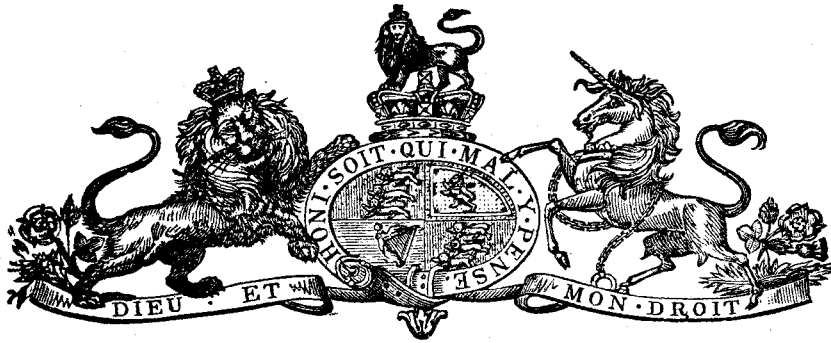


T A S M A N I A.



1895.

ANNO QUINQUAGESIMO-NONO

VICTORIÆ REGINÆ,

No. 20.

Amended by 60 Vict. No. 50

61 " " 5  
62 " " 50  
63 " " 25

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AN ACT to amend "The Income Tax Act, A.D. 1894." [21 October, 1895.] —

WHEREAS it is desirable to amend "The Income Tax Act, 1894," PREAMBLE. in the several particulars hereinafter mentioned :

Be it therefore 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 Income Tax Act, 1895." Short title.

2 In the construction of this Act, unless the context otherwise Interpretation. determines—

"The said Act" shall mean "The Income Tax Act, 1894:"

"Dividend" means every sum of money intended to be paid or distributed to or among any shareholders of or in any company, whether the same is derived from income or from capital, but shall not include any portion of capital previously contributed and subsequently repaid to the persons who subscribed the same and written off the capital account, nor any profits made or earned previous to the First day of January, One thousand eight hundred and ninety-six : Provided that the tax to which any such profits may have been liable under the said Act shall have been duly paid.

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A.D. 1895.  
Repeal.

**3** The Act mentioned in the Schedule hereto, to the extent mentioned therein, is hereby repealed, but such repeal shall not affect any liability incurred thereunder and payable at the date upon which this Act comes into operation.

Taxable amount  
how ascertained  
in certain cases.

**4** For the purpose of ascertaining the taxable amount of the income of any of the persons hereinafter mentioned, the income of any such person shall include :—

- I. The estimated annual value to the occupier of any dwelling-house or residence which is occupied by any person in connection with any office or employment or services filled or performed by him without payment of any rent for the same, and in respect of which he is not liable to pay any tax under "The Land Tax Act, 1888," or any amendment thereof :
- II. The estimated annual value of any quarters, or board and residence, and every amount received or receivable by way of extra salary, bonus, or emolument, and every allowance, benefit, or advantage of any kind, whether in money or otherwise, or of a like nature, or any modification or combination of any such benefit or advantage, granted, secured, or allowed to any person in respect of any office or employment or service filled or performed by him.

The sum that shall be included in the income of any person under this Section shall be deemed to be income from personal exertion.

Deductions  
allowed on  
income from  
personal  
exertion.

**5** Sub-sections VI. and VII. of Section Twenty-three of the said Act are hereby repealed, and the following Sub-sections shall be and be deemed to be and may be cited as Sub-sections VI. and VII. of Section Twenty-three of the said Act :—

"VI. Where the taxable amount of the income derived by any person from personal exertion in any year does not exceed the sum of £150 sterling, no Income Tax shall be payable by such person in respect of such income during that year.

Where the taxable amount of the income derived by any person from property in any year does not exceed the sum of £100 sterling, no Income Tax shall be payable by such person in respect of such income during the year":

"VII. Where the taxable amount of the income derived by any person from personal exertion in any year exceeds the sum of £150 but does not exceed the sum of £400, such person shall be entitled to deduct from such income by way of exemption the sum of £120.

