

LAND AND INCOME TAX ASSESSMENT.

No. 15 of 1907.

As amended by No. 14 of 1917,* No. 24 of 1918,† No. 17 of 1922,‡ No. 40 of 1922,§ No. 36 of 1924,|| No. 42 of 1930,¶ and No. 42 of 1931.**

The sections and subsections have been renumbered in arithmetical order, and cross references adjusted, as directed by Section 13 of Act No. 36 of 1924.

AN ACT to regulate the Assessment of Land and Income for the purposes of Taxation.

[Assented to 20th December, 1907.]

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:—

Preliminary.

1. This Act may be cited as the *Land and Income Tax Assessment Act, 1907-1931.*

Short Title.
No. 36 of 1924,
s. 13.
No. 42 of 1931,
s. 3.

2. In this Act, unless the context otherwise requires,—

Interpretation.
No. 16 of 1907,
s. 2.

“Agent” includes every person who, in Western Australia, for or on behalf of any other person outside of Western Australia (hereinafter called the “principal”)—

(1) has the control or disposal of any real or personal property belonging to the principal, or the control, receipt, or disposal of any rents, issues, or proceeds derived from any such property; or

(2) directly or indirectly, whether by sample, price-list, negotiation, or otherwise howsoever, sells or disposes of such property, or offers or exposes such property for sale or disposition, or solicits or procures the sale or disposition thereof; or

* Assented to 28th March, 1917. † Assented to 13th June, 1918. ‡ Assented to 10th February, 1922. § Assented to 23rd December, 1922.

|| Assented to 31st December, 1924. ¶ Assented to 24th December, 1930.

** Assented to 3rd December, 1931.

(3) has the control, receipt, or disposal of any income belonging to the principal, or directly or indirectly remits the same to the principal.

“Commissioner” means the Commissioner of Taxation.

No. 24 of 1918,
s. 2.

“Dependant” means a relative of a taxpayer by blood, marriage, or adoption towards whose maintenance the taxpayer has contributed twenty-six pounds during the year in which his taxable income was derived: 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.

No. 36 of 1924,
s. 2.

“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.

No. 36 of 1924;
s. 2.

“Improved land” means land to which improvements within the meaning of this Act have been made.

“Improvements” includes houses and buildings, fencing, planting, roads made or macadamised by the owner, excavations for holding water, wells, pumps, windmills, and other apparatus for raising water, drains, ring-barking, clearing from timber, or scrub, or poison plants, or noxious weeds, or laying down in grass or pasture, and any other improvements whatsoever, the benefit of which is unexhausted at the time of valuation, but does not include any railways or tramways constructed under any Act or any provisions thereof.

“Income” includes profits, gains, rents, interest, salaries, wages, allowances, pensions, stipends, charges, and annuities.

“Income tax” means the tax or duty imposed or charged in respect of income by any Act in force for the time being as assessed under this Act, or any Act amending the same.

“Income chargeable” means the taxable amount less the deductions allowed under this Act.

“Land” includes all lands, tenements, and hereditaments, whether corporeal or incorporeal, in Western Australia, and also includes all chattel and other interests therein.

“Land tax” means the land tax imposed by any Act in force for the time being as assessed under this Act or any Act amending the same.

“Local authority” means a municipal council or road board.

“Non-resident agent” includes every person who acts as agent without having a fixed and permanent place of business or abode in Western Australia.

“Non-resident trader” includes every person who carries on business in Western Australia without having a fixed and permanent place of business in Western Australia.

“Owner,” as applied to any estate or interest in land, includes every person who is, jointly or severally, whether at law or in equity—

- (a) entitled to land for any estate of freehold in possession; or
- (b) entitled to land for any leasehold estate or interest granted under the Land Act, 1898, or any amendment thereof, or under any Land Regulations thereby repealed, with or without the right to acquire the freehold; or
- (c) entitled to land for any such estate or interest as aforesaid as a married woman, to her separate use, otherwise than through trustees; or
- (d) who is a settlor, grantor, assignor, or transferrer of land comprised in any settlement, grant, assignment, transfer, conveyance, or other instrument, not made *bona fide*; or
- (e) entitled to land partly in one and partly in another or others of the aforesaid ways; or
- (f) entitled to receive, or in actual receipt, or if the land were let to a tenant, would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise.

“Person” includes “company” or any “body corporate.”

Land and Income Tax Assessment.

“Prescribed” means prescribed by this Act or the regulations thereunder:

Provided that where, under this Act, anything is required to be done in the “prescribed form” it shall be sufficient if such thing be done substantially in the form so prescribed, or to the effect thereof.

“Public notice” means a notice inserted in the *Government Gazette* or published in any newspaper circulating in a town or district.

“Registered” means registered in the office of the Land Titles Office, the Registry of Deeds, the Department of Lands and Surveys, or the Department of Mines under the provision of any Act in force in Western Australia for the registration of titles to land, deeds, and other instruments.

“Regulations” means the regulations for the time being in force under this Act.

“Taxpayer” means any person liable to pay tax, whether in his own behalf or in a representative capacity, or who, whether liable to taxation or not, is by this Act required to make any return relating to land or income tax assessment.

“This Act” means this Act and the regulations thereunder.

“Trustee,” in addition to every person appointed or constituted such by act of parties, order or declaration of a court, or by operation of law includes an executor or administrator, and every person having or taking upon himself the administration or control of real or personal property affected by a trust, or acting in any fiduciary capacity, or having the direction, control, or management of the real or personal property of any person under legal disability.

“Unimproved value” means—

- (a) in respect of land granted in fee simple, the capital sum for which the fee simple in such land would sell under such reasonable conditions of sale as a *bona fide* seller would require assuming the actual improvements (if any) had not been made; and
- (b) in respect of land held under contract for conditional purchase under the Land Act, 1898, or any amendment thereof or any land regulation thereby repealed, the capital sum of which the fee

simple of such land would sell on the assumption that the taxpayer is the owner in fee simple, under such reasonable conditions of sale as a *bona fide* seller would require, assuming the actual improvements (if any) had not been made; and

- (c) in respect of any land held for any leasehold estate or interest, without the right of purchase, under the Land Act, 1898, or any amendment thereof, or any land regulation thereby repealed, a sum equal to twenty times the excess of the amount of the fair annual rent at which the land would let under such reasonable conditions as a *bona fide* lessee would require, assuming the actual improvements (if any) had not been made, above the annual rent for the time being reserved by the lease, to be assessed under the Act; and until assessment, a sum equal to twenty times the amount of the annual rent reserved by the lease.

“Year of assessment” means the financial year ending the thirtieth day of June for which the tax is imposed, and “the year next preceding the year of assessment” means the calendar year next preceding the said thirtieth day of June: Provided that for the eleventh and each succeeding year of assessment the words “the year next preceding the year of assessment” shall mean the period of twelve months next preceding the year of assessment.

No. 14 of 1917,
s. 2.

Officers.

3. The Governor may appoint a Commissioner of Taxation and such assessors and other officers as may be deemed necessary for carrying out the provisions of this Act.

Commissioner
and officers may
be appointed.
No. 15 of 1907,
s. 3.

4. The Commissioner may, with the approval of the Governor, delegate to any public officer such powers, duties, and functions by this Act or the regulations hereunder conferred or imposed upon him as it may be considered expedient by the Commissioner so to delegate.

Delegation
of duties.
No. 15 of 1907,
s. 4.

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.

No. 17 of 1922,
s. 2.

Gazette notice sufficient.

No. 15 of 1907,
s. 5.

5. A notification in the *Government Gazette* that any person therein named has been appointed an officer for the purposes of this Act shall be conclusive evidence of such appointment.

Secrecy to be maintained.

No. 15 of 1907,
s. 6.

6. Every person appointed or employed under this Act shall preserve and aid in preserving secrecy with regard to all matters that may come to his knowledge in his official capacity, and shall not communicate any such matter to any other person except in the performance of his duties under this Act.

Oath of fidelity and secrecy.

No. 15 of 1907,
7.

