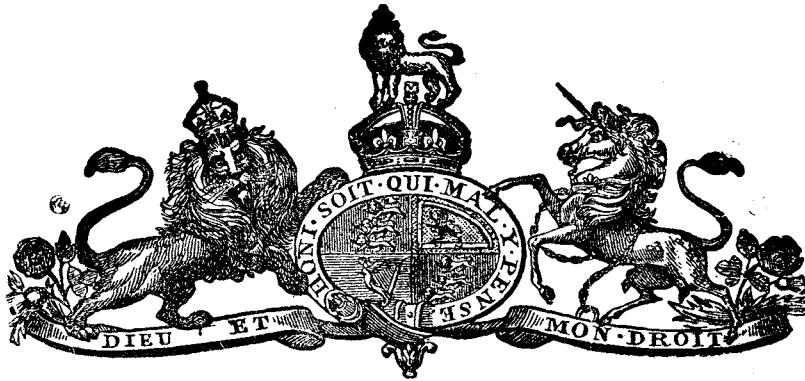


TASMANIA.



1924.

ANNO QUARTO DECIMO

GEORGII V. REGIS.

No. 43.

ANALYSIS.

1. Short title.
Principal Act.
2. Amendment of Section 4 of the Principal Act.
"Company."
3. Amendment of Section 50 (iv.) of the Principal Act.
4. Amendment of Section 51 (ii.) of the Principal Act.
5. Amendment of Section 53 of the Principal Act.
Income arising from sale of trading stock.
6. Amendment of Section 54 of the Principal Act.
7. Amendment of Section 114 of the Principal Act.
8. Application of Act.

AN ACT to amend "The Land and Income Taxation Act, 1910." [18 March, 1924.]

A.D.
1924.

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—(1) This Act may be cited as "The Land and Income Taxation Act, 1924." Short title

(2) "The Land and Income Taxation Act, 1910," is herein called "the Principal Act." Principal Act.

1 Geo. V. No. 47.

8d.]

Land and Income Taxation.

A.D. 1924.

Amendment of
Section 4 of the
Principal Act.
“Company.”

2 Section Four of the Principal Act is hereby amended as from the First day of July, One thousand nine hundred and twenty-one, by expunging the definition of the word “Company” in the said section, and substituting the following definition therefor :—

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

Amendment of
Section 50 (iv.)
of the Principal
Act.

3 Paragraph iv. of Section Fifty of the Principal Act is hereby amended by deleting the words “Five Pounds” in the Third line of the paragraph, and substituting the words “Seven Pounds Ten Shillings” therefor.

Amendment of
Section 51 (ii.) of
the Principal Act.

4 Paragraph ii. of Section Fifty-one of the Principal Act is hereby amended by deleting the words “Five Pounds” in the Sixth line of the paragraph, and substituting the words “Seven Pounds Ten Shillings” therefor.

Amendment of
Section 53 of the
Principal Act.

5 Section Fifty-three of the Principal Act is hereby amended as follows :—

i. By expunging Paragraphs iii. and iv. of the said section, and substituting the following paragraphs therefor respectively :—

“iii. There shall be allowed as a deduction from income derived as rent for the use and occupation of any land in respect of which land tax is payable by the taxpayer under any Act of this State—

(a) Any sum paid by the taxpayer by way of interest in respect of any mortgage of or encumbrance upon the said land ; and

(b) Any sum paid by the taxpayer by way of rent charge or other charge in respect of the said land ; and

(c) Any land tax paid by the taxpayer under any Act of this State or of the Commonwealth in respect of the said land :

iv. When any taxpayer owns and occupies for the purpose of business any land in respect of which land tax is payable by him under any Act of this State or of the Commonwealth, such taxpayer shall be entitled to similar deductions from the income derived from such land, or from carrying on business thereon, as are mentioned in Paragraph iii. of this section :”

Land and Income Taxation.

11. By inserting after Subparagraph (d) of Paragraph v. of the said section the following subparagraphs as Subparagraphs (e), (f), (g), and (h) of the said paragraph respectively :—

A.D. 1924.

Cf. No. 37 of 1922
(Com.), s. 16 (d).

