) By inserting “ (1) ” (at the beginning):
- (b) By inserting after paragraph x. (in alignment with the commencement), “ and generally for the purposes of this Act ”; and the following new subsection (2)—
 “ (2) Any form prescribed as aforesaid may require a taxpayer to furnish to the Commissioner particulars of—
- i. All property owned, occupied, used or enjoyed by him, the value of any such property, and the purpose for which the same is used or occupied: and
 - ii. All purchases, sales, and other transactions effected or carried out by him of, or in connection with, any property.”: and
- (c) By renumbering the section as one hundred and ninety-four:

Section
122.

XI. By renumbering section one hundred and twenty-two as one hundred and ninety-five:

Part X.

XII. As to Part X. thereof—

- (a) By deleting “ Supplemental ” (in the heading) and substituting—
“ PENAL PROVISIONS AND PROCEDURE.
Division I.—Offences.”:
- (b) By deleting—
- (i) “ **123c** ” (in section one hundred and twenty-three) and substituting “ one hundred and ninety-nine ”:

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- (ii) “**101a**” (in section **123a**) and substituting “this Act”:
 - (iii) “one hundred and twenty-three” (in the second line of section **123b**) and substituting “two hundred”:
 - (iv) “on summary” to “Act” (in section one hundred and twenty-seven) and substituting “to a penalty of ten pounds”:
 - (v) “for every” to “continues” (in section one hundred and twenty-eight) and inserting “daily” (before “penalty” in the preceding line); and deleting “and such” to “thereof”:
 - (vi) “the preceding section” and substituting “section two hundred and eight”; and “on conviction” to “offences” and substituting “be liable to” (in section one hundred and thirty-three):
- (c) By transposing section one hundred and thirty-three to follow next after section one hundred and twenty-eight and inserting thereafter—
- “ Division II.—Procedure and Evidence.” :*
- (d) By deleting “may be” to “print” (secondly occurring) in section one hundred and thirty-four and substituting “shall be in writing”:
- and
- (e) By renumbering sections one hundred and twenty-three to one hundred and forty (as rearranged and where not repealed) as one hundred and ninety-six to two hundred and fifteen :
- XIII. By inserting after section two hundred and fifteen as renumbered the following new heading and sections two hundred and sixteen to two hundred and twenty-seven :—

New Part
XI.**“ PART XI.***Miscellaneous.*

“ **216** Every company carrying on business in this Public State, or deriving in this State income from property, shall officer of at all times, unless exempted by the Commissioner, be company. represented for the purposes of this Act by a public officer being a person residing in this State and duly appointed by the Company or by its duly authorised agent or attorney. With respect to every such company and public officer the following provisions shall apply—

New section
216.

1. The company shall appoint a public officer within three months after the company commences to carry on business or derive income in this State :

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- ii. The company shall keep the office of the public officer constantly filled :
- iii. No appointment of a public officer shall be deemed to be duly made until after notice thereof in writing, specifying the name of the officer and an address for service upon him has been given to the Commissioner :
- iv. If the company fails to duly appoint a public officer when and as often as such appointment becomes necessary, it shall be guilty of an offence :
Daily penalty : Two pounds :
- v. Service of any document at the address for service, or on the public officer of the company, shall be sufficient service upon the company for all the purposes of this Act or the regulations, and if at any time there is no public officer then service upon any person acting or appearing to act in the business of the company shall be sufficient :
- vi. The public officer shall be answerable for the doing of all such things as are required to be done by the company under this Act, and, in case of default, shall be liable to the same penalties :
- vii. Everything done by the public officer which he is required to do in his representative capacity shall be deemed to have been done by the company. The absence or non-appointment of a public officer shall not excuse the company from the necessity of complying with any of the provisions of this Act, or from any penalty for failure to comply therewith, but the company shall be liable to the provisions of this Act as if there were no requirement to appoint a public officer :
- viii. Any notice given to or requisition made upon the public officer shall be deemed to be given to or made upon the company :
- ix. Any proceedings under this Act taken against the public officer shall be deemed to have been taken against the company, and the company shall be liable jointly with the public officer for any penalty imposed upon him :
- x. Notwithstanding anything contained in this section, and without in any way limiting, altering, or transferring the liability of the public officer of a company, every notice, process, or proceeding which under this Act or the regulations thereunder may be given to, served upon, or taken against the company or its public officer may, if the Commissioner thinks fit, be given to, served upon, or taken against any director, secretary, or other officer of the company,

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or any attorney or agent of the company and that director, secretary, officer, attorney, or agent shall have the same liability in respect of that notice, process, or proceeding as the company or public officer would have had if it had been given to, served upon, or taken against the company or public officer.

