

T A S M A N I A.



1938.

ANNO SECUNDO

GEORGII VI. REGIS.

No. 56.

## ANALYSIS.

|                                   |                       |
|-----------------------------------|-----------------------|
| 1. Short title.                   | Section 72.           |
| 2. Amendment of 1 Geo. V. No. 47. | Repeal of section 79. |
| Section 6.                        | Section 110.          |
| Section 10.                       | Section 113.          |
| Section 28.                       | Section 115.          |
| Section 30.                       | Section 124.          |
| Section 32.                       | Section 126.          |
| Section 51.                       | Section 133.          |
| Section 56.                       | New section 170A.     |
| Section 64.                       | Section 176.          |

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AN ACT to amend the *Land and Income Taxation Act 1910.* [16 December, 1938.]

A.D.  
1938.

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 1938.* Short title.

*Land and Income Taxation.*

A.D. 1938.

Amendment  
of 1 Geo. V.  
No. 47.  
Section 6.  
Section 10.

**2** The Principal Act is hereby amended—

I. By expunging subsection (3) of section six thereof:

II. By inserting after paragraph xi. of section ten thereof the following new paragraph xii.—

“xii. Any land used exclusively as a school or college registered in accordance with the provisions of Part IV. of the *Education Act 1932*, including any playground belonging to any such school or college and used in connection therewith; and any land owned and occupied by the Young Men's Christian Association or the Young Women's Christian Association; but this paragraph shall not apply to any commercial college registered as aforesaid:”

Section 28.

III. By deleting the words “but this” to “literature” at the end of paragraph ii. of section twenty-eight thereof:

Section 30.

IV. By inserting after subsection (1) of section thirty thereof the following new subsection (1A)—

“(1A) Paragraphs vii. and viii. of subsection (1) hereof shall not extend to or include amounts received by way of compensation under the *Workers' (Occupational Diseases) Relief Fund Act 1928*, or in respect of permanent injury sustained by the taxpayer”:

Section 32.

V. By expunging paragraphs i. and ii. of subsection (3) of section thirty-two thereof and substituting therefor the following new paragraphs i. and ii.—

i. The market value of the property or livestock on the day of its disposal: or

ii. 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:

*Land and Income Taxation.*

## VI. As to section fifty-one thereof—

A.D. 1938.

(a) By inserting “of money, or of property, other than money, which was purchased by the taxpayer within twelve months immediately preceeding the making of the gift” (after “amount” and within the brackets in paragraph 1. of subsection (1)) :

Section 51.

(b) By inserting at the end of subsection (1) the following new paragraph VII.—

“VII. Payments which the taxpayer is required to make to any fund established by any Act or Commonwealth Act relating to insurance for the benefit of the taxpayer or of his spouse or children,” : and

(c) By expunging subsection (2) and substituting therefor the following new subsection (2) —

“(2) For the purposes of this section the value of a gift of property other than money shall be the value of the property at the time of making the gift, or the amount paid by the taxpayer for the property, whichever is the less.” :

## VII. By inserting in section fifty-six thereof—

Section 56.

(a) “(1)” at the commencement, : and

(b) “(2) Subject to the provisions of subsection (3) of section thirty-two, where a lease is sold in conjunction with other assets the amount of the consideration attributable to the lease shall be—

1. The amount, if any, specifically allocated to the lease in any contract of sale or arrangement, if the Commissioner is satisfied that such amount is fair and reasonable : or

*Land and Income Taxation.*

A.D. 1938.

ii. In any other case, the amount determined by the Commissioner" (at the end) :

Section 64.

VIII. As to section sixty-four thereof—

- (a) By deleting "and the sale was effected in this State" in subsection (1) : and
- (b) By inserting "unless the contrary appears" (after "deemed" in paragraph ii. of subsection (3) ) :

Section 72.

IX. By deleting from subsection (1) of section seventy-two thereof the words "had" (in line 7) to "assessed" (in line 12) and substituting therefor the words and numerals—

"had been—

- i. Received by the partner who has the real and effective control of that share : or
- ii. Divided between such of the partners who have the real and effective control of that share, in proportion to the extent to which, in the opinion of the Commissioner, they have such control—

as the case may be, 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 " :

Repeal of section 79.

X. By repealing section seventy-nine thereof :

Section 110.

XI. By inserting after subsection (3) of section one hundred and ten thereof the following new subsection (4)—

"(4) Where any taxpayer resident in this State—

- i. Carries on mining business in this State : and
- ii. Sells outside this State any mining product produced in this State—

*Land and Income Taxation.*

he shall be entitled in relation to the income tax payable by him in respect of income attributable to the profits arising from such sale to the like deduction as is provided by subsection (1) hereof insofar as such deduction shall not reduce the amount of such tax to less than eighty-five per centum of the amount which, but for this provision, would be payable in respect thereof”:

A.D. 1938.

XII. By inserting at the end of subsection (1) of section one hundred and thirteen thereof the words “and except in the case of the taxable income of a company.”:

Section 113.

XIII. By expunging subsection (3) of section one hundred and fifteen and substituting therefor the following new subsection (3)—

Section 115.