7. (1.) Every person appointed or employed under this Act shall, before acting in the execution of his office, take and subscribe, before a justice of the peace, such oath of fidelity and secrecy as may be prescribed.

(2.) Every person who wilfully acts in contravention of the true intent of such oath shall be liable, on conviction, to imprisonment for any term not exceeding six months, with or without hard labour.

(3.) If the person acts in the execution of his office before he has taken the prescribed oath, he shall be liable to a penalty of not less than ten and not more than one hundred pounds.

(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.

Land Tax.

Land Tax.

No. 15 of 1907,
s. 9.

8. (1.) Subject to the provisions of this Act, there shall be levied and paid to the Commissioner, for the use of His Majesty, at the times and in the manner hereinafter directed, a land tax, at such rate as Parliament shall from time to time declare and enact, per pound sterling of the assessed value of all land situate in Western Australia, and not included in the exemptions specified in section ten.

Such land tax shall be levied and paid as follows:—

By every owner of land in respect of all land of which he is such owner for every pound of the unimproved value thereof as assessed under the provisions of this Act.

In the case of an owner of several estates or parcels of land (not being a bare trustee of different estates for the benefit of different *cestuis que trust*), the aggregate of the value of such several estates or parcels shall be regarded for the purpose of taxation as if such aggregate represented the unimproved value of a single estate or parcel.

(2.) The person who, at noon on the thirty-first day of December in any year, is the owner of any land, shall, in respect of the land tax for the then current financial year, be deemed to be the owner of such land, and be liable to pay such tax on such land:

Provided that for the eleventh year of assessment, that is to say, the financial year ending the 30th day of June, 1918, and for each succeeding year of assessment, the person who, at noon on the thirtieth day of June in the year next preceding the year of assessment, is the owner of any land, shall, in respect of the land tax for the year of assessment, be deemed to be the owner of such land, and be liable to pay such tax on such land.

No. 14 of 1917.
s. 3.

(3.) In the case of any owner who has not been resident in the Commonwealth of Australia during any portion of the year next preceding the year of assessment, the rate shall be increased by fifty per centum: Provided that this subsection shall not apply to any person absent from the Commonwealth of Australia on the public service, or to any person who, being a resident of the Commonwealth of Australia, has obtained a permit from the Commissioner to be absent from the Commonwealth for a period not exceeding two years.

9. (1.) Every owner of improved land shall, in respect of such land, be entitled to a rebate of one-half of the tax levied on the unimproved value thereof as assessed under the provisions of this Act.

Rebate of Tax on improved land.
No. 15 of 1907,
s. 10.

(2.) Land outside the boundaries of any municipality used solely or principally for agricultural, horticultural, pastoral, or grazing purposes, or for two or more of such purposes, shall not be deemed improved within the meaning of this section unless-

(a) improvements have been effected to an amount equal to one pound per acre, or one-third of the unimproved value of the land, whichever amount shall be the lesser; or

- (b) the Under Secretary for Lands certifies in writing that improvements to an amount prescribed or to be prescribed by the Land Act, 1898, or any amendment thereof, or the regulations thereunder, have been effected,

and the benefit of such improvements is unexhausted:

No. 40 of 1922,
s. 9.

Provided that any improvements made on any one parcel of such land shall extend to any one other parcel belonging to the same owner if such parcels of land are not a greater distance apart than one mile, measured from the nearest boundaries.

(3.) No other land shall be deemed improved within the meaning of this section unless improvements have been effected and continue thereon to an amount of not less than one-third of the unimproved value of the land, but it shall not be necessary in any case to effect improvements exceeding an amount equal to fifty pounds per foot of the main frontage thereof; and when any land is situated at the intersection of two roads or streets, one only of the frontages of such land shall be deemed the main frontage; and if any question shall arise as to which frontage is the main frontage, such question shall be determined by the Court of Review.

(4.) Every parcel of land comprised within a common boundary fence shall be deemed improved within the meaning of this section if the prescribed improvements have been effected and continue on any part thereof.

Exemption.

No. 15 of 1907,
s. 11.

10. (1.) The lands and classes of lands hereinafter specified are exempted from assessment for taxation under this Act, viz.:—

- (a) All lands owned by or on behalf of His Majesty.
- (b) Public roads and thoroughfares; public reserves for health, recreation, or enjoyment, public parks, university endowments, cemeteries, and commons.
- (c) All lands owned by any person or society, and occupied or used exclusively for or in connection with any public hospital (whether supported wholly or partly by grants from the Consolidated Revenue Fund or not), benevolent institution, public charitable purpose, church, chapel for public worship, or the site of a residence of a minister of religion ministering at some place of public worship, or the site of, or occupied for the purposes

of, a school attached to or connected with any place of public worship, or as a mechanics' institute, or school of art; all lands the property of and belonging to any religious body, and occupied only for the purposes of such body; all lands on which is erected any municipal or State market, town hall, or municipal council chamber; and all lands owned by or vested in any municipal corporation, road board, or other statutory public body:

Provided that the exemption shall not apply to any such land which (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) is a source of profit or gain to the users or owners thereof.

No. 36 of 1924,
s. 4.

- (d) All lands held as mining tenements within the meaning of the Mining Act, 1904.
- (e) All lands dedicated to, or vested in trustees and used for, zoological, agricultural, pastoral, or horticultural show purposes, or other public or scientific purposes.
- (f) Land held by any pensioner under the Invalid and Old Age Pensions Act, 1908.

No. 17 of 1922,
s. 4.

(2.) All lands held under contract for conditional purchase, made before or after the commencement of this Act, under the Land Act, 1898, or any amendment thereof, are exempted from assessment for taxation under this Act for the term of five years from the date of contract, or from the date of survey in the case of land not surveyed before the date of contract: But such exemption shall only apply to taxpayers who prove to the satisfaction of the Commissioner that they do not hold legally or equitably more than one thousand acres of cultivable land or two thousand five hundred acres of grazing land, or of cultivable and grazing land mixed, as defined by the Land Act and its amendments.

See No. 36 of 1924,
s. 4.

11. With respect to lands which by virtue of subsection one of the last preceding section are exempt from land tax, the following provisions shall apply:—

Only owners of land specified in preceding section entitled to exemption.

- (1) The benefit of such exemption shall, in each case, be limited to the owner specified in that section, and shall not extend to any other person who is the owner of any estate or interest in the land, whether as purchaser, lessee, licensee, occupier, or other-

No. 15 of 1907
s. 12.

wise howsoever; and every such person shall be liable to assessment and taxation in respect of such estate or interest.

- (2) In the case of land owned by or vested in His Majesty on any express or implied trust, the person entitled in equity to the rents or profits of such land shall, for the purpose of assessment and taxation and to the extent to which he is so entitled, be deemed to be the owner of such land, and be liable to assessment and taxation in respect thereof.
- (3) If such trust is in favour of any public institution or department, the Governor may from time to time make regulations prescribing the person or authority to make returns, the mode of assessment, and the funds of such institution or department out of which the tax shall be paid.

Burden of Land Tax—Contributions and provisions as to Agents and Trustees.

12. If two or more persons are owners, whether jointly or severally or otherwise, of land subject to taxation under this Act, they shall each be liable to His Majesty for the whole tax on such land; but any owner who has paid the tax may recover contribution as hereinafter provided—

Liability of
co-owners.
No. 15 of 1907,
s. 13.

Contribution.

- (1) A person who has paid the tax in respect of any land may recover, by way of contribution, from any other person having an estate therein a sum which bears the same proportion to the tax as the value of the estate of such other person in the unimproved value of the land bears to the whole unimproved value of the land; and a person who has paid the contribution payable in respect of an estate in land may recover as aforesaid from any person interested in such estate a sum which bears the same proportion to the amount of the contribution so paid as aforesaid as the value of the interest of such other person bears to the value of such estate.
- (2) Every person entitled to contribution in respect of land tax under this section may—
 - (a) sue for the same as money paid to the use of the person liable to contribute at his request in any court of competent jurisdiction; or

- (b) retain the amount of such contribution out of any moneys in his hands belonging or payable to the person liable to contribute; or
- (c) deduct the same from any moneys payable to the person liable to contribute in respect of interest or debt, or other obligation.

