

**INCOME TAX ASSESSMENT.**

3° and 4° GEO. VI., No. XXV.

No. 25 of 1939.

**AN ACT to make provision in the Income Tax Assessment Act, 1937, for the payment and collection of income tax by instalments in certain cases and for other purposes incidental thereto.**

[Assented to 16th December, 1939.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Income Tax Assessment Act Amendment Act, 1939*, and shall be read as one with the Income Tax Assessment Act, 1937 (No. 13 of 1937), hereinafter referred to as the principal Act.

Short title.

2. This Act shall come into operation on a day to be fixed by Proclamation, but such Proclamation shall not fix a day previous to the first day of July, One thousand nine hundred and forty.

Commencement.

3. Section four of the principal Act is amended as follows:—

Amendment of s. 4 of principal Act.

(a) by deleting the words and figures "Part VI.—Collection and Recovery of Tax ss. 175-190" and

inserting in lieu thereof words and figures as follows:—

“Part VI.—Collection and Recovery of Tax.

Division 1—General ss. 175-190.

Division 2—Payment and collection by instalments ss. 191-209”;

- (b) by deleting the figures “191-212” where they appear after the words “Part VII.—Penal Provisions and Prosecutions ss.” and inserting in lieu thereof the figures “210-231”;
- (c) by deleting the figures “213-228” where they appear after the words “Part VIII.—Miscellaneous ss.” and inserting in lieu thereof the figures “232-247.”

Amendment  
of Part VI.  
of principal  
Act.

4. Part VI. of the principal Act is amended as follows:—

- (a) by inserting immediately below the heading “Part VI.—Collection and Recovery of Tax” a sub-heading as follows: “Division 1—General”;
- (b) by inserting after section one hundred and ninety a new division as follows:—

Division 2—Payment and Collection of Income Tax by Instalments.

191. (1) In this Division, unless the contrary intention appears—

“Employee” means any person who receives or is entitled to receive any salary or wages, and includes a director of a company.

“Employer” includes any person or any body corporate or unincorporate who or which pays or is liable to pay any salary or wages.

“Salary or wages” means salary, wages, commission, bonus or allowance paid (whether at piecework rates or otherwise) to any employee as such, and includes—

- (a) any salary or wages paid to any officer or other person employed in any public department;

Interpreta-  
tion.

Vic. No. 4440  
of 1936, s.  
137.

S.A. No. 2296  
of 1936, s.  
200.

(b) any payments made for labour only or substantially for labour only to any person under any classes of contracts of service or of contracts for service, which are prescribed by the Governor, for the purposes of this definition under and in accordance with subsection (2) of this section; and

(c) any payments by way of remuneration made by a company to a director of such company.

“Tax payable by an employee” or “Tax payable by the employee” means any tax due and payable by the employee or which may become payable by the employee under any assessment made or to be made on any return which he has lodged or has been required to lodge, or under any assessment made or to be made in default of any such return.

“Tax stamps” means tax instalment stamps caused to be prepared and placed on sale by the Commissioner pursuant to this Division.

(2) The Governor may by Order in Council published in the *Government Gazette* prescribe classes of contracts of service and contracts for service under which payments made for labour only or substantially for labour only to any person shall be deemed to be salary or wages.

As to certain contracts.

192. Subject to Parliament declaring rates of and authorising such deductions, deductions from salary or wages shall be made under or pursuant to this Division notwithstanding that the rates of tax have not been declared for the year of tax in which the deductions so authorised are to be made.

Deductions to be made although no rates of tax declared.  
Vic., *ibid.* s. 188.  
S.A., *ibid.* s. 202.

193. (1) Where an employee is entitled to receive salary or wages from an employer in respect of any week or part thereof amounting in all to thirty-seven shillings or more, the employer shall at the time of payment make deductions from such salary or wages for or on

Duty of employer to make deductions from salary or wages. Amount of deduction.  
Vic., *ibid.* s. 189.  
S.A., *ibid.* s. 201.

account of the tax payable by such employee at the rates declared or authorised by Parliament.

Where salary or wages paid in separate sums.

(2) Where the salary or wages for any week or part of a week is or are paid in two or more separate sums, all sums so paid shall, for the purpose of computing the amount of deduction under this section, be treated as one sum and the deduction may be made at the option of the employer either wholly from any one of the sums or in part from each of two or more of the sums.

Where meals, quarters, etc., received by employee.