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“**217** With respect to every agent and with respect also to every trustee, the following provisions shall apply :—

Agents and New section 217.
trustees.

- i. He shall be answerable as taxpayer for the doing of all such things as are required to be done by virtue of this Act in respect of the income derived by him in his representative capacity, or derived by the principal by virtue of his agency, and for the payment of tax thereon :
- ii. He shall in respect of that income make the returns and be assessed thereon, but in his representative capacity only, and each return and assessment shall, except as otherwise provided by this Act, be separate and distinct from any other :
- iii. If he is a trustee of the estate of a deceased person, the returns shall be the same as far as practicable as the deceased person, if living, would have been liable to make :
- iv. He is hereby authorised and required to retain from time to time out of any money which comes to him in his representative capacity so much as is sufficient to pay the tax which is or will become due in respect of the income :
- v. He is hereby made personally liable for the tax payable in respect of the income to the extent of any amount that he has retained, or should have retained, under paragraph iv. hereof ; but he shall not be otherwise personally liable for the tax :
- vi. Where as one of two or more joint agents or trustees he pays any amount for which they are jointly liable, the other or others shall be liable to pay him each his equal share of the amount so paid :
- vii. For the purpose of insuring the payment of tax the Commissioner shall have the same remedies against attachable property of any kind vested in or under the control or management or in the possession of any agent or trustee, as he would have against the property of any other taxpayer in respect of tax.

“**218**—(1) With respect to every person having the receipt, control, or disposal of money belonging to a non-resident, who derives income from a source in the State or who is a shareholder, debenture-holder, or depositor in a

Person in receipt or control of money for non-resident. New section 218.

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company deriving income from a source in this State, the following provisions shall, subject to this Act, apply :—

- i. He shall when required by the Commissioner pay the tax due and payable by the non-resident :
- ii. He is hereby authorised and required to retain from time to time out of any money which comes to him on behalf of the non-resident so much as is sufficient to pay the tax which is or will become due by the non-resident :
- iii. He is hereby made personally liable for the tax payable by him on behalf of the non-resident to the extent of any amount that he has retained, or should have retained, under paragraph ii. hereof ; but he shall not be otherwise personally liable for the tax.

(2) Every person who is liable under any contract to pay money to a non-resident shall be deemed to be a person having the control of money belonging to the non-resident, and all money due by him under the contract shall be deemed to be money which comes to him on behalf of the non-resident

New section 219. Person paying royalty to a non-resident taxpayer.

“**219**—(1) Every person who is liable under any contract to pay money as or by way of royalty to a non-resident shall, before making any payment to or on behalf of that non-resident, furnish to the Commissioner a statement of the amount of royalty due to the non-resident, whether such royalty became due either before or after the passing of this Act, and ascertain from the Commissioner the amount, if any, to be retained in respect of tax due, or which may become due, by the non-resident.

(2) The provisions of section two hundred and nineteen shall apply in respect of payments of royalty referred to in this section.

New section 220. Payment of tax by banker.

“**220** Where any income of any person out of the State is paid into the account of that person with a banker, the banker shall be deemed to be the person's agent in respect of the money so paid so long as he is indebted in respect thereof

New section 221. Recovery of tax paid on behalf of another person.

“**221** Every person who, in pursuance of this Act, pays any tax for or on behalf of any other person may recover the same from that other person as a debt, together with the costs of recovery, in any court of competent jurisdiction, or may retain or deduct the same out of any money in his hands belonging or payable to that other person.

New section 222. Contribution from joint taxpayers.

“**222** Where two or more persons are jointly liable to pay tax they shall each be liable for the whole tax, but any of them who has paid the tax in respect of any of the taxable income—

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- i. Shall be entitled to receive by way of contribution from any other of such persons a sum bearing the same proportion to the tax as that other person's share of the taxable income bears to the whole taxable income : and
- ii. May recover that sum from that other person in any court of competent jurisdiction ; or may retain or deduct that sum out of any money in his hands belonging or payable to that other person.