13. The value of any interest or estate subject or liable to contribution to land tax under this Act shall be determined, so far as practicable, by reference to the "Tables for Calculation of Values" provided by the regulations.

Rules etc. for calculation of values. No. 15 of 1907. s. 14.

14. (1.) Every agent for any owner of any land subject to land tax under this Act who may be permanently or temporarily absent from Western Australia, and every trustee of any land subject to land tax under this Act, shall be assessed respectively in respect of such land the owner of which is represented by such agent, or in respect of such land the legal estate in which is vested in such trustee, whether solely or jointly with other trustees.

Agents trustees, etc., how chargeable. No. 15 of 1907. s. 15.

(2.) Every such agent and trustee shall, subject to the provisions of subsection six, be chargeable with the land tax payable in respect of such land in the same manner as if such land were his own; but he shall be assessed in respect thereof in a representative character only, and the provisions of subsection three of section eight shall apply, and each such assessment shall be kept separate and distinct from the individual assessment (if any) of such agent or trustee.

(3.) Every such agent or trustee shall be answerable for the doing of all such acts, matters, or things as would be required to be done by the owner.

(4.) Every such agent or trustee shall be subject to the same penalties or liability for any neglect, refusal, or default in respect of the obligations and requirements of this Act as the persons whom such agent or trustee represents would be subject to.

(5.) Every such agent or trustee is hereby authorised to recover from any person for whom, or on whose behalf, he is compellable to pay and has paid land tax, the amount of the land tax so paid by him, or to retain out of any money which shall come to him in his representative character so much, from time to time, as shall be sufficient to pay such land tax.

(6.) Such agent or trustee shall not be personally liable for land tax to any further or greater extent than to the amount of such funds or securities for money as are or may be in his hands, in his representative character or as trustee, or of which he shall have the controlling power, after receiving notice of such assessment as hereinbefore provided.

Income Tax.

15. (1.) Subject to the provisions of this Act and the regulations hereunder, there shall be charged, levied, collected, and paid to the Commissioner, for the use of His Majesty, an income tax at such rate per pound as Parliament shall from time to time declare and enact in respect of the annual amount of all incomes—

- (a) arising or accruing to any person wheresoever residing, from any profession, trade, employment, or vocation carried on in Western Australia, whether the same is carried on by such person or on his behalf wholly or in part by any other person; or
- (b) arising or accruing to any person wheresoever residing from any salary or allowance attached to or derived from any office or employment of profit in the Public Service of Western Australia, and upon every pension and allowance payable from the Consolidated Revenue Fund or any other public account; or
- (c) arising or accruing to any person wheresoever residing, from any kind of property, or from any other source whatsoever in Western Australia not included in the preceding paragraphs of this subsection:

Provided that if the "income chargeable" from all sources of any person shall not, in the year next preceding the year of assessment, exceed one hundred pounds, such income shall be exempt from taxation:

Provided also that if the "income chargeable" from all sources of any person who is married or has a dependant shall not, in the year next preceding the year of assessment, exceed two hundred pounds, such income shall be exempt from taxation; 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

Incomes liable to taxation.
No. 15 of 1907,
s. 16.
No. 24 of 1918,
s. 3.

No. 24 of 1918,
s. 2.

No. 40 of 1922,
s. 6.

No. 36 of 1924,
s. 5.

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:

Provided also that any male person over sixty-five years or female person over sixty years, who has an income not exceeding two hundred and fifty pounds a year shall be exempt from taxation.

No. 40 of 1922,
s. 2.
No. 36 of 1924,
s. 5.

(2.) Where the income of any person who is unmarried and has no dependant, less the deductions allowed by this Act (except under this section) amounts in any year to one hundred and one pounds or over, there shall be deducted therefrom the sum of one hundred pounds less two pounds for every one pound whereby such income exceeds one hundred pounds, and the remainder shall be "income chargeable":

No. 40 of 1922,
s. 6.

Provided that the minimum amount to be payable by any such person as tax shall be two shillings and sixpence.

(3.) Where the income of any person who is married or has a dependant, less the deductions allowed by this Act (except under this section) amounts in any year to two hundred and one pounds or over, there shall be deducted therefrom the sum of two hundred pounds less two pounds for every one pound whereby such income exceeds two hundred pounds, and the remainder shall be "income chargeable":

Provided that the minimum amount to be payable by any such person as tax shall be two shillings and sixpence:

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.

No. 36 of 1924,
s. 3.

No. 40 of 1922,
s. 2.

(4.) On the income of an absentee, that is to say, a person who has not been resident in the Commonwealth of Australia during any part of the year next preceding the year of assessment, but who is not absent on the public service, the tax shall be payable at the declared rate without any deduction for insurance premiums, medical expenses, travelling expenses or deductions allowed for children or dependants or any exemption or deduction under the first and second provisos to subsection one of this section as amended by section six of the Land and Income Tax Assessment Amendment Act, 1922.

No. 36 of 1924,
s. 5.

No. 40 of 1922,
s. 2.

No. 36 of 1924,
s. 5.

(5.) If the income chargeable of any person, together with the dividends of a company received by him, subject to duty under the Dividend Duties Act, 1902, amounts during the year next preceding the year of assessment to such a sum as if it were all income chargeable would be liable to income tax at a rate exceeding one shilling and threepence for every pound sterling thereof, without regard to any super-tax imposed by any Act in force for the time being, the amount of such aggregate income shall be taxable income under this Act, but the taxpayer shall receive credit for the duty payable under the Dividend Duties Act, 1902, in respect of the amount assessed in respect of the dividends of a company as aforesaid.

No. 40 of 1922,
s. 2.

No. 36 of 1924,
s. 5.

(6.) If any person not in receipt of any income chargeable is, during the year next preceding the year of assessment, in receipt of dividends within the meaning of the Dividend Duties Act, 1902, and such dividends, after all deductions allowed by law, exceed the sum which under any Act in force for the time being for the imposition of income tax would be chargeable as income at a higher rate of tax in the pound than one shilling and threepence, without regard to any super-tax imposed by any Act in force for the time being, such dividends shall be taxable income under this Act, but the taxpayer shall receive credit for the amount of duty payable in respect of such dividends under the Dividend Duties Act, 1902:

Provided that in any assessment made under this section a deduction shall be allowed for interest incurred by the person in the production of the income derived from dividends.

No. 36 of 1924,
ss. 5 and 13.

(7.) Subject as hereinafter provided, subsections (5) and (6) 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.

(8.) Income shall be deemed to have accrued to a person within the meaning of this section, although the same is not actually paid over to such person, but is credited in account or reinvested or accumulated or capitalised, or carried to any reserve, sinking, or insurance fund, however designated, or otherwise dealt with in his name or interest, or on his behalf.

(9.) 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: No. 36 of 1924,
s. 5.

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.) The profits arising or accruing to any person from the sale after the thirty-first day of August, one thousand nine hundred and twenty-one, of any business as a going concern shall be deemed income within the meaning of paragraph (a) of subsection one, 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: No. 17 of 1922
s. 5.
No. 40 of 1922,
s. 2.

No. 40 of 1922,
s. 2.

Provided that where a taxpayer or taxpayers shall have furnished income tax returns and shall have subsequently converted his or their business into an incorporated company, and hold substantially the whole of the share capital of the company, and shall not have received any cash consideration on the conversion of the business into that of a company, such taxpayer or taxpayers shall be exempt from tax under this subsection in respect of any sale of the business to such company effected between the first day of July, one thousand nine hundred and twenty, and the thirty-first day of August, one thousand nine hundred and twenty-one, if the company adjusts the value of the stock in trade, live stock, or other goods, chattels, and effects so acquired by the company to the value as stated in the returns furnished by the taxpayer being the vendor to the company:

Provided also that where such adjustment is made by the company the Commissioner shall refund to the taxpayer the amount of tax paid by him and exempted as aforesaid.