Where the taxable amount of the income derived by any person from property in any year exceeds the sum of £100, but does not exceed the sum of £400, such person shall be entitled to deduct from such income by way of exemption the sum of £80."

In every case in which a person is in receipt of income from property and of income from personal exertion, one deduction only shall be made from the total income by way of exemption under the provisions of this Section ; and when the income derived from property is less than £100 and the total income does not exceed £150, the total

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income shall be exempt from taxation under this Act; and when the income from property is less than £100 and the total income exceeds £150, but does not exceed £400, the person in receipt thereof shall be entitled to deduct by way of exemption the sum of £120. A.D. 1895.

6 Section Twenty-four of the said Act is hereby repealed, and in lieu thereof the following shall be and be deemed to be and may be cited as Section Twenty-four of the said Act, that is to say:— Substitution for Sect. 24 of 58 Vict. No. 16.

“24 For the purpose of ascertaining the taxable amount of the income of any taxpayer, he shall be entitled to deductions in respect of the annual amount of— Deductions allowed generally.

- i. Losses, outgoings, and expenses actually incurred by the taxpayer in the production of his income:
- ii. Any sum ~~payable~~ by the taxpayer by way of interest upon any money borrowed by him: <sup>“paid”</sup>
- iii. Sums expended for the supply, repair, or alteration of implements, utensils, and articles employed by the taxpayer for the purposes of his trade; such sums shall be estimated on the annual average of the sums expended for such purposes during the Three years preceding the year of assessment, or if such average cannot be struck, the amount to be deducted shall be the sum expended for such purposes during the year immediately preceding the year of assessment:

Provided that where in any income derived from trade set apart by the taxpayer by way of a fund to cover the depreciation of such implements, utensils, and articles, or to be devoted to any underwriting account, the amount so set apart for the year immediately preceding the year of assessment may, subject to the approval of the Commissioner, be deducted instead of the sums so expended as aforesid:

- iv. Where a Company, whether registered in *Tasmania* or elsewhere, in which a taxpayer has shares is in liquidation, all sums actually paid by such taxpayer by way of calls on contribution to such Company shall be deducted from the net amount of income the produce of property, but if such income do not amount to the sum of such calls or contribution the difference or, if there be no net income, the produce of property, then the whole of the sum of such calls or contribution shall be deducted from the income derived from personal exertion.

Where a taxpayer, either alone, or with other persons, carries on, or is interested as a partner in, more than one trade, and makes a profit in one or more of such trades, and a loss in another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.”

7 Notwithstanding anything to the contrary contained in the said Act or in this Act, no deduction shall be made from the total amount of any taxpayer's income on account of loss or diminution of capital invested or employed upon any security or in any trade, nor for any sum used in improvement of any premises occupied for the purposes of any trade, manufacture, or concern, nor on account or pretence of any interest which might have been paid on such sum if laid out at interest. No deduction on account of loss of capital, &c.

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Appreciation in value of any property, unless sold by a trader, not income.

**8** Any appreciation in the value of any property shall not be included in the income of the owner thereof under any of the provisions of the said Act, nor any profit made by the sale or transfer of any property which is not sold or transferred in the course of carrying on any trade.

This Section shall also apply to any appreciation prior to the passing of this Act.

Assessment of income of trader where no books, &c., are available.

**9** In every case in which the income derived by any person from carrying on any trade cannot be assessed to the satisfaction of the Commissioner owing to the absence of any books, papers, or documents relating to such income, the taxable amount of such income shall in the discretion of the Commissioner be :—

- i. An amount equal to Two Shillings in the Pound upon the capital value of all personal property used by him in the production of income; or
- ii. An amount equal to Forty Pounds per centum upon the capital value of the house in which he resides; or
- iii. An amount equal to the annual value of the premises in which such person carries on the trade from which he derives the income to be assessed under this Section.

Every such assessment shall be subject to objection and review under Parts V. and VI. of the said Act.

