

LAND AND INCOME TAX ASSESSMENT.

12° GEO. V., No. LI.

No. 17 of 1922.

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

[Assented to 10th February, 1922.]

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:—

Short title.

1. This Act may be cited as the *Land and Income Tax Assessment Amendment Act, 1921*, and shall be read as one with the Land and Income Tax Assessment Act, 1907, and its amendments, hereinafter referred to as the principal Act.

Amendment of sec. 4.

2. Section four of the principal Act is amended by adding a paragraph as follows:—

Officers of the Commonwealth Taxation Department shall be deemed public officers within the meaning of this section during the currency of any agreement between the Commonwealth and State Governments under the Tax Collection Act, 1920.

Amendment of sec. 10.

3. Section ten of the principal Act is amended by omitting the proviso to subsection (2).

Amendment of sec. 11.

4. Section eleven of the principal Act is amended by inserting in subsection (1) thereof a paragraph as follows:—

(f) land held by any pensioner under the Invalid and Old Age Pensions Act, 1908.

5. Section sixteen of the principal Act is amended by adding thereto the following paragraphs:—

Amendment of
sec. 16.

(4.) The profits arising or accruing to any person from the sale of any business as a going concern shall be deemed income within the meaning of paragraph (a) of subsection (1), so far as such profits are derived from the sale of stock-in-trade, live stock, or other goods, chattels and effects the proceeds of which, if disposed of in the ordinary course of trade, would have been taxable income.

(5.) The profits arising or accruing to any person from the sale of any mining tenement, as defined by the Mining Act, 1904, or of any interest therein, whether registered or not, shall be income within the meaning of paragraph (a) of subsection (1), except in the case of a sale of a mining tenement acquired by the registered owner as a prospector or person by whom, or on whose behalf, the ground was *bonâ fide* prospected, or by a vendor as registered owner by whom the mining tenement has been *bonâ fide* and efficiently worked.

6. Section nineteen of the principal Act is amended—

(a) By adding to subsection ten the following words:—

Amendment of
sec. 19.

“or any pension paid to the widow, relatives, or dependants of a deceased soldier or sailor killed during the war, or who had died from injuries received, or sickness contracted, during the war, or any pensioner under the Invalid and Old Age Pensions Act, 1908”;

(b) By adding new subsections as follows:—

11. The income of any society or association not carried on for the purposes of profit or gain to the individual members thereof established for the purpose of promoting the development of the agricultural, pastoral, horticultural, viticultural, stock raising, manufacturing, or industrial resources of Western Australia.

12. The income of any society or association of a public character established for the promotion of scientific research.

(c) By striking out the words “subsections one to six hereof,” in the first line of the last paragraph, and inserting in lieu thereof the words “this section.”

Amendment of
sec. 30.

7. Section thirty of the principal Act is omitted, and the following inserted in lieu thereof:—

30. From the taxable amount so ascertained as aforesaid, every taxpayer shall be entitled to deductions in respect of the annual amount of—

(1) Losses, outgoings, interest on mortgages and loans, and expenses actually incurred in Western Australia by the taxpayer in the production or protection (where such cannot be insured against) of his income: that is, income which is not exempt from income tax under section nineteen of this Act.

(2) (a) Net trading, prospecting, or business losses incurred in any one or more years during the three years preceding the year of assessment.

(b) Net losses arising over a like period from the loss of stock in trade, crops, and livestock due to droughts or other circumstances or conditions over which the taxpayer had no control or was unable to protect or insure against:

Provided that no losses in respect to fixed capital assets shall be allowed as a deduction under this section.

(3) Sums expended by the taxpayer for repairs of premises let or intended to be let to tenants.

(4) Sums expended by a taxpayer for repairs to his dwelling house, whether such dwelling house is fully purchased or in the course of purchase.

(5) (a) Every premium or sum paid by the taxpayer (not exceeding £50) on the insurance of his own life, or that of his wife or children, or for a deferred annuity, or other like provision for the wife or children.