Concession where
land and income
tax assessed on
the same land.

No. 15 of 1907,
s. 17.

No. 36 of 1924,
s. 6.

16. Whenever any person is assessed for income tax on profits derived directly during any year from the use or cultivation of any parcel of land, such person may claim and shall be allowed an abatement of so much of the amount payable for income tax on profits derived directly from the use or cultivation thereof, as equals the amount paid by him for land tax in respect of the same parcel of land:

Provided that any profits derived from—

- (a) the quarrying, digging, treatment, and sale of stone, gravel, sand, clay, guano, or soil found on such land; or
- (b) the cutting, treatment, and sale of timber found on such land,

shall not be deemed profits derived from the ownership, use, or cultivation of such land within the meaning of this section:

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.

Gratuities, etc.,
chargeable as in-
come
No. 15 of 1907,
s. 18.
No. 36 of 1924,
s. 7.

17. (1.) All gratuities, bonuses, and premiums, other than retiring allowances and gratuities paid in a lump sum, whether in money, or goods, or sustenance, or land allowed, given, or granted to any person in respect of, or for, or in relation to any employment or services of such person, shall be deemed to be income of such person to the amount of the

value of such use and enjoyment, gratuities, bonuses, and premiums, respectively.

(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.

18. The following incomes, revenues, and funds shall be exempt from income tax:—

(1) The revenues of municipal corporations, road boards, or other statutory public bodies. Exemption of certain incomes.
No. 15 of 1907,
s. 19.

(2) The incomes of life assurance companies and of companies or societies not carrying on business for purposes of profit or gain; but this exemption shall not apply to incomes derived from interest on investments. No. 22 of 1918,
s. 8.

(3) The dividends and profits of the companies subject to duty under the Dividend Duties Act, 1902, or any amendment thereof, subject to subsections (5) and (6) of section fifteen of this Act, and to any exception that may be declared from time to time by Parliament. No. 40 of 1922,
s. 3.

(4) The dividends and profits of the Government Savings Bank and the Agricultural Bank.

(5) The funds and incomes of any registered friendly society or trade or industrial union.

(6) The incomes and revenues of all ecclesiastical, charitable, and educational institutions of a public character, whether supported wholly or partly, or not at all, by grants from the Consolidated Revenue Fund.

(7) The income derived or received by or on behalf of the Governor in respect of the salary and emoluments of his office.

(8) The income derived or received by or on behalf of any pensioner resident in Western Australia, in respect of his pension received from the Crown in Great Britain or the Government of any British possession: Provided that he satisfies the Commissioner that such pension is liable to income tax or a like tax in Great Britain or such possession, and that such tax has been duly paid.

(9) Income arising or accruing to any person from Western Australia Government debentures, inscribed stock, and Treasury bills.

No. 24 of 1918,
s. 4.

(10) Any pension received by a person for injuries while on active service in the naval or military forces during the present war; 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.

No. 17 of 1922,
s. 6.

Ibid.

(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.

Ibid.

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

No. 17 of 1922,
s. 8.

(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.

No. 15 of 1907,
s. 19.

The exemptions declared by this section shall not extend to the salaries and wages of persons employed by any such corporation, public body, company, society, or institution, although the same are paid wholly or in part out of the income, revenues, or funds thereof.

Persons by whom
income tax is
payable.

No. 15 of 1907,
s. 20.

19. Subject to the provisions of this Act, income tax shall be payable—

- (1) In respect of every incorporated company, by the public officer thereof.
- (2) In respect of the income of every person permanently or temporarily absent from or resident out of Western Australia, by the attorney or agent of such person; and for the purposes of this Act every person in Western Australia having the receipt, management, disposal, or control of income on behalf of any person absent or resident as aforesaid, or remitting or paying income to such person, shall be deemed to be the agent of such

person. The Commissioner may, if he thinks necessary, declare any person to be the agent of any other person, and the person so declared an agent shall be the agent for the purposes of this Act.

- (3) In respect of the income of *cestuis que trust*, infants, lunatics, or persons under any legal disability, by the trustee, guardian, committee, or other person entitled for the time being to the receipt, management, disposal, or control of such income or remitting or paying the same.
- (4) In respect of the stakes won in any horse race on the racecourse of the Western Australia Turf Club or any other club or company, incorporated or otherwise, registered by the Western Australian Turf Club by the secretary of such club or company; and in respect of the stakes won in any horse race on any racecourse belonging to any unregistered person by the proprietor of such racecourse.

The income tax on such stakes shall be at the rate of fourpence in every pound sterling thereof, and the provisos to subsection one of section fifteen, and the provisions of section thirty-one shall not apply.

No. 24 of 1918,
s. 5.

- (5) In respect of income paid under the decree or order of any court or judge to any receiver or other person, by such receiver or person, and independently of the title to such income, or any contingency or uncertainty in respect of such title.
- (6) In respect of every other income, and in all other cases, by the person to whom the income arises or accrues or who is legally or equitably entitled to the receipt thereof.

And the person by whom income tax is payable under subsections one to four of this section, inclusive, shall be deemed to be "representative taxpayers" within the meaning of this Act. Nothing in this section shall be taken to relieve the person receiving the income from the representative taxpayer from any tax due or payable in respect thereof.

20. Every representative taxpayer, as regards the income to which he is entitled in his representative capacity, or of which in such capacity he has the management, receipt, disposal, remittance, payment, or control, shall be chargeable

Liability of re.
presentative
taxpayer.
No. 15 of 1907,
s. 21.

with the same income tax and be subject in all respects to the same liabilities as if the same were income arising or accruing to him beneficially, except that no such taxpayer shall be personally liable for the payment of income tax beyond the amount or value of the income of which he has, in such capacity as aforesaid, the management, receipt, disposal, or control:

Provided that nothing herein contained shall, in cases where the representative taxpayer acts as agent or trustee for several persons, prevent such representative taxpayer from claiming that each agency or trust shall be treated separately for the purpose of claiming the exemption or abatement provided for in section fifteen of this Act.

Indemnity to representative taxpayer.

No. 15 of 1907.
s. 22.

21. Every representative taxpayer who, as such, pays any tax or any sums imposed or incurred by way of fine under section fifty-three of this Act shall be entitled to recover from the person on whose behalf such tax or sums shall be paid, or to retain out of any moneys that may come to him in his representative capacity so much as shall be required to indemnify him in respect of such payments:

Provided that where any sum by way of fine under section fifty-three has been imposed or incurred through the neglect or default of the representative taxpayer, the amount of such fine shall not be chargeable against the person on whose behalf the tax shall be paid, and if deducted or retained by the representative taxpayer shall be recoverable from him by the person so entitled as aforesaid as money received to the use of such person.

Trustees and receiver in certain cases need only give the name and residence of persons entitled to trust property.

No. 15 of 1907.
s. 23.

22. No trustee who has authorised the receipt of the profits arising from trust property by the person entitled thereto or his agent, where such person or agent has actually received the same under such authority, and is resident in Western Australia, and no receiver of any person being of full age and resident in Western Australia (other than a married woman, lunatic, idiot, or insane person) who makes the returns prescribed by this Act and the regulations, specifying the name and residence of such person, shall be required to do any other act for the purpose of assessing the income of such person, unless the Commissioner requires the testimony of such trustee or receiver in pursuance of this Act or the regulations.

23. In any case where a company has at any time heretofore borrowed, or shall at any time hereafter borrow, money on debentures, such company shall be deemed to be the agent of every holder of such debentures.

Income tax on debentures of companies.
No. 15 of 1907, s. 24.

24. (1.) Where a person or company outside Western Australia (herein termed "the principal") by means of a company registered in Western Australia or carrying on business therein, or by means of a person in Western Australia (herein termed "the agent") sells or disposes of goods in Western Australia for the principal (whether the moneys arising therefrom are paid to or received by the principal directly or otherwise), the income chargeable derived therefrom by the principal shall be assessed at an amount equal to five pounds per centum upon the total amount received for such goods, and the amounts so assessed shall, for the purposes of income tax, be deemed to be income derived by the agent, and the following provision shall apply:—

Provision as to profits on imported goods.
No. 15 of 1907, s. 25.
No. 24 of 1918, s. 6.