(3) Where an employee receives, in addition to his salary or wages, meals, sustenance, the use of premises, or quarters or any of them from his employer as part consideration for his services, the employee shall for the purpose only of computing the deduction under this section be deemed to have received as salary or wages, in addition to any money actually payable to him a sum (at the rate of fifteen shillings per week for meals or sustenance, and five shillings per week for the use of premises or quarters) for each week during which meals or sustenance or the use of premises or quarters are or is received.

Offence.

(4) (a) If any employer fails to make any deduction required by this section to be made he shall be guilty of an offence and for every such offence shall be liable to a penalty of not more than twenty pounds and in addition be liable to pay to the Commissioner any amounts omitted to be deducted.

(b) The Commissioner may recover those amounts from the employer by action in any court of competent jurisdiction or the court may in proceedings for any offence under this section order payment of those amounts.

(c) If the Commissioner recovers any such amount he shall retain the same as payment of any tax payable by the employee.

(d) The employer may recover from the employee any amounts omitted to be deducted which he has paid to the Commissioner under this subsection.

194. (1) At the time of paying to any employee any salary or wages from which a deduction under this Division is made, the employer or the person making the payment on his behalf shall deliver to the employee adhesive tax stamps denoting the amount deducted.

Employer to deliver stamps to employee.  
Vic., *ibid.* s. 190.  
S.A., *ibid.* s. 203.

(2) Forthwith after receiving from his employer any tax stamps in accordance with this Division every employee shall securely affix them to a clear space on a page of the book which he is required to provide and keep pursuant to the next succeeding section but shall not affix any stamp to one side of a page if a stamp has already been affixed to the other side of that page.

Employee to affix stamps in a book.

(3) Every employee who has received any stamps from his employer as aforesaid shall, forthwith after affixing them in the said book and in the presence of his employer or the person making the payment on behalf of such employer, write in ink on every such stamp his name or initials and the date of payment:

Initialling stamps.

Provided that this subsection shall not apply in the case of any employee who receives such stamps as aforesaid from any employer who has obtained the authority in writing of the Commissioner to deliver to his employees tax stamps marked in such manner as the Commissioner approves.

(4) Any person who commits any contravention of or fails to comply with any provision of this section shall be guilty of an offence.

Offence.

Penalty: Twenty pounds.

195. (1) Every employee from whose salary or wages a deduction under this Division is required to be made shall provide and keep a book of convenient size and shape for the purpose of having tax stamps issued to him by his employer under this Division affixed therein.

Employee to keep stamp book; production of book.  
Vic., *ibid.* s. 190.  
S.A., *ibid.* s. 205.

(2) Every employee who, when required to do so by the Commissioner or any officer authorised in writing by the Commissioner, without reasonable excuse refuses or fails within a reasonable

time after such requirement to produce such book with the stamps affixed to the pages thereof as required by this Division shall be guilty of an offence and for every such offence be liable to a penalty of not more than twenty pounds.

Employee may produce book to Commissioner.  
Vic., *ibid.* s. 192.

196. (1) Any employee from whose salary or wages deductions have been made under this Division may, subject to the regulations, at any time produce to the Commissioner the book containing the stamps issued to him under this Division, and the Commissioner shall thereupon cancel the said stamps.

Retention of stamps by Commissioner.

(2) The Commissioner may apply the amount represented by the face value of those stamps in payment or part payment of any tax payable by the employee, and that amount shall be deemed to have been paid by the employee in satisfaction or part satisfaction of that tax and not otherwise.

Refunds.

(3) If, however, there is no tax payable by the employee, or if the face value of the stamps produced by the employee exceeds the amount of such tax payable, the Commissioner shall, without any further or other authority than this Act, refund to the employee the face value of the stamps, or, as the case may be, the amount by which the face value of the stamps exceeds the amount of such tax.

Payment of tax where stamps insufficient.

(4) If the deductions made under this Division from the salary or wages of any employee up to the last day of May in any financial year are insufficient to pay the tax payable by that employee, the balance of the said tax, if it has not previously become due and payable shall be due and payable fourteen days thereafter, and if not then paid shall bear additional tax as provided for by this Act.

Group schemes.  
Vic., *ibid.* s. 193.  
S.A., *ibid.* s. 208.

197. (1) (a) If arrangements satisfactory to the Commissioner are made between any employer and any of his employees whereby for the purpose of paying tax due or to become due by those employees such employees will suffer

periodical deductions under this Division in accordance with such arrangements from their salary or wages the Commissioner may, in writing, notify the employer that stamps in respect of the salary or wages of those employees need not be delivered or affixed in accordance with this Division during the period mentioned in the notice and thereafter the employer shall make deductions in accordance with such arrangements from the salary or wages of those employees during the said period.