(b) Every premium paid (not exceeding £50) in respect of any fidelity guarantee or bond, which such employer is required to provide for the exercise of his profession, trade, employment, or vocation.

(c) Medical expenses incurred by a taxpayer on behalf of himself or those dependent upon him: Provided that this shall not apply where the taxable income exceeds £250.

(d) Reasonable travelling expenses incurred in earning, producing or protecting the assessable income.

- (6) 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.
- (7) Such sum as the Commissioner may think just and reasonable as representing the diminished value (*i.e.*, for the purpose for which they were intended in a going concern), by reason of wear and tear, during the year, of any machinery, implements, utensils, and articles used by the taxpayer for the purposes of his business: Provided that, where in any business income is set apart by the taxpayer by way of a fund to cover the depreciation of such machinery, implements, utensils, and articles, 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.
- (8) Notwithstanding the limitation in subsection one hereof, the Commissioner shall, in cases in which it may seem to him just, allow losses, outgoings, and expenses, even if incurred beyond the State.
- (9) Where a taxpayer employs his sons or daughters over the age of sixteen years in his trade or occupation, such sum may be deducted for their services as may be prescribed by any arbitration award or as to the Commissioner may seem reasonable.
- (10) Where a taxpayer, either alone or with other persons, carries on or is interested as a partner in more than one business, and makes a profit in one or more of such businesses and a loss on another or others, such taxpayer shall be entitled to deduct the sum of the losses from that of the profits.
- (11) A sum representing forty pounds for each child under the age of sixteen years at the beginning of the financial year in which the income is received, and residing with and dependent upon the taxpayer.

- (12) The cost actually incurred during the year by a taxpayer for labour and materials employed in development work, as prescribed, in a mine, when the business of a taxpayer is that of mining.
- (13) All rates and taxes, including State and Federal land taxes and Federal income tax, actually paid in Western Australia in respect of land situate in or income derived in Western Australia by the taxpayer during the year in which the income was received, but not including any State income tax paid under this Act.
- (14) Any payment to the board or the trustees of any charitable institution, incorporated or otherwise, or of a public park or reserve, or of a university or public school, or of a library, art gallery, museum, or other institution for public education, recreation or enjoyment, subsidised by the Government: Provided that such payment is applied solely to such charitable or other public purpose.
- (15) The annual sum necessary to recoup the expenditure on improvements under covenant with the lessor on land by a lessee who has no tenant rights in the improvements. The deduction under this paragraph shall be ascertained by dividing the amount 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.

For the purpose of this and the preceding section the word "business" shall be taken to include any profession, trade, employment or vocation, and the earning of income from other sources including investments.

8. Section thirty-three of the principal Act is repealed, and a section is inserted in place thereof as follows:—

33. (1.) From the returns of income furnished, or from any other information in his possession, or from one or more of these sources, the Commissioner shall cause an assessment to be made for the purpose of ascertaining the income chargeable upon which income tax shall be levied.

Amendment of
sec. 33.

Assessments,

See Com. 1915-18
s.s. 31, 33.

(2.) From the land returns, or from the current valuations of the local authority in whose district the land is situated, or from the departmental valuations made, or from any other available source, the Commissioner shall, as soon as may be, cause assessments to be made for the purpose of ascertaining the amount upon which land tax shall be levied.

(3.) The Commissioner may, at any time, make such alterations in, or additions to, any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that the land or income tax may have been paid in respect to the land or income included in the assessment:

Provided that every alteration, or addition, which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to appeal:

Provided, further, that any alteration, or correction in the assessment authorised to be made on appeal from assessment, or by order of a court, as hereinafter provided, shall be made forthwith.