The agent shall, as regards such income, make the returns, be assessed, be liable to income tax, and otherwise be subject to the provisions of this Act, to do all acts and things thereunder as if such income was actually the income of the agent, and in the case of such agent being a company as aforesaid, the provisions of section forty-five hereof shall apply: Provided that nothing herein contained shall exempt or discharge the principal from liability to pay income tax on such income, and that the agent shall have the same right to indemnity against the principal in respect of the tax paid by him as is conferred upon the representative taxpayer by section twenty-one.

(2.) The Governor may by regulations prescribe for the making, obtaining, adjusting, and settling returns by or with any agent in such manner and form, with such particulars and proof as may be thought fit, and for the purpose of making, completing, and enforcing assessments under this section and otherwise generally for the purpose of giving effect to the provisions hereof.

25. If any person carries on a business in Western Australia, and sells any product of such business for delivery elsewhere than in Western Australia, whether the contract of sale is made within or without Western Australia, the profit arising from such sale shall be deemed income arising or

Income from sales for delivery beyond Western Australia.
No. 24 of 1918, s. 14.

accruing to such person from the said business and to have been earned within the State of Western Australia :

Provided that if it is proved to the satisfaction of the Commissioner that, through treatment of such product elsewhere than in Western Australia, the profit on such sale has been thereby increased, such increase of profit shall not be deemed income arising or accruing to such person from his business in Western Australia :

Provided further that where a person carries on business in Western Australia and elsewhere and transfers goods from or to his business in Western Australia to or from his business elsewhere, all such goods so transferred shall for the purpose of assessment be returned by him at actual cost.

Shipping business.

No. 24 of 1918,
s. 15.

26. (1.) The income chargeable of any person carrying on shipping business shall be assessed in respect of such business, so far as it extends to traffic between ports in Western Australia and ports beyond Western Australia, at a sum equal to five pounds per centum of the gross proceeds of all inward and outward traffic, including passenger fares ; but the provisions of section thirty-one of this Act shall not apply.

(2.) Nothing herein contained shall relieve any such person from the liability to pay income tax on any income arising from the sale of goods, in connection with such business, or derived from any other business.

Non-resident agents and traders to hold Commissioner's warrants.

No. 15 of 1907,
s. 26.

27. (1.) It shall not be lawful for any non-resident agent to act as agent, or for any non-resident trader to carry on business in Western Australia, unless he is the holder of a warrant in that behalf under the hand of the Commissioner.

(2.) Every such warrant shall be in the prescribed form, and shall be issued without fee by the Commissioner on application to him in that behalf.

(3.) In all proceedings against any person for breach of this section it shall lie on the defendant to prove that he is a warrant holder.

(4.) The Commissioner may from time to time, as he thinks fit, assess any specified non-resident agent or non-resident trader for income tax in respect of any specific transaction, or of all transactions during any specified period, and may fix the amount of the tax at the rate then last in force (if the rate of tax is not then fixed by law), and on the assumption, subject to adjustment within the prescribed time at the instance of the Commissioner or taxpayer, that the

specified transaction, or, as the case may be, all the transactions during the specific period, have produced a net profit of five per centum of the gross proceeds resulting therefrom.

(5.) The tax so fixed by the Commissioner shall be payable on demand and shall be recoverable forthwith in the same manner in all respects as in the case of income tax in arrear, but subject to adjustment as aforesaid.

28. Whenever the Commissioner has reason to believe that any taxpayer establishing or carrying on business in Western Australia intends to carry on such business for a short time only, he may at any time, and from time to time, require such taxpayer to give security by way of bond or by way of deposit to the satisfaction of the Commissioner for the due assessment and payment of income tax on the profits derived from any such business.

Temporary
business—
Security for
payment of tax.
No. 15 of 1907,
s. 27.

29. The income of a married woman shall be liable to assessment and taxation in like manner as if she were unmarried.

Married woman,
how liable.
No. 15 of 1907
s. 28.

30. For the purposes of ascertaining the sum hereinafter termed the "taxable amount," on which (subject to the deductions hereinafter mentioned) income tax is payable, the following directions and provisions shall be observed and carried out:—

Taxable amount,
how ascertained.
No. 15 of 1907,
s. 29.

- (1) In assessing the income tax for any year, the amount of taxable income from all sources for the year next preceding the year of assessment shall, subject to the provisions of this section, be the taxable amount for the year of assessment, and for the first year of assessment, namely the financial year ending on the thirtieth day of June, one thousand nine hundred and eight, the "preceding year" shall be the calendar year one thousand nine hundred and seven, and so on:

Provided that the first assessment under the Land and Income Tax Assessment Act Amendment Act, 1917, shall be based on the income for the half-year ending the thirtieth day of June, one thousand nine hundred and seventeen, and shall be for six months only, and one-half the exemptions and deductions provided under this Act shall be allowed:

No. 14 of 1917,
s. 3.

No. 14 of 1917,
s. 4.

Provided that for the eleventh year of assessment, that is to say the financial year ending the thirtieth day of June, one thousand nine hundred and eighteen, and for each succeeding year of assessment, the year next preceding the year of assessment shall be the financial year ending the thirtieth day of June next preceding the year of assessment.

- (2) In any case in which profits or moneys derived from any business have been converted into stock-in-trade, or added to the capital of, or in any way invested in such business, a complete statement of the amount of such profits or moneys so converted or added or invested shall be made by such person in the prescribed form in his returns.
- (3) No tax shall be payable in respect of income earned outside the State of Western Australia.
- (4) Income received by a taxpayer in respect of a share in a company liable to pay income tax or dividend duty shall be deducted from the taxable amount, but such income shall be specified by the taxpayer in the returns made by him in the prescribed manner.
- (5) In all other cases the taxable amount shall be the total amount of taxable income arising or accruing to any person from all sources, except to the extent of the exemptions provided by section eighteen.
- (6) Shillings and pence and fractions thereof shall not be included in the taxable amount.

Deductions
from taxable
amount.

No. 15 of 1907,
s. 30.

No. 17 of 1922,
s. 7.

31. 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 eighteen 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) Any charge or expense other than capital expenditure incurred in the carrying on or conduct of any business, profession, trade, employment, or vocation; No. 36 of 1924,
s. 9.

(4) sums expended by the taxpayer for repairs of premises let or intended to be let to tenants;

(5) sums (not exceeding fifty pounds in the aggregate) expended by a taxpayer for repairs to his dwelling house, whether such dwelling house is fully purchased or in the course of purchase; No. 36 of 1924,
s. 9.

(6) (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: No. 36 of 1924,
s. 9.
Provided that this shall not apply where the income chargeable exceeds £350;

(d) reasonable travelling expenses incurred in earning, producing, or protecting the assessable income:

Such expenses shall include the cost of travelling from the place of living of the taxpayer to the place where his income is earned or produced not exceeding fifteen pounds in any year: No. 40 of 1922,
s. 4.

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 No. 36 of 1924,
s. 9 (12).

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;

- (7) 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;
- (8) such sum as the Commissioner may think just and reasonable as representing the diminished value (*i.e.*, for the purpose of 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:

No. 40 of 1922.
s 5.

