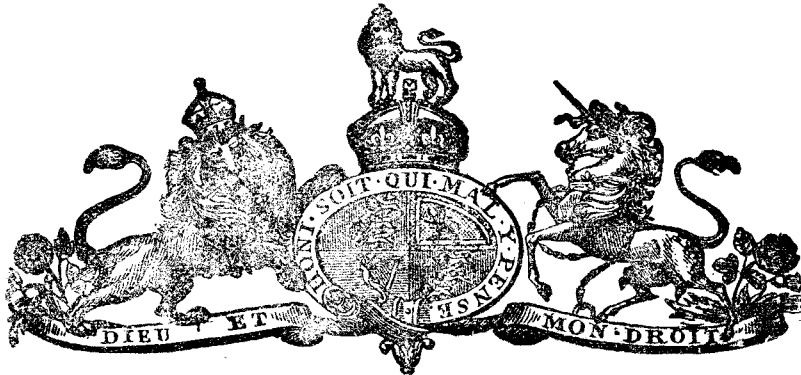


TASMANIA.



1934.

ANNO VICESIMO QUINTO
 GEORGII V. REGIS.

No. 77.

ANALYSIS.

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| <p>1. Short title.</p> <p>2. Amendment of 1 Geo. V. No. 47.
 Section 4.
 Section 47.
 New section 49A.
 Income of savings banks.
 Section 50.
 Other companies.
 New section 51.
 Assessment in respect of ship or aircraft owners not residing in this State.
 Liability to tax of master of ship or person in charge of aircraft.
 New sections 51A to 51F (inclusive).
 Certain transactions of non-resident to be deemed to constitute carrying on business in this State.</p> | <p>Taxable amount of income of non-resident company carrying on mercantile business in the State.
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 Section 53.</p> |
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3. Application of Act.

 AN ACT to amend the *Land and Income Taxation Act 1910.* [13 December, 1934.]

A.D.
 1934.

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 (No. 2) 1934.*

Short title.

Land and Income Taxation (No. 2).

A.D. 1934. Section 4.

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

2 The Principal Act is hereby amended—

I. As to section four—

(a) By expunging the definition of “Agent” and substituting therefor the following definition:—

“‘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”:

(b) By inserting after the definition of “Agent” the following definition:—

“‘Agency’ shall have a signification corresponding with that of ‘Agent’ as hereinbefore defined.”:

Section 47.

II. By inserting after the word “society” in the second line of subsection (4) of section forty-seven the words “or to any bank of savings established, or to be hereafter established, under the Act of Council 12 *Victoriae* No. 1”:

New section 49A.

Income of
savings
banks.

III. By inserting after section forty-nine the following new section forty-nine A:—

“**49A** The taxable amount of the income of any bank for savings established, or to be hereafter established, under the Act of Council 12 *Victoriae* No. 1 shall be assessed at an amount equal to five pounds per centum of the amount of its reserve fund on the thirtieth day of June in the financial year immediately preceding the year of assessment.”:

Land and Income Taxation (No. 2).

- IV. By expunging paragraphs v., vi., vii. of section fifty and substituting therefor the following new paragraph v. — Section 50. A.D. 1934.

“ v. The taxable amount of the income of every other such company, not being a company which carries on, or is deemed to carry on, mercantile business, shall be the net income of the company from its business in this State during the year ending on the thirtieth day of June in the financial year immediately preceding the year of assessment, such net income to be determined as provided by section fifty-three: Provided that, where such net income 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.”: Other companies.

- V. By repealing section fifty-one and substituting therefor the following new section fifty-one:— New section 51.

“ **51**—(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 ended on the thirtieth day of June in the financial year immediately preceding the year of assessment. Assessment in respect of ship or aircraft owners not residing in this State.

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

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New sections 51A to 51F (inclusive).

Certain transactions of non-resident to be deemed to constitute carrying on business in this State.

Taxable amount of income of non-resident company carrying on mercantile business in the State.

Agent to make returns, be assessed, and be liable to tax.