(4.) Whenever it is discovered that owing to any mistake of fact any assessment is too low or excessive or otherwise erroneous, the Commissioner may, notwithstanding that the assessment has, before the discovery of such mistake, been adjudicated on by the Court of Review, amend the assessment by increasing, decreasing, or otherwise altering the same in such manner as in his judgment is just and necessary; and shall thereupon send notice of such amendment to the person concerned, and any such amendment and notice thereof shall be deemed to be and have effect as an assessment and notice thereof, and shall be subject to appeal and to the other incidents of assessments and notices of assessment accordingly.

*See 1907, No. 15,
s. 33 (3).*

9. Section thirty-four of the principal Act is repealed, and a section is inserted in place thereof as follows:—

*Amendment of
sec 34.*

34. (1.) The Commissioner may order a refund of any excess of tax that may have been paid in respect of any assessment, if an application for a refund of any excess of tax is made within two years of the date of the payment of such tax.

*Refund of excess
tax.*

(2.) If the Commissioner thinks that any assessment made by an assessor or valuer is unfair, or incorrect, he may direct another assessment to be made.

Amendment of
sec. 35.

10. Section thirty-five of the principal Act is repealed, and a section is inserted in place thereof as follows:—

Validity of
assessment.
Com. 1915-18,
sec. 24.

35. The validity of any assessment shall not be affected by reason that any of the provisions of this Act have not been complied with.

Amendment of
sec. 36.

11. Section thirty-six of the principal Act is amended by omitting the words “the assessment-book,” and inserting “an assessment” in place thereof.

Amendment of
sec. 37.

12. Section thirty-seven of the principal Act is repealed, and a section is inserted in place thereof as follows:—

Assessment of
land.

37. (1.) The Commissioner may, from time to time, make assessments of land liable to land tax;

See Com. 1910-11,
ss. 17, 18.

(2.) Every assessment shall, subject as hereinafter provided, remain in force for a period of five years from the date of assessment to be notified in the *Gazette*.

(3.) Provided that the Commissioner may at any time make such alterations in, or additions to any assessment as he thinks necessary in order to insure its completeness and accuracy, notwithstanding that land tax may have been paid in respect of the land included in the assessment:

Provided, also, that every alteration or addition which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the taxpayer affected, and, unless made with his consent, shall be subject to appeal.

Repeal of sec. 38.

13. Section thirty-eight of the principal Act is repealed.

Amendment of
sec. 43.

14. Section forty-three of the principal Act is amended by substituting for the words “entered in the assessment book by” the words “assessed in.”

Amendment of
sec. 44.

15. Subsection (1) of section forty-four is repealed, and a subsection is inserted in place thereof as follows:—

Assessment in case
of default.
Com. 1915-18,
s. 32.

44. (1.) If—

(a) any person makes default in furnishing any return of lands or income; or

(b) the Commissioner is not satisfied with the return made by any person; or

(c) the Commissioner has reason to believe that any person (though he may not have furnished a return) is a taxpayer,

the Commissioner may make an assessment of the amount upon which, in his judgment, land or income tax ought to be levied, and the person assessed shall be liable to pay land or income tax thereon, excepting so far as he establishes on appeal that the assessment is excessive.

16. Section forty-five of the principal Act is repealed. Repeal of sec. 45.

17. Section forty-six of the principal Act is repealed. Repeal of sec. 46.

18. Subsection (1) of section forty-nine of the principal Act is amended by substituting the word "lodged" for the word "heard." Amendment of sec. 49.

19. Section fifty-three is repealed, and a section is inserted in place thereof as follows:— Amendment of sec. 53.

53. (1.) Land tax and income tax, respectively, shall, subject to the provisions of this Act, be due and payable thirty days after the service by post of a notice of assessment. When tax payable. See Com. 1915-18, s. 41.

(2.) Where an assessment is amended in accordance with this Act, and additional land tax or income tax is payable by the taxpayer, the additional land tax or income tax shall be due and payable thirty days after the service by post of the notice of amended assessment upon the taxpayer:

Provided that when the Commissioner has reason to believe that a taxpayer may leave Australia before the tax on an assessment, or the additional tax on an amended assessment, becomes due and payable, the tax or additional tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer:

Provided also that the Commissioner may in such cases as he thinks fit—

(a) extend the time for payment as he considers the circumstances warrant; or

(b) permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant.

