

## LAND AND INCOME TAX ASSESSMENT.

15° GEO. V., No. XXXVI.

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No. 36 of 1924.

### AN ACT to amend the Land and Income Tax Assessment Act, 1907.

[Assented to 31st December, 1924.]

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 *Land and Income Tax Assessment Amendment Act*, 1924, and shall be read as one with the Land and Income Tax Assessment Act, 1907, hereinafter referred to as the principal Act.

2. Section two of the principal Act is amended as follows:—

(1) By inserting an interpretation of the word dividends as follows:—"Dividends" includes every dividend, profit, bonus, share or portion of a share of a company, advantage, or gain paid, or credited to, or distributed among any members or directors of a company out of the profits of a company, except the salary or other ordinary remuneration of directors.

(2) By adding to the interpretation of the word "dependants" a proviso as follows:—Provided that a person shall not be deemed a dependant unless his annual income, including any payment or allowance for sustenance, is less than one hundred pounds, nor unless he resides in the State.

Amendment of  
sec. 7.

3. A subsection is added to section seven of the principal Act, as follows:—

(4.) Any person who has been an officer or has performed any duty under this Act, and who communicates any information acquired by him in the performance of any duty under this Act or the regulations to any person other than the person to whom he is authorised by the Commissioner to communicate it, shall be guilty of an offence.

Penalty: Two hundred and fifty pounds.

Amendment of  
sec. 11.

4. Subsections (2) and (3) of section eleven of the principal Act are repealed and the proviso to paragraph (c) of subsection (i) thereof is amended by inserting after the word "which" the following words, namely: "(not being the site of, or intended site of, or occupied for the purposes of a school or hall used or to be used for educational purposes the property of and belonging to a religious body)."

Amendment of  
sec. 16.

5. Section sixteen of the principal Act is amended as follows:—

(1) The following words are added to the second proviso to subsection (1), namely:—"but if the exemption under this proviso has been claimed by and allowed to any unmarried person who has a dependant, the exemption shall not extend to the income of any other person who may also have contributed to the maintenance of the same person; nor shall the exemption extend to the income of an unmarried person claiming to have a dependant, if the person claimed as a dependant is married, and the income of the husband of such last-mentioned person is exempt from taxation under this proviso; in the case of more than one person claiming exemption under this paragraph, the Commissioner shall decide which person is rightfully entitled to make the claim."

(2) The third proviso to subsection (1) is amended by omitting the words "earned by personal exertion but no other income."

(3) The following proviso is added to subsection (1b), namely:—

Provided also that if the deduction under this subsection has been claimed by and allowed to

any unmarried person who has a dependant, the deduction shall not be allowed in respect of the income of any other person who may also have contributed to the maintenance of the same person; nor shall the deduction be allowed from the income of an unmarried person claiming to have a dependant, if the person claimed as a dependant is married, and this subsection is applicable to the income of the husband of such last-mentioned person. Should any question arise as to the right of any person to any such deduction as aforesaid it shall be determined by the Commissioner.

- (4) The words "or any exemption or deduction under the first and second provisos" are substituted for the words "or any deduction under the second proviso," in subsection (2).
- (5) The words, in subsection (2a), "together with income received by him in respect of the dividends of a company" are omitted, and the following words are inserted in place thereof:—"together with the dividends of a company received by him."
- (6) The words "his income derived from," in the last line but one of subsection (2a), are omitted, and the following words are inserted in place thereof:—"the amount assessed in respect of the dividends of."
- (7) In subsection (2b) the words "income derived from" in the third line are omitted; and in lines four, ten, and twelve respectively the word "dividends" is substituted for the word "income"; and in line five the word "exceed" is substituted for the word "exceeds."
- (8) A subsection is inserted, as follows:—  
 (2c) Subject as hereinafter provided, subsections (2a) and (2b) shall not apply so far as the dividends were paid out of profits of a mining company exempt from taxation under subsection (9) of section six of the Dividend Duties Act, 1902, inserted by the Dividend Duties Act Amendment Act, 1924:  
 Provided that where the income chargeable of any person, together with the dividends of a mining company paid out of profits exempt from taxation as aforesaid would except for such exemption,

be subject to a rate of tax in excess of the rate of duty payable under the Dividend Duties Act, 1902, such person shall be assessed on his income chargeable at the rate of income tax applicable to such aggregate income, that is to say, the tax shall be assessed on the income chargeable at the rate of tax which would be payable on the amount of the income chargeable with the dividends added.