(b) If the Commissioner is of opinion that having regard to the nature of the employment of any class or classes of employees it is not desirable that an employer of any employees of any such class should deliver to those employees stamps in accordance with this Division, the Commissioner may in writing notify the employer that stamps in respect of the salary or wages of those employees shall not be delivered or affixed in accordance with this Division during the period mentioned in the notice; and thereafter the employer shall make deductions in accordance with the requirements of such notice from the salary or wages of those employees during the said period.

(2) The amount of any deductions so made or purporting to have been so made shall be deemed to be a debt due to the Crown, and shall be paid to the Commissioner by such employer at such times or intervals as the Commissioner appoints.

Amount of deductions to be paid periodically by employer to Commissioner.

(3) If any employer fails to pay such amount to the Commissioner within seven days after the time or interval appointed by the Commissioner he shall be guilty of an offence.

Offence.

Penalty: One hundred pounds.

(4) If the amount so deducted from the salary or wages of any such employee during any year of tax exceeds the amount of tax payable by the employee, the Commissioner shall upon payment of the tax and without any further or other

Refund

authority than this Division refund to such employee the excess amount, and if the Commissioner is satisfied that there is no tax payable by the employee the Commissioner shall, without any further or other authority than this Division, refund to such employee the amount so deducted.

Payment of  
tax where  
deduction  
insufficient.

(5) If the amount so deducted from the salary or wages of any employee during any year of tax up to the fifteenth day of June of that year is insufficient to pay the tax payable by the employee, the balance of such tax shall be due and payable on that date.

(6) Every employer notified in writing by the Commissioner under subsection (1) of this section shall—

(a) furnish to the Commissioner at such times or intervals as the Commissioner appoints, statements, lists, or any other information which the Commissioner requires for the purposes of this Division; and

(b) issue to any employee at such time as the Commissioner appoints a certificate showing the amount deducted under this section during such period or periods as the Commissioner determines.

(7) The Commissioner may cancel a notice under this section at any time, and thereafter the duties of the employer and the employee under this Division shall be the same as if the said notice had not been given.

State Govern-  
ment  
employees.  
S.A., *ibid.* s.  
209.

198. (1) Except where arrangements are made under the last preceding section this Division shall apply to all employees of the State and the Permanent Head of the Department in which any such employee works shall be deemed



to be his employer within the meaning of this Division.

(2) If any person receives salary or wages out of the general revenue of the State, but is not employed in any department, the Treasurer shall be deemed to be the employer.

199. The State may enter into an agreement with the Commonwealth for the deduction by the Commonwealth from periodical payments of salary or wages paid to persons who are officers within the meaning of section two of the Income Tax Collection Act, 1938, of the Commonwealth of the tax payable under this Act in respect of salaries or wages paid by the Commonwealth to such persons. Any amounts deducted in pursuance of an agreement made under this section shall be paid by the Commonwealth authority making the deduction to the Commissioner as representing the State, in such manner and at such times as are provided by the agreement. In such agreement such adaptations of the provisions of section one hundred and ninety-seven of this Act as are necessary may be made, and where any such agreement is entered into and so long as it continues in operation the provisions of that section shall, with all necessary adaptations, extend and apply accordingly.

Arrangements  
with Com-  
monwealth.  
Vic., *ibid.* s.  
194.  
S.A., *ibid.* s.  
210.

200. (1) The Commissioner may issue to any employee a certificate that no deductions from his salary or wages need be made during any period specified in the certificate: Provided that where it is subsequently ascertained that there is or will be tax payable by the employee, the Commissioner may, by notice to the employee, cancel the certificate.

Certificate of  
exemption  
from deduc-  
tion.  
Vic., *ibid.* s.  
195.  
S.A., *ibid.* s.  
211.

(2) During the period so specified no employer to whom the said certificate is exhibited shall make any deductions under this Division from the salary or wages of that employee.

Effect of  
certificate.

(3) Any person who—

(a) alters any certificate issued as afore-  
said, or

Offences in  
regard to  
alteration of  
certificates of  
exemption.

Vic., *ibid.* s.  
195.  
S.A., *ibid.* s.  
211.

- (b) exhibits to any employer any certificate which has been so altered, or
- (c) without lawful excuse has in his possession any colourable imitation of a certificate issued as aforesaid, or
- (d) falsely pretends to be the person named in any certificate or causes any employer to refrain from making the deductions from his salary or wages by the production of any document other than the certificate issued to himself and for the time being in force

shall be guilty of an offence.

Penalty: Fifty pounds.

Other offences.  
Presenting document relating to another person.  
S.A., *ibid.* s.  
211.