In ascertaining the sum to be allowed under this paragraph, the Commissioner shall determine the estimated life of the machine, implement, utensil, rolling stock, or article, and shall allow as a deduction in each year of the estimated life of the machine, implement, utensil, rolling stock, or article, the sum obtained by dividing the cost of the machine, implement, utensil, rolling stock, or article, by the number of years of its estimated life; but the taxpayer shall bring into account in the year of sale any sum received by him on the sale of the machine, implement, utensil, rolling stock, or article in excess of the depreciated value. For the purposes of this subsection the estimated life of the machine, implement, utensil, rolling stock, or article shall be its reasonably effective life, assuming it is maintained in good order and condition;

- (9) 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;
- (10) 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; No. 36 of 1924, s. 9.
- (11) 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;
- (12) a sum representing sixty-two 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; No. 36 of 1924, s. 9.
- (13) money up to forty pounds per annum for each dependant actually expended during the year by a taxpayer in or towards the support of dependants; provided that this subsection shall not apply to an unmarried person claiming exemption under the second proviso to subsection (1) of section fifteen, or a deduction under subsection (3) 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. No. 40 of 1922, s. 5.
- (14) 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; No. 36 of 1924, s. 9.

No. 36 of 1924,
s. 9.

(15) 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: 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;

No. 36 of 1924,
s. 9.

(16) 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, 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: provided that such payment is applied solely to such charitable or other public purpose;

(17) 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.

32. No deduction shall, unless where specified in regard to subsection five hereof, be made in respect of any of the following matters:—

What deductions not allowed. No. 15 of 1907. s. 31.

- (1) The cost incurred in the maintenance of any taxpayer, his family or establishment.
- (2) Domestic or private expenses.
- (3) Payments of any kind made by husband to wife or by wife to husband.
- (4) Any loss or expense which is recoverable under any insurance or contract of indemnity.
- (5) Income tax or land tax.
- (6) Income earned in Western Australia and carried to any reserve fund, or capitalised in any way.

Nor as regards income derived from any profession, trade, employment, or vocation, in respect of any of the following matters:—

- (7) Disbursements or expenses of any kind not wholly and exclusively incurred in the production of the assessable income from such profession, trade, employment, or vocation.
- (8) The rent or value of or cost of repairs or alterations of any premises not occupied for the purposes of the profession, trade, employment, or vocation, or of any dwelling-house or domestic premises, except such part thereof as may be occupied for the said purposes.
- (9) Investment of capital; expenditure of capital; loss of capital withdrawn from the business; money used or intended to be used as capital therein; money used in the improvement of premises occupied therefor; interest which might have been made on such capital or money if laid out at interest.
- (10) Any debts owed to the taxpayer, except such as shall be proved to the satisfaction of the Commissioner to be bad or doubtful; and deductions for doubtful debts shall be made according to the value at which the Commissioner shall estimate them.

Assessments, Returns, etc.

33. (1.) The Commissioner shall, in the prescribed manner, give or cause to be given not less than thirty clear days' public notice of the time and place at which all persons liable

Commissioner to give notice of returns. No. 15 of 1907. s. 32.

to taxation personally, or in any representative capacity under the provisions of this Act, shall furnish returns for the purpose of assessment.

(2.) Such notice shall state the place at which the prescribed forms of return may be applied for and obtained, and it shall be the duty of all such persons, and of all persons required by this Act or any regulation to furnish any such returns, to apply for the prescribed forms of returns.

(3.) Any person failing to furnish any such return shall not be relieved from any penalty by reason only of his having received no notice to furnish the same, or of the prescribed form of return not having been delivered to him; but the Commissioner may, if he deems it so advisable, cause forms to be delivered by the assessors or sent by post.

Taxpayers to
furnish returns.

(4.) Every such person shall, upon the publication of such notice, prepare and deliver, in the prescribed manner, within the period to be mentioned in such notice, to the person appointed to receive the same, a return in the form prescribed of the description, situation, and value of all land of which such person is owner or holder, or in respect of which he may be liable under this Act to taxation in any representative capacity, and of the particulars of the income, with all details in relation thereto which may be prescribed; and such return shall be signed by the taxpayer, or by his agent duly authorised in that behalf.

(5.) Any return made or purporting to be made or signed by or on behalf of any person, or by the public officer of any company for the purposes of this Act, shall be taken and deemed to be duly made and signed by the person or by the public officer of the company affected, as the case may be, unless such person or public officer shall prove that such return was not made or signed as aforesaid.

(6.) If any person fails to make such return, the Commissioner may appoint a person to make a return on behalf of such person, and the return made by the person so appointed shall be, for all the purposes of this Act, the return of the person liable to make the same.

(7.) The returns furnished by or on behalf of every person required to furnish returns under this Act shall contain such particulars, be in such form, and be furnished to the Commissioner at such time as may respectively be prescribed or publicly notified.

(8.) The Commissioner may, when and so often as he thinks necessary, require any person, whether liable to taxation or not, to make any return, or to make further or fuller returns, respecting the land or income of such person.

Commissioner may require further returns. No. 24 of 1918, s. 8.

(9.) All returns required to be furnished under this Act shall be delivered at or sent by letter posted to the prescribed address.

(10.) No person shall be released from the obligations and penalties imposed by this Act or the regulations, in respect to the making of the returns herein mentioned, by reason only that such person may be within the exemptions as to value of lands or amount of income taxable hereinbefore declared.

34. (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.

assessments. No. 16 of 1907, s. 33. No. 17 of 1922, s. 8.

(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.

Validity of assessment.

No. 15 of 1907, s. 35.

No. 17 of 1922, s. 10.

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.

Due date where assessment is amended.

No. 15 of 1907, s. 36.

No. 17 of 1922, s. 11.

36. Where any addition to or amendment of an assessment in respect to the land tax for any year has been made, the due date in respect of any amount payable by reason of such addition or amendment shall be the date of the giving of the notice of such addition or amendment to the person affected thereby.

Valuations of land.

No. 15 of 1907, s. 37.

No. 17 of 1922, s. 12.

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

Reprint 1924, s. 37.

No. 42 of 1930, ss. 2 and 3.

37. (1.) For the purposes of section thirty-four of this Act, the Commissioner may from time to time make valuations of land liable to land tax, and from time to time may alter or amend any such valuation in order to ensure the correctness and accuracy thereof, but so that every valuation shall indicate the value of the land in the opinion of the Commissioner as on the thirtieth day of June last preceding the year of assessment for which such valuation is required.

(2.) Every such valuation, until altered or amended by the Commissioner, shall be deemed to indicate from year to year the value of the land in the opinion of the Commissioner as on the thirtieth day of June next preceding each year of assessment subsequent to the making of such valuation.*

* Section 37 of the Act as reprinted in the appendix to the sessional volume of the Statutes for the year 1924 was repealed by Section 2 of No. 42 of 1930 and the above Section 37 was enacted in place thereof by the said Section 2 of No. 42 of 1930. Section 3 of No. 42 of 1930 referring to the said Section 2 provides as follows:—

Operation of s. 2 of this Act.

3. (1.) The provisions of section two of this Act shall have effect as from and including the first day of July, one thousand nine hundred and thirty, and it shall be competent for the Commissioner to make valuations of land under section thirty-seven of the principal Act as amended by this Act for the purpose of ascertaining the amount of land tax to be levied for and in respect of the year of assessment commencing on the said date.

(2.) If the Commissioner makes any valuation of land as aforesaid, any assessment of the same land previously made by him and which, by virtue of section thirty-seven of the principal Act hereby repealed, was still subsisting on the said first day of July, one thousand nine hundred and thirty, shall as from the making of such valuation cease to have any further effect, but, subject as aforesaid, all such assessments of land shall be deemed, for the purposes of section thirty-four of the principal Act, to indicate the value of the land in the opinion of the Commissioner from year to year as on each thirtieth day of June until the Commissioner makes a valuation of such land under section thirty-seven of the principal Act as amended by this Act.

38. (1.) The Commissioner or any person authorised in writing by him may at all reasonable times inspect, free of charge, all rate-books, assessment-books, and valuations relating to any land, and all other books and documents relating to any assessment or valuation in the custody of the town clerk, secretary, or other officer of any municipality or road board, and all deeds, certificates, and other evidences of title, books, returns, accounts, and documents in the Land Titles Office, or the office for the Registration of Deeds, or in any other public office; and may require and take copies thereof, or extracts therefrom.

Power to inspect rate-books, etc. No. 15 of 1907, s. 39.