(9) A subsection is inserted, as follows:—

*See Com. 1922,  
s. 16.*

(3a.) The profits derived from any trade or business, and converted into stock-in-trade, or added to the capital of, or in any way invested in the trade or business shall be deemed to be income:

Provided that for the purpose of computing such profits derived during any year from live stock, the value of stock on hand at the thirtieth day of June in the year last preceding the year of assessment shall be ascertained by taking the number and value as on hand at the thirtieth day of June last preceding, and by adding thereto all purchases at cost price and natural increase at the appropriate schedule value as prescribed. The total of these numbers shall then be divided into the total value, and the result shall be the average value of such stock on hand at the close of the year. The figures representing the average value shall be multiplied by the number of stock on hand at the end of the year, and the value of the closing stock shall be so ascertained.

(10) Subsection (5) is repealed.

*Amendment of sec.  
17.*

6. Section seventeen of the principal Act is amended by omitting the words in the second and third lines "from the ownership of any parcel of land or derived directly," and by omitting the words in the sixth and seventh lines, "from the ownership of such parcel of land or," and by adding a proviso as follows:—"Provided that the allowance as an abatement under this section shall not exceed fifty per centum of the land tax payable on the parcel of land producing the income."

*Amendment of sec.  
18.*

7. Section eighteen of the principal Act is amended by adding after the word "premiums," in line one, the words

"other than retiring allowances and gratuities paid in a lump sum," and by adding a subsection to stand as subsection (2), as follows:—

(2.) All retiring allowances and gratuities paid in a lump sum shall be deemed to be income to the amount of five per centum of the value of such retiring allowances and gratuities.

8. Section nineteen of the principal Act is amended by <sup>Amendment of sec.</sup> <sub>19.</sub> adding a new subsection, as follows:—

(13.) The cash allowances paid and the bonus shares allotted to shareholders of any co-operative company or society as a rebate or discount on their trading with such companies or societies.

9. Section thirty of the principal Act is amended, as fol- <sup>Amendment of</sup> <sub>sec. 30.</sub> lows:—

(1) Subsection (4) is amended by inserting after the word "sums" the words "not exceeding fifty pounds in the aggregate."

(2) In paragraph (c) of subsection (5) the words "income chargeable" are substituted for "taxable income," and the figures "£250" are deleted, and the figures "£350" are inserted in place thereof.

(3) The proviso to paragraph (d) of subsection (5) is amended by omitting the words "such expenses shall not exceed" in both places.

(4) Subsection (5a) is repealed.

(5) Subsection (9) is repealed, and a subsection is inserted in place thereof, as follows:—

(9.) The sum actually and reasonably expended by the taxpayer during the year in which the income was derived, for services rendered by, including maintenance of, the taxpayer's sons and daughters over the age of sixteen years who are exclusively engaged in the business producing the income of the taxpayer.

(6) Subsection (11) is amended by substituting the words "sixty-two" for the word "forty," in the first line thereof.

(7) A proviso is added to subsection (11a), as follows:—  
Provided that this subsection shall not apply to an unmarried person claiming exemption under the second proviso to subsection (1) of section six-

teen, or a deduction under subsection (1b) of that section, if such person has only one dependant; but if such person has several dependants this subsection shall apply in respect of each dependant beyond one.

- (8) Subsection (12) is repealed, and a subsection is inserted in place thereof, as follows:—

(12.) Where a person derives income from a mining tenement as defined by the Mining Act, 1904, or acquired under the Mining Act Amendment Act, 1920, worked by him or on his behalf, he shall not be liable to pay income tax on such income until it has exceeded the total amount of his capital expenditure on such mining tenement incurred in producing his income; but such person shall be assessed for income tax on the income received in excess of such capital expenditure by the taxpayer.

- (9) The following provisos are added to subsection (13):—

Provided that when a taxpayer receives a refund of the whole or any part of the taxes mentioned in this subsection, other than State income tax, the amount of the refund shall be brought into account as income in the year in which the refund is received.

Provided also that rates and taxes paid in respect of land held or acquired for sale, and charged by the taxpayer to the capital cost of the land, shall not be allowed as a deduction.

- (10) By adding a new paragraph, as follows:—

(2.) (b) Any charge or expense other than capital expenditure incurred in the carrying on or conduct of any business, profession, trade, employment, or vocation.

- (11) By inserting before the word "provided," in line seven of paragraph (14), the words "or donations in money to Government or incorporated institutions established for benevolent, charitable, scientific, or educational purposes or for the promotion of research in respect to diseases and/or pests appertaining to mankind, animals, and plants, or

moneys expended for educational scholarships or bursaries."

- (12) By omitting the proviso to paragraph (d), and inserting the following in lieu thereof:—

Provided that there shall be deducted from the taxable amount so ascertained as aforesaid the sum of fifty pounds in respect to every member of Parliament representing a metropolitan, metropolitan-suburban, or West province, or an electoral district therein, and a sum of one hundred pounds in respect to every member of Parliament representing any other province or electoral district therein.