201. (1) Any person who presents any document under the hand of the Commissioner for the purpose of obtaining credit with respect to or a refund of the value of tax stamps which have been delivered in respect of the salary or wages of some person, other than the person named in such document, shall be guilty of an offence.

Penalty: Fifty pounds.

(2) Any person who—

- (a) endeavours to obtain for his own advantage or benefit credit with respect to or a refund of the value of tax stamps which have been delivered in respect of the salary or wages of some person other than himself; or
- (b) presents any document under the hand of the Commissioner and pretends to be the person named therein for the purpose of obtaining credit with respect to or a refund of the value of tax stamps

shall be guilty of an offence.

Penalty: One hundred pounds, with a minimum of Two pounds, or imprisonment for twelve months.

Personation.  
Vic., *ibid.* s.  
195.  
S.A., *ibid.* s.  
212.

(3) Any person who—

- (a) fraudulently removes or causes to be removed from the stamp book of any employee any tax stamp affixed therein; or
- (b) affixes a tax stamp so removed to any other book; or
- (c) utters any tax stamp which has, to his knowledge, been fraudulently removed from any book to which it had previously been affixed

Frauds in regard to Tax Stamps.

Vic., *ibid.* s. 202.  
S.A., *ibid.* s. 206.

shall be guilty of an offence.

Penalty: One hundred pounds.

202. (1) Any taxpayer not being an employee may at any time purchase tax stamps from persons authorised by the Commissioner to sell tax stamps and may after receiving his notice of assessment and on or before the due date shown thereon produce to the Commissioner such stamps.

Payment by tax stamps by persons other than employees.

Vic., *ibid.* s. 196.  
S.A., *ibid.* s. 214.

(2) The Commissioner shall thereupon cause the said stamps to be retained and defaced and the amount of the face value thereof shall be deemed to have been paid by such taxpayer in satisfaction (in so far as the same extends) of any tax payable by him.

Retention and defacement of stamps produced to Commissioner.

(3) If the Commissioner is satisfied that there is no tax payable or if the face value of the tax stamps produced by the taxpayer exceeds the amount of tax payable by him the Commissioner shall, without any further or other authority than this Division, refund to the taxpayer the face value of the stamps or (as the case may be) the amount by which the face value of the stamps exceeds the amount of tax payable.

Refunds.

(4) If the face value of the stamps produced by the taxpayer is less than the amount of tax payable by him the balance of the said tax shall be due and payable on the date of payment shown on the notice of assessment.

Payment of tax where value of stamps insufficient.

Book of stamps to be provided.

(5) All stamps so produced shall be affixed in a book of convenient size and shape provided and kept by such taxpayer for the purpose but stamps shall not be affixed on both sides of any page of such book.

Liability where employer is an association.  
Vic., *ibid.* s. 198.  
S.A., *ibid.* s. 215.

203. (1) Where an employee is employed by any unincorporated body of persons other than a firm the manager or other principal official of such body shall be deemed to be the employer within the meaning of this Division.

Where employer is a firm or partnership.  
Vic., *ibid.* s. 198.  
S.A., *ibid.* s. 215.

(2) Where an employee is employed by a firm each partner shall be deemed to be the employer within the meaning of this Division and any one of them may be proceeded against for any contravention of or failure to comply with any of the provisions of this Division in relation to the employee; but not more than one person shall be punished for the same contravention or failure.

Power of Commissioner to require delivery of stamps held on behalf of another person.  
Vic., *ibid.* s. 199.  
S.A., *ibid.* s. 218.

204. (1) The Commissioner or any officer authorised by the Commissioner may require any person to deliver to him tax stamps which are in his possession and are held by him on behalf of some other person; and the Commissioner shall issue his receipt for the stamps which have been so delivered.

Offence.

(2) If any person when so required does not deliver those stamps to the Commissioner or other officer he shall be guilty of an offence.

Penalty: Fifty pounds.

Credit or refund to employee.

(3) The Commissioner shall allow credit with respect to or (as the case requires) a refund of the value of such stamps upon application by the employee to whom such stamps were delivered by his employer.

(4) Whenever the Commissioner suspects that any tax stamps produced to him have been obtained in contravention of any provision of this Division he may retain those stamps for such period as he thinks fit, and shall not take them in satisfaction of any tax payable or make any refund in respect of them until he has satis-

fied himself as to the identity of the person (if any) to whom the stamps were lawfully delivered by an employer.

205. (1) The Commissioner shall cause to be prepared and placed on sale sufficient tax stamps of suitable denominations for the purposes of this Division.

Commissioner to prepare and issue stamps. Vic., *ibid.* s. 200. S.A., *ibid.* s. 216.