Taxpayer having income from property and losing by trade.

**10** If a taxpayer having an income the produce of property carries on one or more trades, either alone or otherwise, and makes a loss thereon, such loss shall be deducted from his income the produce of property in calculating the taxable amount of the income of such taxpayer.

Income Tax payable by *cestuis que trust* when residing in *Tasmania*.

**11** Notwithstanding anything contained in the said Act, Income Tax shall not be payable by any Trustee in respect of any income received by him and payable to any person beneficially entitled thereto who is resident in *Tasmania* and who is not an infant, lunatic, or under any legal disability, but Income Tax shall be payable in respect of such income by the person receiving the same and beneficially entitled thereto.

Treasurer to pay tax in respect of interest on Debentures, &c. payable by him.

**12** The Treasurer shall, on behalf of any person entitled to receive any interest payable by the Government of *Tasmania* upon any Debenture or Treasury Bill redeemable in *Tasmania*, or any Local Inscribed Stock, pay to the Commissioner the amount of Income Tax thereon, and may deduct from such interest payable to such person the amount of Income Tax paid or payable thereon.

Company to pay tax in respect of interest on money borrowed on Debentures, &c.

**13** Every Company which pays any interest upon any money lent to such Company by way of debentures shall, on behalf of the person entitled to receive such interest, pay to the Commissioner the amount of Income Tax thereon, and may deduct from such interest payable to such person the amount of Income Tax paid or payable thereon. Provided that nothing contained in this Section shall apply to any Savings Bank.

Income received as interest on such Debentures, &c., to be deducted.

**14** Income received by any taxpayer as interest upon any Debenture, Treasury Bill, or Local Inscribed Stock, or upon any money lent to any Company, and upon which interest Income Tax has been paid by

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the Treasurer of *Tasmania* or the Company, shall be deducted from the total amount of such taxpayer's income. A.D. 1895.

**15** The tax payable under the provisions of the said Act in respect of so much of the income of every Company having its head office or chief place of business in *Tasmania* as is represented or contained in dividends declared, or ascertained, or becoming due to the shareholders of such Company shall, on and after the First day of *January*, One thousand eight hundred and ninety-six, be paid in the manner and at the times hereinafter mentioned; that is to say—

Companies to pay tax on portion of income represented by dividends at time when dividends declared.

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, paid, or become due to any shareholders in such Company, shall, within Seven days from the time when such dividend has been declared, paid, or become due, forward to the Commissioner a Declaration under "The Statutory Declarations Act, 1837," 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, paid, or became due, and shall at the same time pay to the Commissioner Income Tax upon the amount of such dividend.

see 62 Vic No 50

**16** 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.

Dividends not to be distributed until tax paid.

**17** 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.

Company may deduct tax from amount of dividend.

see 62 V. No 50

**18** Sections Fifteen, Sixteen, and Seventeen of this Act shall not apply to any Building Society registered under "The Building Societies Act," but any such Society shall continue liable to pay tax on its income as before the passing of this Act.

Saving as to Building Societies.

**19** If any Company makes default in complying with any provision of this Act, such Company shall incur a penalty not exceeding Five Pounds for every day during which such default continues; and the Public Officer of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Penalty on default by Company.

**20** The Commissioner may, once in every year, require any Company to furnish a return of the names and residences of the shareholders of the Company and the number of the shares held by them respectively, also a return of names and residences of persons holding debentures issued by the Company and of the amounts secured by such debentures or otherwise owing by the Company to such persons, and the rate of interest thereon. But no Company shall be required under this Section to furnish any Return of the names and residences of its Shareholders if it has duly filed with the Registrar of the Supreme Court the Copy of the Annual List of Members or the Annual Account or Return respectively required by law to be so filed.

Commissioner may require Company to furnish return of shareholders, &c.

33 Vict. No. 22, s. 26.  
5 Vict. No. 17, s. 6.

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Commissioner to notify in notice of assessment date for lodging appeals.