(2.) Any person obstructing or hindering any person so authorised shall be liable to a penalty not exceeding fifty pounds.

39. Any assessor may enter at any reasonable hour, during the day-time, upon land or premises, for the purpose of assessing the same, and may put to the occupier or owner thereof any questions touching any of the particulars thereof which he is required to furnish under this Act or the regulations.

Assessor may enter and ask questions. No. 15 of 1907, s. 40.

40. Joint owners or trustees of land in respect to which such owners or trustees are liable under this Act to be assessed and taxed shall be assessed jointly, but shall be jointly and severally responsible for the due furnishing of returns, and be in like manner liable in respect of the payment of the tax.

Trustees jointly and severally responsible for returns. No. 15 of 1907, s. 41.

41. (1.) Co-partners shall be assessed jointly in the name of the firm or style of the co-partnership, in respect of land belonging to or held by such co-partners, and shall be chargeable jointly and severally with the land tax payable in respect thereof; and such assessment shall be kept separate and distinct from the individual assessment of any such partner.

Partners assessed jointly as to land of firm. No. 15 of 1907, s. 42.

(2.) Every co-partner shall be separately responsible for the due furnishing of returns relating to such land, and liable in respect of any default in connection therewith.

42. Where the name of an owner of any land cannot, after due inquiry, be found, such land shall be assessed in the name of "the owner," and he shall be liable to taxation by that designation.

Provisions when name of owner unknown. No. 15 of 1907, s. 43. No. 17 of 1922, s. 14.

Assessment in
case of default.
No. 15 of 1907,
s. 44.
No. 17 of 1922,
s. 15.

43. (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.

(2.) Every such assessment shall be subject to appeal.

Notice to Tax-
payer.
No. 15 of 1907,
s. 47.

44. The Commissioner shall give the prescribed notice of assessment to every taxpayer, with such particulars of the assessment as he may consider necessary, and of the amount of tax payable and the date when payment will be due. Such notice shall be designated the Notice of Assessment of Land Tax or Income Tax, as the case may be.

Provisions as to Companies.

Public officer of
a company—
duties and
liabilities.
No. 15 of 1907,
s. 48.

45. (1.) Every incorporated company liable to land or income tax shall at all times be represented by a person residing in Western Australia, nominated for that purpose; and a place within the said State shall be appointed, from time to time, by such company, at which any notices or other instruments under this Act affecting the company may be served or delivered, and the Commissioner shall be notified within one month thereafter of the making of such nomination and appointment.

(2.) Such person shall, for the purposes of this Act, be called the public officer of the company, and shall be nominated—

- (a) In the case of a company having a board of directors or managers in Western Australia, within one month after the commencement of this Act:
- (b) In the case of a company not having such board as aforesaid, within three months after the commencement of this Act:

Provided that, in default of such nomination for the purposes of the first assessment under this Act, the public officer

of any company shall be such managing director, director, secretary, attorney, or other officer as the Commissioner shall nominate for that purpose.

(3.) The office of public officer shall be kept constantly filled by every company.

(4.) Every company failing or neglecting, within the time required by this Act, to nominate its public officer, or failing or neglecting to fill any vacancy in that office as prescribed, or to appoint a place at which notices or other instruments may be served or delivered, shall be liable to a penalty not exceeding fifty pounds for every day during which such neglect shall continue.

(5.) Every notice, process, or proceeding which, under this Act, or the regulations, may be given to, or served upon, or taken against any company may be given to, served upon, or taken against its public officer; and if, at any time, there is no public officer, then any such notice, process, or proceeding may be given to, served upon, or taken against any officer or person acting or appearing to act in the management of the business or affairs of such company, or as attorney or agent for such company.

(6.) Every public officer shall be answerable for the doing of all such acts, matters, or things as are required to be done under this Act or the regulations by a taxpayer, and in case of default shall be liable to the same penalties.

(7.) Any act, return, or representation done or made by a public officer in respect of any matter or thing required to be done or performed under this Act or the regulations relating to the business of the company of which he is such public officer shall be deemed the act, return, or representation of such company, and shall be of the same force and effect and be accompanied by the same consequences as if done or made by such company.

(8.) Every company established or beginning to carry on business in the State after the passing of this Act shall, in case of a company registered in the Commonwealth of Australia, within one month after its establishment or beginning to carry on business, and in case of a company registered outside the Commonwealth of Australia, within three months after its establishment or beginning to carry on business, nominate a person to be its public officer, and appoint a place for delivery of notices and other instruments as aforesaid.

(9.) The absence or non-appointment of a public officer shall not exonerate any company from the necessity of com-

plying with the provisions of this Act or the regulations, or from the penalties consequent on the failure to comply therewith.

Appeals.

Court of Review.
No. 36 of 1924,
s. 11.

46. (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.

See No. 15 of 1907,
ss. 8, 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.

Appeals:
No. 36 of 1924;
s. 11.

47. (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 :

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.

48. (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.

Power of Court on hearing of appeals.
No. 36 of 1924,
s. 11.

(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.

(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.

49. The obligation to pay, and the right to receive and recover land or income tax shall not be suspended by any appeal, but if the appellant succeeds on such appeal the amount (if any) of the tax received by the Commissioner in excess of the amount which, according to the decision of such appeal, was properly payable by him, shall forthwith be repaid to him by the Commissioner.

Right to recover tax not suspended by appeal.
No. 15 of 1907
s. 51.

50. (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.

Rules.
No. 86 of 1924,
s. 11.

(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.

Collection of Tax.

51. For the more effective administration of this Act, the following provisions shall apply:--

- (1) Every person, local authority, and public or private body or society whatsoever, whether a taxpayer or not, and every department of the public service, shall from time to time furnish the Commissioner with a return of all persons employed by him or it, and the salary, wages, stipend, or other allowances or emoluments paid or allowed to each person so employed.
- (2) The Commissioner or any person authorised by him in that behalf shall at all times have full and free access to all buildings, places, books, documents, and other papers, for the purpose of valuing or inspecting the same; and for such purposes may make extracts from or copies of any such books, documents, or papers.
- (3) The Commissioner may, by notice in writing, require any person, whether a taxpayer or not, to attend and give evidence before him, or any officer authorised by him in that behalf, concerning any income or assessment, and to produce all books, documents, and other papers whatsoever in such person's custody or under his control relating thereto.
- (4) The Commissioner may require such evidence to be given under oath, and either verbally or in writing; and for such purpose he or the officer authorised as aforesaid may administer an oath.
- (5) Every banking company and every other company, firm, or person who in the course of business holds money by way of deposit and allows interest thereon shall furnish annual returns to the Commissioner of all the amounts in excess of fifty pounds paid or payable as interest on such money for the year or any part thereof, with the names, addresses, and occupations of the depositors; and for the purposes of this Act every such banking or

Administrative powers.

No. 15 of 1907, s. 52.

Salary and wage list to be furnished.

Access to buildings, books, etc.

Evidence of any person may be required.

Oath may be administered.

Returns of deposits in banks, etc.

other company, firm, or person shall be deemed to be the agent of all depositors mentioned in the returns who are outside Western Australia.

52. (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.
No. 15 of 1907,
s. 53.
No. 17 of 1922,
s. 19.

(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.

53. (1.) Every person who fails to pay the amount payable by him in respect of land tax or income tax respectively after the same has become due shall, in addition to the amount of such land or income tax, pay, by way of fine, a sum equal to ten pounds per centum thereof.

Fine on defaulting taxpayer.
No. 15 of 1907,
s. 54.
No. 40 of 1922,
s. 8.

(2.) The Commissioner shall have power to remit any fine incurred, and to refund the amount of any fine paid under this section.

54. Land tax and income tax and every sum imposed or incurred by way of fine in addition to such tax shall be deemed, when the same becomes due or is payable, to be a debt due to His Majesty, and payable to the Commissioner in the manner and at the places prescribed.

Land and income tax to be a debt due to His Majesty.
No. 15 of 1907,
s. 55.