Amendment of
sec. 59.

20. Section fifty-nine of the principal Act is amended by substituting for the words "whose name is entered in an assessment book" the words "who has been assessed."

Amendment of
sec. 60.

21. Section sixty of the principal Act is amended by inserting after the word "State" the words "or of the Commonwealth Taxation Department."

Amendment of
sec. 61.

22. Section sixty-one of the principal Act is amended by substituting for the words "entered in the assessment book" the word "assessed."

Amendment of
sec. 62.

23. Section sixty-two of the principal Act is amended by substituting the word "three" for the word "one," in the last line thereof.

Amendment of
sec. 68.

24. Section sixty-eight of the principal Act is amended by omitting the words "he shall be liable to pay for each offence under subsection (a) a penalty not exceeding twenty pounds, and for each offence under subsections (b) or (c) a penalty not exceeding one hundred pounds," and inserting in place thereof "or

(d) without just cause shown by him refuses or neglects to attend and give evidence when required by the Commissioner or any officer duly authorised by him, or to truly and fully answer any questions put to him, or to produce any books or papers required of him by the Commissioner or any such officer,

he shall be liable to a penalty of not less than two pounds, nor more than one hundred pounds."

Amendment of
sec. 68A.

25. Section sixteen of the Land and Income Tax Assessment Act Amendment Act, 1918, is amended by inserting after the word "return," in the first line of paragraph (a), the words "or information"; and after the word "return," in paragraph (b), the words "or

(c) includes in any return as a deduction any amount which is in excess of that actually expended or incurred by him."

Amendment of
sec. 70.

26. Section seventy of the principal Act is amended by inserting before the word "assessment," in the fourth and fifth lines thereof respectively, the words "land or income."

Amendment of
sec. 74.

27. Section seventy-four of the principal Act is amended by omitting the words "assessment book" in two places, and inserting the word "assessment" in lieu thereof; and by substituting the word "assessment" for the word "book," in the last line thereof.

28. A section is inserted in the principal Act as follows:—

Persons dying before furnishing a return.

62b. (1.) Where a person dies on or after the first day of July in any year, and before furnishing a return of his income for the preceding year, his executor or administrator shall furnish a return of the income derived by such deceased person during the said preceding year, and shall be assessable in respect thereof and shall be chargeable with and pay tax thereon.

Com. 1915-18, s. 40A.

(2.) Where the executor or administrator is unable, or fails so to furnish a return of such income, the Commissioner may estimate the same at and may make an assessment of the amount on which in his judgment tax ought to be charged.

29. A section is inserted in the principal Act as follows:—

Person dying after furnishing a return.

62c. Where a person dies after the first day of July in any year, and after furnishing a return of his income for the preceding year, the Commissioner shall have the same powers and remedies for the assessment and recovery of the tax from the executor or administrator as he would have had against the deceased person, if that person were alive:

Com. 1915-18 s. 46B

Provided in any case where it is proved to the satisfaction of a board consisting of the State Commissioner of Taxation and the State Under Treasurer that—

Owing to the death of a person who if he had lived would have paid tax, the dependants of that person are in such circumstances that the exaction of the tax under the provisions of Section 31 will entail serious hardship,

the board may release the executor or administrator of the deceased person wholly or in part from his liability

30. The amendments of the principal Act made by this Act shall apply to assessments for the financial year beginning on the 1st day of July, 1921, and all subsequent years, and to the income of taxpayers for the year next preceding each year of assessment.

Application of amendments made by this Act.

31. All copies of the principal Act hereafter printed by the Government Printer shall be printed under the supervision of the Clerk of Parliaments as amended by this Act, and all necessary references to this Act shall be made in the margin.

Principal Act to be printed as amended.