“(e) Money derived by way of royalty or bonuses and premiums, fines, or foregifts, or consideration in the nature of premiums, fines, or foregifts, demanded and given in connection with leasehold estates and the amount of any payment received by a lessee upon the assignment or transfer of a lease to another person, after deducting therefrom the part (if any) which, in the opinion of the Commissioner, is properly attributable to the transfer of any tangible assets belonging to the lessee, and so much of any fine, premium, or foregift paid by the lessee, or any amount paid by the lessee for the assignment or transfer of the lease, as is properly attributable to the period of the lease unexpired at the time of the assignment or transfer by the lessee.

Provided that this subparagraph shall not apply to the proceeds of the sale, transfer, or assignment of the lease of a mining property (other than coal-mining) where the Commissioner is satisfied that the lease has been sold, assigned, or transferred by a *bonà fide* prospector, or by a person, partnership, syndicate, or company who or which does not make a business of buying and selling mining properties, and who or which purchased the lease from a *bonà fide* prospector, and worked the property in a proper and efficient manner ;

- (f) 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 ending on the Thirtieth day of June immediately preceding the year of assessment 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 :

Cf. No. 11 of 1912
(N.S.W.), s. 4.

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.

2 Ed. VII. No. 10
(Q.), s. 12A.

Land and Income Taxation

A.D. 1924.

Cf. No. 37 of 1922
(Com.), s. 16 (f).Cf. *ibid.*, s. 16 (g).

The sum to be included in the income of any person under this subparagraph shall be deemed to be income from business;

(g) Five per centum of the capital amount of a retiring or superannuation allowance which is paid in a lump sum; and

(h) All allowances, gratuities (except retiring or superannuation allowances paid in lump sums), bonuses, and premiums, whether in money or goods, or sustenance or land allowed, given, or granted to a person in respect of or for or in relation, directly or indirectly, to any employment or service of such person to the amount of the value of such allowances, gratuities, bonuses, and premiums respectively”:

iii. By inserting the following Paragraph *vb.* after Paragraph *va.* of the said section:—

Income arising
from sale of
trading stock.
Cf. *ibid.*, s. 17

“*vb.* The proceeds derived from the sale, after the Thirtieth day of June, One thousand nine hundred and twenty-two, whether on the sale of the business as a going concern, or in any other manner whatsoever, of the trading stock or part of the trading stock of any business, shall be gross income derived from carrying on a business.

Where any trading stock is sold together with other assets of the business, the part of the consideration attributable to the trading stock shall be determined by the Commissioner, and the part of the consideration so determined shall be deemed to be the price paid for the trading stock by the purchaser.

For the purposes of this paragraph any trading stock which has been disposed of otherwise than by sale shall be deemed to have been sold, and any trading stock so disposed of, and any trading stock which has been sold for a consideration other than cash, shall be deemed to have realised the market price of the day on which it was so disposed of or sold, but, where there is no market price, trading stock shall be deemed to have realised such price as the Commissioner determines.

In this paragraph—

(a) The expression “trading stock” does not include live stock which, in the opinion of the Commissioner, are ordinarily used as beasts of burden, or as working beasts, or for breeding purposes; and

Land and Income Taxation.

- (b) References to disposal of trading stock do not include disposal by way of testamentary disposition. A.D. 1924.

Any taxpayer who is dissatisfied with the decision of the Commissioner under this paragraph may object thereto in the manner provided by Section Sixty-two of this Act, and the provisions of that section shall apply to the objection, which shall be deemed to be an objection to an assessment”:

- iv. By deleting all the words in Paragraph vi of the said section after the word “included” in the Third line of the said paragraph and down to the end of such paragraph:

- v. By expunging Subparagraphs (e), (ee), and (eee) of Paragraph vii. of the said section, and substituting the following subparagraphs therefor respectively:—

“(e) Sums expended for repairs of premises occupied for business purposes, and for the repair or alteration of machinery, implements, utensils, and articles employed by the taxpayer for the purposes of his business;

(ee) Such sum as the Commissioner may think just and reasonable as representing the diminished value, by reason of wear and tear, during the year of any implements, utensils, and machinery used by the taxpayer for the purposes of his business (such depreciation not being of a kind that could be made good by repairs); but where in any business income is set apart by the taxpayer by way of a fund to cover the depreciation by reason of wear and tear of such implements, utensils, and machinery, the amount so set apart for the year immediately preceding the year of assessment shall, subject to the approval of the Commissioner, be the sum to be deducted for depreciation: Provided that in no case shall any allowance be made for the depreciation of buildings: Provided also that where a deduction has been allowed under Subparagraph (e) of this paragraph, the Commissioner shall take into consideration the sum allowed under that subparagraph in determining the sum to be allowed under this subparagraph;

(eee) Every fire insurance premium paid by a taxpayer in respect of buildings or plant used by him for the purposes of his business, or in respect of stock-in-trade belonging to his business:”

Land and Income Taxation.