Demand for tax may be forwarded with assessment.

Commissioner may be represented at hearing of appeal and call witnesses.

Taxpayer failing to make return to pay double tax.

Notice to produce documents in Court.

Governor in Council may vary forms in Schedules.

Act to apply to assessments not made at the passing of this Act.

Appeal.

**21** The Commissioner shall, in the notice required by Section Thirty-seven of the said Act, notify to every taxpayer the prescribed time within which all objections to the assessment of the taxpayer's income may be lodged; and no objection shall be entertained which is not lodged on or before the last day for lodging objections; and the Commissioner may in or with every such notice make and forward the demand mentioned in Section Fifty-six of the said Act.

**22** At the hearing of any objection against any assessment made by the Commissioner under the said Act, the Commissioner shall be entitled to be represented by Counsel and any Officer or Officers appointed under the said Act, and shall be entitled to call experts and other witnesses to support such assessment.

**23** Every taxpayer who, without reasonable excuse, makes default in furnishing any return which the Commissioner may demand from him in accordance with the provisions of the said Act, shall pay to the Commissioner, in addition to the sum which he would otherwise be liable to pay as Income Tax under the said Act, a further sum equal to One-fourth of the amount of the tax payable by him upon the sum at which his income shall be assessed by the Commissioner or determined upon appeal, and such further sum shall be recoverable in the same manner as Income Tax is recoverable under the said Act.

**24**—(1.) A notice to produce any document or documents in any proceeding in any Court of Justice under the said Act may be served upon any person in manner provided by Section Sixty-eight of the said Act.

(2.) An affidavit of the service of any notice required to be given by the Commissioner or any officer under the said Act, or of the service of any notice to produce, and of the time when such notice or notice to produce was served, purporting to be made by the person serving the same, shall be sufficient evidence in all proceedings in any Court of Justice of the service of the original of such notice, or of such notice to produce, and of the time when such notice or notice to produce was served.

A copy of such notice or notice to produce, as the case may be, shall be annexed to and verified by such affidavit.

This Section shall apply to all notices and notices to produce served as well before as after the passing of this Act.

**25** Notwithstanding anything to the contrary contained in the said Act, the Governor in Council may from time to time, by any Regulation made under the said Act, prescribe forms of statement containing particulars of Income and forms of Return of Income to be used in addition to the forms contained in Schedules (2.) and (3.) of the said Act.

**26** The provisions of this Act shall apply to every assessment of income made at any time after the passing of this Act, and to any Income Tax payable thereon, notwithstanding that such assessment of income should have been made according to the provisions of the said Act prior to the date upon which this Act comes into operation.

**27** Notwithstanding anything contained in Section Fifty-five of the said Act, any person who has lodged an objection to an assessment,

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and is dissatisfied with the decision of the Judge, Commissioner in Bankruptcy, or Stipendiary Magistrate, as the case may be, before whom such objection was heard, may, by leave of the Court or a Judge thereof, where the amount of tax payable upon such assessment exceeds Fifty Pounds, appeal to the Supreme Court in manner herein-after provided. A.D. 1895.

Such person shall within Ten days after such decision give notice to the Commissioner of his intention to apply for leave to appeal, and shall also within Ten days from the delivery of such notice as aforesaid take out a Judge's Summons or obtain a Rule *Nisi* calling upon the Commissioner to show cause why leave should not be given to appeal.

The Court or Judge granting such leave may in its or his discretion require such person to give such security as the Court or Judge may approve for the costs of the appeal, and the Court of Appeal may confirm or alter any assessment in respect of which any appeal is made, and make any such Order in the premises and with respect to costs of the appeal as such Court thinks proper, and such Order shall be final.

**28** This Act and the said Act, save as amended by this Act, shall be read and construed together as one Act. Acts to be read together.

## SCHEDULE.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
58 Vict. No. 16.	"The Income Tax Act, 1894."	Sub-section iv. of Section 23. Sections 41 and 78.