10. Section thirty-four of the principal Act is repealed.

*Repeal of sec. 34.  
See section 62 of  
principal Act.*

11. Sections eight, forty-nine, and fifty of the principal Act are repealed, and sections are inserted in place thereof, as follows:—

*Repeal of secs. 8,  
49, and 50,*

#### *Appeals.*

49. (1.) The Governor may, by notice in the *Gazette*, declare that any magistrate of a local court shall be a Court of Review to hear and determine appeals from assessments made under this Act.

*Court of Review.  
See No. 15 of 1907,  
s. 8 and s. 49.*

(2.) The Court of Review shall be a Court of Record, and shall have and possess, for the hearing and determination of appeals, within the limits of the jurisdiction, the same authority, rights, powers, privileges, and status as are conferred on Local Courts by the Local Courts Act, 1904.

(3.) The sittings of the Court of Review shall not be deemed to be public, and the Court shall at any time, on the application of either party, exclude from any such sitting, or require to withdraw therefrom, any person not concerned.

50. (1.) A taxpayer who is dissatisfied with the assessment made by the Commissioner under this Act may, within forty-two days after service by post of the notice of assessment, post to or lodge with the Commissioner an objection in writing against the assessment, stating fully and in detail the grounds on which he relies.

*Appeals.  
See Co., No. 37  
of 1922, s. 60.*

Provided that ninety days shall be allowed to the taxpayer resident in the North Province to lodge an objection.

(2.) The notice of objection must be accompanied by payments of at least one-quarter the tax assessed.

(3.) The Commissioner shall then consider the objection and may either disallow it, or allow it, either wholly or in part.

(4.) The Commissioner shall give to the objector written notice of his decision on the objection.

(5.) A taxpayer who is dissatisfied with the decision of the Commissioner may, within thirty days after the service by post of notice of the decision of the Commissioner, in writing, request the Commissioner to treat his objection as an appeal and to forward it, as required by the taxpayer, either to the Court of Review, or to the Supreme Court.

(6.) A taxpayer shall be limited on the hearing of his appeal to the grounds stated in his objection.

(7.) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment appealed from.

(8.) When the appeal is to the Supreme Court it shall be heard and determined by a single judge sitting in court or in chambers.

51. (1.) On the hearing of the appeal, the Supreme Court, or the Court of Review, may make such order as it thinks fit, and may either reduce or increase the assessment.

(2.) Such order shall be final and conclusive on all parties except as provided in this section.

(3.) The Court may, in its discretion, award costs where the claim of the Commissioner is held to be unreasonable, or the grounds of appeal therefrom to be frivolous.

(4.) On the hearing of the appeal the judge of the Supreme Court may, if he thinks fit, and the Court of Review shall, on the request of the party, state a case in writing for the opinion of the Supreme Court upon any question arising in the appeal which in the opinion of the judge or of the Court of Review, as the case may be, is a question of law.

Power of Court  
on hearing of  
appeals.  
*See Com. No. 37*  
of 1922, s. 51.

*See W.A., No. 15*  
of 1907, s. 49 (7).

(5.) The Supreme Court shall hear and determine the question, and shall be at liberty to draw from the facts and documents stated or comprised in the case inferences whether of law or fact, and shall remit the case with its opinion to the judge or the Court of Review, as the case may be, and may make such order as to costs of the case stated as it thinks fit.

(6.) An appeal shall lie to the Full Court of the Supreme Court from any order made under subsection (1) of this section.

51a. (1.) The Governor may make rules for regulating the practice and procedure in relation to appeals dealt with by the Court of Review, and the Court shall not be bound in its consideration of any question by any rules of evidence, but in forming its decision shall be guided by good conscience and the facts of the case.

(2.) The judges of the Supreme Court or a majority of them may make rules of Court for regulating the practice and procedure in relation to appeals to the Supreme Court against assessments.

**12.** Section sixty-eight is amended by adding the following paragraph at the end of the said section sixty-eight, viz.:—

It shall be a defence to a prosecution for an offence against paragraphs (a), (b), and (c) of this section if the defendant proves that the false statement or false answer was made through ignorance or inadvertence.

**13.** All copies of the principal Act to be hereafter printed by the Government Printer shall be printed as amended by this Act, under the superintendence of the Clerk of Parliaments, and references to this Act shall be made in the margin.

In such reprint of the principal Act the sections and sub-sections shall be renumbered in arithmetical order, and cross references shall be adjusted.

The short title shall be the *Land and Income Tax Assessment Act*, 1907-1924.

Rules.  
See Com. No. 37 of  
1922, s. 53.

Amendment of  
sec. 68.

Reprinting of  
principal Act  
with amendments.