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“ **223** Every contract, agreement, or arrangement made or entered into, orally or in writing, whether before or after the commencement of this Act, shall, so far as it has or purports to have the purpose or effect of in any ways directly or indirectly—

Contracts to evade tax void.

New section 223.

- i. Altering the incidence of any income tax :
- ii. Relieving any person from liability to pay any income tax or make any return :
- iii. Defeating, evading, or avoiding any duty or liability imposed on any person by this Act : or
- iv. Preventing the operation of this Act in any respect—
be absolutely void, as against the Commissioner, or in regard to any proceeding under this Act, but without prejudice to such validity as it may have in any other respect or for any other purpose.

“ **224**—(1) A covenant or stipulation in a mortgage given or executed after the thirty-first day of December, one thousand nine hundred and thirty-five, which has or purports to have the purpose or effect of imposing on the mortgagor the obligation of paying income tax on the interest to be paid under the mortgage shall be absolutely void.

Covenant by mortgagor to pay tax.

New section 224.

(2) A covenant or stipulation in a mortgage whenever given or executed, which has or purports to have the purpose or effect of including in or adding to the interest payable, in any specified circumstances, by the mortgagor, any amount in respect of income tax payable by the mortgagee upon the interest to be paid under the mortgage, shall be void to the extent only to which it has or purports to have that purpose or effect.

(3) Where, in any mortgage, provision is made for the reduction of the rate or amount of interest in the event of prompt payment of the interest or in any other circumstances, and for the rate or amount of such reduction to be diminished by or in proportion to any amount of income tax payable by the mortgagee the portion of the provision which provides for that diminution shall be void, and the reduction

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of the rate or amount of interest shall take effect as if the portion of the provision which provides for that diminution had not been inserted.

(4) Any provision in a mortgage by or under which it is provided that any income tax payable by the mortgagee, or any portion thereof shall or may be taken into account for the purpose of fixing, measuring, or calculating the rate of interest payable under the mortgage or any reduction or alteration of that rate shall, to the extent to which it provides for income tax to be so taken into account (but not otherwise), be void, whether the provision be in the form of a covenant or agreement to pay interest, or a proviso or a stipulation for an alternative, substituted, or reduced rate of interest in lieu of a higher rate payable by the mortgagor pursuant to any such covenant or agreement, or otherwise.

(5) For the purposes of this section 'mortgage' includes any charge, lien, or encumbrance to secure the repayment of money, and any collateral or supplementary agreement, whether in writing or otherwise, and whether or not it be one whereby the terms of any mortgage are varied or supplemented, or the due date for the payment of money secured by mortgage is altered, or an extension of time for payment is granted.

New section 225. Periodical payments in the nature of income.

“ **225** Where under any contract, agreement, or arrangement made or entered into orally or in writing, either before or after the commencement of this Act, a person assigns, conveys, transfers, or disposes of any property on terms and conditions which include the payment for the assignment, conveyance, transfer, or disposal of the property by periodical payments which, in the opinion of the Commissioner, are either wholly or in part really in the nature of income of that person, such of those payments as are derived in the year of income shall, to the extent to which they are in that opinion in the nature of income, be included in his assessable income.

New section 226. Tax Agents Board.

“ **226**—(1) The Governor may appoint a board to be called the Tax Agents' Board (hereinafter called 'the board') which shall consist of three persons of whom one shall be appointed chairman.

(2) The board shall hear and determine as prescribed applications by persons desiring registration as tax agents.

New section 227. Registration of tax agents.

“ **227**—(1) It shall not be lawful for any person other than a barrister or a solicitor to charge or receive any fee for or in relation to the preparation of any income tax return for a taxpayer, or for or in relation to the transaction

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of any business on behalf of a taxpayer in income tax matters, unless he is registered as a tax agent with the Commissioner: Provided that the Commissioner, upon being satisfied that the total income likely to be derived by a person as a tax agent does not exceed ten pounds per annum, may grant a certificate of exemption to that person. The certificate of exemption shall have a currency of one year, but may be annually renewed, and during the currency of a certificate of exemption granted to him the person shall be exempt from the provisions of this section.