“(3) Where in any year of income the nett income of a taxpayer from all sources exceeds one hundred and four pounds, and, in respect of the whole or any part thereof, wages tax has not been paid as provided by section one hundred and sixteen or one hundred and seventeen, the same shall be assessed for special income tax under this Part in accordance with the following rules—

i. The whole of such income shall be aggregated, and the tax assessed as if such income were from one source:

ii. There shall be deducted from the amount of the gross tax shown in such assessment such proportion of that amount as relates to the proportion, if any, of the aggregated income—

(a) In respect of which the Commissioner is satisfied that wages tax has been paid as provided by section one hundred and sixteen or section one hundred and seventeen: or

(b) Which is excepted from further taxation under the provisions of subsection (3) of section one hundred and thirteen:

*Land and Income Taxation.*

A.D. 1938.

- iii. If such nett income does not exceed one hundred and eighty-two pounds, there shall be deducted from the amount of such gross tax a sum equal to the wages tax calculated on the proportion, if any, of such nett income which comprises salary or wages after excluding from such proportion all amounts received by the taxpayer (whether from one employer or more) as salary or wages at a rate exceeding in the aggregate three pounds ten shillings a week, and in respect of which wages tax is not shown to have been paid : and
- iv. If the taxpayer claims that due allowance has not been made in the assessment for any sum paid by him as wages tax, the taxpayer within thirty days after the notice of assessment is served on him, or such further time as the Commissioner may allow, shall satisfy the Commissioner as to the amount so paid by him, and in default thereof the Commissioner may determine what amount, if any, shall be deducted from the amount of the tax assessed in respect thereof, and the decision of the Commissioner shall be final—

and the taxpayer shall pay the balance then remaining, whether or not any particular portion of such income would be exempt from special income tax if it comprised the whole income of the taxpayer.”

Section 124.

- XIV. By inserting at the end of section one hundred and twenty-four thereof the following new subsection (5)—

“ (5) Where a special assessment is made by the Commissioner under this section for a year of tax in respect of which rates have not been declared by Parliament such assessment shall be based, and the tax shall be payable, in accordance with the relevant rates declared in respect of the immediately preceding year of tax ” :

*Land and Income Taxation.*

XV. By inserting in section one hundred and twenty-six thereof the following new subsection (3)— A.D. 1938.  
Section 126.

“(3) Where any taxpayer has paid income tax in respect of any year of tax and subsequently to such payment the rates declared by Parliament in respect of that year are increased or reduced the taxpayer shall be—

i. Liable to pay, and shall pay, to the Commissioner forthwith: or

ii. Entitled to receive a refund of—

the difference between the amount of tax so paid and the amount which would have been payable by him if such increased rate, or reduced rate as the case may be, had been in force at the time of such payment.”

XVI. By inserting after subsection (2) of section one hundred and thirty-three thereof the following new subsections (3) and (4)— Section 133.

“(3) In lieu of appointing a Court of Review as provided by subsection (1) hereof, the Governor at any time may—

i. Make arrangements with the Governor-General of the Commonwealth for the performance by the Board of Review appointed under the *Commonwealth Income Tax Assessment Act 1936*, or any Commonwealth Act replacing the same, of the functions of a Court of Review under this Act:

ii. Appoint the Chairman and members of such Board as a Court of Review under and for the purposes of this Act, with tenure of office conterminous with their tenure with the tenure of office under such Commonwealth Act: and

iii. Remove or suspend from office any such chairman or member upon his removal or suspension under such Commonwealth Act.

*Land and Income Taxation.*

A.D. 1938.

(4) While an arrangement made as provided by subsection (3) hereof is in force—

- i. Any reference in this Act to a court of review shall be construed as a reference to the Board of Review constituted under such arrangement :
- ii. The provisions of section one hundred and forty-two shall not apply to the Board of Review : and
- iii. At all sittings of the Board—
  - (a) Any two members shall form a quorum :
  - (b) The decision of the majority shall prevail : and
  - (c) The chairman shall have a deliberative vote only—

and in other respects the procedure of the Board shall be as may be prescribed or as the Board may determine.”

XVII. By inserting after section one hundred and seventy the following new section one hundred and seventy A—

New section  
170A.

“**170A**—(1) Upon the application of any person about to leave Tasmania and proceed out of Australia, the Commissioner may issue a certificate—

- i. That that person is not liable to pay income tax : or
- ii. That arrangements have been made to the satisfaction of the Commissioner for the payment of all income tax that is or may become payable by that person.

(2) Unless and until such certificate has been presented to the office of the owner or charterer, or of the representative of the owner or charterer, of the ship or aircraft by which that person intends to leave Tasmania and proceed out of Australia, at the port or place at which his passage is to be booked, an authority for that person to travel by that ship or aircraft, shall not be issued in Tasmania by the owner or charterer



*Land and Income Taxation.*

or a representative or employee of the owner or charterer. A.D. 1938.

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

(3) The owner or charterer, or the representative of the owner or charterer of every ship, or aircraft which takes passengers on board at any port or place in Tasmania shall, on the first working day after the departure of the ship or aircraft from that port or place, lodge all certificates so presented, at the office of the Commissioner, together with a list showing the name and last known address in Tasmania of every person, other than members of the crew and staff of the ship or aircraft, who travelled on the ship or aircraft.

Penalty: Not less than ten pounds or more than one hundred pounds."

XVIII. As to section one hundred and seventy-six thereof— Section 176.

(a) By deleting the words "income" to "on" in the first line and substituting therefor the words "land tax or income tax, or any additional tax payable on": and

(b) By inserting "land tax or" before "income tax" in the fifth, seventh, and twelfth lines respectively.