(2) Every such stamp shall bear the words "Tax instalment" clearly printed thereon.

206. (1) The Commissioner may by writing under his hand license vendors of tax stamps and may direct how and under what conditions stamps may be issued to such vendors for sale, and what accounts of such tax stamps shall be kept by such vendors.

Commissioner may license vendors of Stamps. cf. W.A., No. 10 of 1922, s. 12. Vic., *ibid.* s. 200. S.A., *ibid.* s. 216.

(2) Such licenses may be granted as aforesaid for any period of time and may at any time be revoked by the Commissioner.

(3) The issue or revocation of any such licenses shall be notified in the *Government Gazette*.

(4) A licensed vendor of tax stamps may be remunerated by commission at a rate prescribed by regulations.

(5) The Commissioner may and shall, if so required by the Treasurer, authorise any officer of any public department either of the State or the Commonwealth to sell tax stamps.

207. (1) Every person holding a license to sell tax stamps shall cause a notification of such fact to be put up and kept affixed outside the place in which such stamps are sold in such manner as may be prescribed by the regulations:

Licensed vendors of stamps to notify fact. W.A., *ibid.* s. 12.

Provided that this subsection shall not apply where tax stamps are issued to any officer of any public department either of the State or of the Commonwealth for sale to the public.

(2) Any licensee who fails or refuses to comply with the provisions of this section shall be guilty of an offence.

Penalty: Five pounds, and in addition a daily penalty of ten shillings for every day or part of a day during which the offence continues.

Sale of tax stamps by unauthorised persons prohibited.

Vic., *ibid.* s. 201.

S.A., *ibid.* s. 217.

208. (1) No person, other than a person licensed or authorised by the Commissioner to sell tax stamps shall sell or offer for sale such stamps or otherwise dispose of the same except by production of them to the Commissioner as provided in this Division or the regulations, but nothing in this subsection shall be deemed to prohibit the delivery in accordance with this Division of tax stamps by an employer to any of his employees.

Purchase of stamps from unauthorised persons prohibited.

(2) No person (except an employee receiving stamps from his employer in accordance with this Division) shall knowingly purchase or obtain tax stamps from any person other than a person licensed or authorised by the Commissioner to sell such stamps.

Penalty.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

Penalty: One hundred pounds.

Joining several charges in one complaint or information.

Vic., *ibid.* s. 202.

S.A., *ibid.* s. 220.

209. (1) Notwithstanding anything to the contrary contained in Part VII. of this Act or in any other Act or any law to the contrary charges for any number of offences under this Division may be made against the same person in one complaint or information if those charges are founded on the same facts or form or are part of a series of offences of the same or a similar character; but where more than one such charge is made in the same complaint or information as aforesaid, the particulars of each offence so charged shall be set out in a separate paragraph.

(2) If such person is found guilty of more than one charge in any such complaint or information, one aggregate penalty may be inflicted in respect of all the charges upon which such person is so found guilty.

5. Consequentially upon the operation of section four of this Act, the section numbers of all the sections contained in Part VII. and Part VIII. of the principal Act, that is to say sections one hundred and ninety-one to two hundred and twenty-eight, both inclusive, are hereby amended by substituting the figures "210" for the figures "191" at the commencement of section one hundred and ninety-one and making the corresponding arithmetical amendments in the section numbers of all the following sections so that the sections then contained in Part VII. of the principal Act shall be numbered in arithmetical sequence two hundred and ten to two hundred and thirty-one, and the sections then contained in Part VIII. of the principal Act shall then be numbered in arithmetical sequence two hundred and thirty-two to two hundred and forty-seven.

Amendment  
in section  
numbers in  
Parts VII.  
and VIII. of  
principal Act.

6. In the event of this Act coming into operation on a day when, under any laws of the State relating to the imposition, levying, assessment and collection of financial emergency tax provision is made and in operation for the deduction of financial emergency tax from the salary or wages of employees then, notwithstanding the said laws, as from and including the day when this Act comes into operation as aforesaid, the provisions of the said laws relating to the deduction of financial emergency tax from the salary and wages of employees shall by virtue of this section cease to operate and have effect in so far as relates to salary or wages earned by such employees after the said date, and thereafter no deduction of financial emergency tax under the said laws shall be made from the said salary or wages of such employees, and no financial emergency tax shall be payable by such employees in respect of such salary or wages.

Deduction of  
Financial  
Emergency  
Tax from salary  
or wages  
of employees  
to cease after  
commence-  
ment of this  
Act.

7. The principal Act as amended by this Act may be cited as the Income Tax Assessment Act, 1937-1939.

Citation of  
principal Act  
as amended.