(2) Only such persons as satisfy the board as to their qualifications and fitness so to act shall be registered as tax agents.

(3) Where a partnership carries on the business of tax agents it shall be sufficient if one partner is registered on behalf of the partnership. Where a registered company carries on the business of tax agents it shall be sufficient if a person appointed in writing by the company is so registered on behalf of the company.

4) Each registered tax agent shall pay to the Commissioner an annual fee of one pound.

(5) The Board may cancel the registration of any tax agent upon it being proved to the satisfaction of the board that the tax agent or his representative has prepared a return which is false in any material particular, or has persistently neglected his principal's business, or if in the opinion of the board he is not a fit or proper person to be so registered.

(6) If through the neglect of a registered tax agent a penalty or an additional tax is charged against a taxpayer, the registered tax agent shall be liable to pay that penalty or additional tax, and the amount may be recovered by his principal from him by process of law, but this provision shall not be construed so as to exonerate the taxpayer from his liability.

(7) For the purpose of this section the board may by notice in writing require any person—

- i. To furnish it with such information as it may require: and
- ii. To attend and give evidence before it and may require him to produce all books, documents, and other papers whatever in his custody or under his control in relation to any matter before it—

and the board may require the information or evidence to be given on oath, and either orally or in writing, and for that purpose the chairman of the board may administer an oath:

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Section
143.New sec-
tions 228 to
231.

XIV. By deleting from section one hundred and forty-three—

(i) “all” to “contrary”:

(ii) “information or”:

(iii) “laid” and substituting “made”: and

XV. By renumbering sections one hundred and forty-one to one hundred and forty-four as two hundred and twenty-eight to two hundred and thirty-one.

Application of this Act. **4** The amendments effected by this Act shall have effect in relation to all assessments of income in respect of the year of income ending on the thirtieth day of June, one thousand nine hundred and thirty-six.

*Land and Income Taxation.***THE SCHEDULE.**

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Regnal Year and Number.	Title of Act.	Extent of Repeal.
1 Geo. V. No. 47	<i>The Land and Income Taxation Act 1910</i>	Sections 2, 3, 4, 5, 27-69, 92, 93, 97, 98, 114, 121, 121a, 126, and 145
2 Geo. V. No. 35	<i>The Land and Income Taxation Act 1911</i>	The whole Act
3 Geo. V. No. 35	<i>The Land and Income Taxation Act 1912</i>	The whole Act
5 Geo. V. No. 23	<i>The Land and Income Taxation Act 1914</i>	The whole Act
6 Geo. V. No. 40	<i>The Land and Income Taxation Act 1915</i>	The whole Act
9 Geo. V. No. 63	<i>The Land and Income Taxation Act 1918</i>	The whole Act
12 Geo. V. No. 46	<i>The Land and Income Taxation Act 1921</i>	The whole Act
14 Geo. V. No. 13	<i>The Land and Income Taxation Act 1923</i>	The whole Act
14 Geo. V. No. 43	<i>The Land and Income Taxation Act 1924</i>	The whole Act
15 Geo. V. No. 70	<i>The Land and Income Taxation Act (No. 2) 1924</i>	The whole Act
17 Geo. V. No. 18	<i>The Land and Income Taxation Act 1926</i>	The whole Act
18 Geo. V. No. 65	<i>The Land and Income Taxation Act (No. 1) 1927</i>	The whole Act
18 Geo. V. No. 66	<i>The Land and Income Taxation Act (No. 2) 1927</i>	The whole Act
21 Geo. V. No. 8	<i>The Land and Income Taxation Act 1930</i>	The whole Act
21 Geo. V. No. 23	<i>The Land and Income Taxation Act (No. 2) 1930</i>	The whole Act
22 Geo. V. No. 44	<i>The Land and Income Taxation Act 1931</i>	The whole Act
23 Geo. V. No. 1	<i>The Land and Income Taxation Act 1932</i>	The whole Act
24 Geo. V. No. 30	<i>The Land and Income Taxation Act 1933</i>	The whole Act
25 Geo. V. No. 53	<i>The Land and Income Taxation Act 1934</i>	The whole Act
25 Geo. V. No. 77	<i>The Land and Income Taxation Act (No. 2) 1934</i>	The whole Act

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