A.D. 1924.

vi. By inserting the following Subparagraph (*eeee*) after Subparagraph (*eee*) of Paragraph vii. of the said section:—

“ (*eeee*) The annual sum necessary to recoup the expenditure covenanted to be made on improvements on land by a lessee who has no tenant rights in the improvements. The deduction under this subparagraph shall be ascertained by dividing the amount (not exceeding the sum specified in the covenant) expended on the improvements by the lessee by the number of years in the unexpired period of the lease at the date the improvements were effected ;

vii. By expunging Paragraphs viii., ix., and x. of the said section, and substituting the following paragraphs therefor respectively:—

“ viii. Where it is proved to the satisfaction of the Commissioner that any taxpayer (being the lessee under a lease, or the assignee or transferee of a lease) has paid or given any fine, premium, or foregift, or consideration in the nature of a fine, premium, or foregift, for a lease or a renewal of a lease, or an amount for the assignment or transfer of a lease, of premises or machinery used for the production of income, the Commissioner may allow as a deduction, for the purpose of arriving at the income, the amount obtained by dividing the sum so paid by the number of years of the unexpired period of the lease at the date the amount was so paid, but so that the aggregate of the deductions so allowed shall not exceed the sum so paid if paid on or after the Thirtieth day of June, One thousand nine hundred and twenty-two, or the part of the sum so paid which is proportionate to the unexpired period of the lease from the Thirtieth day of June, One thousand nine hundred and twenty-two, if the sum were paid prior to that date ;

ix. Where during any year ending on the Thirtieth day of June immediately preceding the year of assessment sales, other than in connection with the carrying on by the taxpayer of any business, of estates or interests (not being leasehold estates or interests) in land 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 ;

Cf. No. 37 of 1922
(Com.), s. 25 (i)]

Cf. No. 11 of 1912
(N.S.W.), s. 4.

Land and Income Taxation.

- x. From the gross amount of the income of the taxpayer, ascertained as above provided the deductions allowable under the foregoing provisions of this Act shall be made, and, if the resulting amount does not exceed Four hundred Pounds, a further deduction shall be made from such resulting amount of Twenty-five Pounds in respect of each child of the taxpayer who was under the age of Sixteen years at the beginning of the financial year in which the income was received, wholly maintained by such taxpayer. The balance of the income remaining after all the deductions allowable under this Act have been made shall be the net income of the taxpayer, and such net income shall, subject to any deductions to be made therefrom under any Act declaring the rate of tax, be the taxable amount": and

A.D. 1924.

viii. By inserting the following Paragraphs xi. and xii. after Paragraph x. of the said section:—

“xi. 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.

xii. Shillings and pence and fractions thereof shall not be included in the taxable amount.”

6 Section Fifty-four of the Principal Act is hereby amended by expunging Paragraph iv. of the said section, and substituting the following paragraph therefor:—

Amendment of Section 54 of the Principal Act.

“iv. State income tax, or (in respect of the income of the taxpayer for the year ending on the Thirtieth day of June, One thousand nine hundred and twenty-three) Federal income tax.”

7 Subsection (1) of Section One hundred and fourteen of the Principal Act is hereby amended by deleting all the words of the said subsection after the word “derived” in the Fourth line thereof and down to the word “on” in the Seventh line thereof, and substituting the following words therefor:—“such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him by way of income tax upon

Amendment of Section 114 of the Principal Act

Land and Income Taxation.

such income in the State, dominion, or country from which the same was derived, or a sum equal to a tax on the amount of such income calculated at the average rate payable by such taxpayer under this Act on the whole of his income of the class to which such firstmentioned income belongs, whichever sum shall be the less." A.D. 1924.

8 The amendments made by this Act shall apply to assessments of the income for the year ended the Thirtieth day of June, One thousand nine hundred and twenty-three, and in all subsequent years. Application of Act.