“(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.”:

VI. By inserting after section fifty-one the following new sections fifty-one A to fifty-one F (inclusive):—

“**51A** 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 “agency” as defined in section four, the principal shall be deemed 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.

“**51B**—(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, or is deemed to carry on, mercantile business in this State shall be the amount of the net income derived or deemed to be derived from, or received in, this State by such company during the year ending on the thirtieth day of June in the financial year immediately preceding the year of assessment, which shall be ascertained as provided by section fifty-three.

“(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 financial year ending on the thirtieth day of June immediately preceding the year of assessment, shall be deemed to be income accruing to the principal in the financial year so ending from a business carried on by him in this State.

“(3) If any such company has not a public officer, every such agent as is referred to in subsection (2) hereof, 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,

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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: Provided that 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 by section thirty-four.

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“(4) The Governor may, by regulations, prescribe for the making, obtaining, adjusting, and settling of returns by or with any such agent as is referred to in subsection (2) hereof, in such manner and form, and with such particulars and proof as the Governor may think fit, and the making, completing, and enforcing of assessments under this section, and otherwise generally for the purpose of giving effect to the provisions hereof. Governor may make regulations.

“(5) If in any year of assessment the Commissioner— Alternative method of assessment.

- i. Is of opinion from the information available to him that the net 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. Is 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 net 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 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, and the company shall be liable to income tax in respect of such assessment, excepting in so far as it establishes an objection that the assessment is excessive.

“51C All the provisions of section fifty-one B of this Act for assessing the taxable income of a company which is not resident in this State and which carries on or is deemed to carry on mercantile business in this State shall, *mutatis mutandis*, apply as well to the assessment of the taxable amount of the income of a person, not being a company, and not being resident in this State, and who carries on or Application of section 51B to persons other than companies.

Land and Income Taxation (No. 2).

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is deemed to carry on in this State such business as aforesaid, as to the assessment of the taxable amount of the income of such company :

Provided, however, that—

- i. 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) of the said section in any case in which the total amount so arising is less than five hundred pounds : and
- ii. Where the taxable amount of the income of such person is assessed in accordance with the provisions of subsection (5) of the said section such taxable amount shall not be subject to any exemption or deduction under any other provision of this Act.

“ 51D—(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 ending on the thirtieth day of June in the financial year immediately preceding the year of assessment, 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 :

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
- (b) Has proved to the satisfaction of the Commissioner that he has paid any sum

Rebate of tax in the case of certain manufacturers.

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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—

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shall be entitled to deduct, from the amount of income tax which would otherwise be payable by him under this Act the sum so paid, or the amount payable under this Act 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 ordinary income tax 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 ordinary income tax which would be payable under this Act upon an amount equal to the whole of the taxpayer's income of the class in respect of which the deduction is applicable ; and, for the purposes of this section, ordinary income tax shall mean income tax other than special income tax payable under the *Land and Income Taxation Act 1930.* 21 Geo. V. No. 8.

“51E When 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. Liability to tax of non-resident person in certain circumstances.

“51F—(1) After the expiration of three months from the first day of January, one thousand nine hundred and thirty-five, it shall not be lawful for any person who is not permanently resident in this State, or for a company not having a permanent office or place of business therein, to act as an agent in this State on behalf of a non-resident person or company carrying on mercantile business in this Certain agents to be licensed by Commissioner.

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State, unless such first mentioned person or company holds a licence from the Commissioner so to do.

Penalty : Twenty pounds.

“(2) Such licence as aforesaid may be in the prescribed form, shall remain in force for a period of twelve months from the date thereof, and shall be issued without fee by the Commissioner on application to him.”: and

Section 53.

VII. By deleting all the words of section fifty-three preceding paragraph i. thereof and substituting therefor the following words :—

“The taxable amount of the income of every taxpayer other than the taxpayers specified in sections forty-eight, forty-nine A, and fifty (excepting paragraph v. of section fifty), and in section fifty-one shall be ascertained as follows :—”

Application
of Act.

3 The amendments made by this Act shall apply to and in respect of assessments of income for the year ending on the thirtieth day of June, one thousand nine hundred and thirty-four, and in all subsequent years.