55. (1.) Any taxpayer who has lodged his income tax returns in accordance with the provisions of this Act for any year of assessment, and who is liable for income tax in respect

Income tax may be paid by instalments in certain cases.
See No. 15 of 1907,
s. 56.
Reprint 1924, s. 55.
No. 42 of 1931, s. 2.

thereof, shall, within fourteen days after a date to be notified by the Commissioner by publication in the *Government Gazette*, make application to the Commissioner for payment by monthly or other periodical instalments of the income tax payable or to become payable by him in respect of the income chargeable shown in such return, notwithstanding that such income tax may not then have been assessed.

(2.) Upon receipt of such application the Commissioner shall fix the amount of the monthly or other periodical instalment to be paid at such amount as he shall deem reasonable, based on the income chargeable shown in the return of the taxpayer calculated at the rate which shall then have last been imposed by law in respect of such income. When the Commissioner has fixed the amount of the monthly or other periodical instalment as aforesaid, he shall give notice thereof to the taxpayer in the prescribed form, and fix the dates of payment for such instalments.

(3.) When a taxpayer has received from the Commissioner the notice mentioned in subsection (2) hereof, he shall thereafter, on or before the due date fixed for payment of each and every periodical instalment as aforesaid, pay to the Commissioner the amount of such monthly or other periodical instalment on account of the income tax payable or to become payable by him.

(4.) As and when the amount of the income tax payable by such taxpayer is assessed by the Commissioner under this Act, credit shall be given to the taxpayer for the amount of the monthly or other periodical instalments already paid by him on account of the same. If the amount of such instalments shall exceed the amount of the income tax assessed, the taxpayer shall be entitled forthwith to a refund of the excess under and in accordance with the provisions of section sixty-one of this Act. If the amount of such instalments is less than the amount of the income tax assessed, the balance of income tax payable after giving credit for the amount of instalments paid shall be due and payable within the time prescribed by section fifty-two of this Act, but such balance may during such time be paid by means of such monthly instalments.

56. Any land or income tax, together with any fines accrued, may be sued for and recovered by action in any court of competent jurisdiction by the Commissioner suing on behalf of His Majesty.

57. With respect to proceedings in a local court for the recovery of tax and fines, the following provisions shall have effect:—

Procedure.
No. 15 of 1907,
s. 58.

(1) When a summons for the recovery of tax is issued and served, then unless, seven days before the day appointed for hearing, a statement in writing, by or on behalf of the defendant, showing a defence on the merits, shall be made to the clerk of the court in which such summons was issued, judgment shall be given for the amount claimed, without the necessity of the Commissioner, or anyone on his behalf, appearing in court, or proving the liability of the defendant and the nonpayment of the tax.

(2.) It shall be sufficient in any such suit or proceeding if the particulars of demand state the amount sought to be recovered, the date on which the same was payable, with such further and other particulars as the Commissioner may think necessary.

58. If, in any proceedings for the recovery of tax and fines against any taxpayer who has been assessed, the defendant—

Mode of service when defendant absent.
No. 15 of 1907,
s. 59.
No. 17 of 1922,
s. 20.

(a) is absent from Western Australia, and has not, to the knowledge of the Commissioner, after reasonable inquiry in that behalf, any attorney or agent in Western Australia on whom service of process can be effected; or

(b) cannot, after reasonable inquiry, be found, then, notwithstanding any Act or rule of the court to the contrary, good service of any summons or writ may, without leave of the court, be effected on him by posting the same, or a copy thereof, in a letter addressed to him at his last known place of business or abode in Western Australia: and, in the case of land tax, by affixing the same on a conspicuous part of the land to which the tax relates.

59. In all proceedings under this Act the Commissioner may appear either by solicitor or by any officer in the public service of the State, or the Commonwealth Taxation Department, and the appearance of any such solicitor or officer, and his statement that he so appears by authority of the Commissioner, shall be sufficient evidence of such authority for all purposes.

Commissioner may appear by solicitor or public officer.
No. 15 of 1907,
s. 60.
No. 17 of 1922,
s. 21.

Procedure when name of owner cannot be ascertained.

No. 15 of 1907, s. 61.
No. 17 of 1922, s. 22.

60. Whenever, under the provisions of section forty-two of this Act, land is assessed under the designation of "the owner," proceedings for the recovery of the tax to which the owner of such land is liable may be taken, and judgment given against him and enforced under the designation aforesaid.

Good service of any notice, summons, or writ may be effected on him by affixing the same or a copy thereof on a conspicuous part of the land to which the tax relates, any Act or rule of court to the contrary notwithstanding.

Refunds

No. 15 of 1907, s. 62.
No. 17 of 1922, s. 23.

61. If the amount paid by any taxpayer is in excess of the amount properly chargeable under this Act, the Commissioner shall give a certificate to that effect, and shall refund the proper amount in each case to the taxpayer or person entitled to receive the same: Provided that the Commissioner shall not certify for any refund under this section unless the claim is made within three years of the date when the tax was due.

Persons dying before furnishing a return.

No. 17 of 1922, s. 33.

62. (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.

(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.

Person dying after furnishing a return.

No. 17 of 1922, s. 29.

63. 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:

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 this section will

entail serious hardship, the board may release the executor or administrator of the deceased person wholly or in part from his liability.

Recovery of Tax by Letting and Sale of Land.

64. (1.) The land tax shall, by force of this Act, and without registration, be a first charge upon the land taxed, in priority to all sales, conveyances, transfers, leases, mortgages, charges, liens, rates and encumbrances whatsoever, and notwithstanding any disposition of any land it shall continue to be liable, in the hands of any purchaser or holder thereof, for the payment of such tax so long as the same remains unpaid.

Tax to be a first charge upon the land.
No. 15 of 1907.
s. 63.

(2.) Whenever any land tax payable in respect of any land shall be unpaid for the space of two years, it shall be lawful for the Commissioner, notwithstanding any judgment in respect of such tax recovered against the person chargeable with the same so long as such judgment remains unsatisfied, to cause to be published, for three consecutive weeks in the *Government Gazette*, a notice specifying such land, and the amount of tax and fines due in respect thereof, and stating that if such amount is not paid within one year from the first publication of such notice the Commissioner will let the land for a term not exceeding three years, with tenant right to improvement reasonable and necessary in the case of a tenancy for a term of three years, or will apply to the Supreme Court for an order for the sale thereof.

Notice of intention to let or sell.

(3.) If, after one year from the first publication of such notice, the tax and fines due at the time of such first publication are still unpaid, the Commissioner may let such land, or any part thereof, as above provided, and may receive the rents and profits thereof, and apply the same towards the payment of the said tax, or part thereof, and of costs and expenses, and hold any surplus in trust for the rightful owners of such land.

Commissioner may let land.

(4.) The Commissioner, instead of letting such land, may, in like case, by petition to the Supreme Court or any judge thereof, apply for a sale of so much of the land described in such notice as may be necessary, and the court or judge, on being satisfied by affidavit or otherwise that the arrears are lawfully due, and were in arrear at the time of the first publication of such notice, and that all things required

Commissioner may apply to Supreme Court for sale.

by this Act to be done by the Commissioner have been done, shall order the sale of the said land, or so much thereof as shall be sufficient to pay all arrears due up to the time of sale, together with any sum payable by way of fine, and all costs of and attending the application, and of and attending the sale of such land, and that the proceeds be paid into court.

Application of
proceeds of sale.
No. 15 of 1907,
s. 64.

65. Whenever any sale of any land, estate, or interest shall have been ordered and effected under the last preceding section—

- (a) the court or a judge shall order payment of the said tax, fines, costs, and expenses to be first made out of the proceeds of sale, and the balance of the proceeds of such sale shall be paid into court, and after such advertisement as the court or judge may direct shall be applied as the court or judge may think proper for the benefit of the parties interested therein; and
- (b) the conveyance or transfer, as the case may be, shall be executed by the officer of the court nominated by the court or judge for such purpose to the purchaser, in such form as shall be approved by the court or judge; and
- (c) such conveyance or transfer shall vest the land, estate, or interest sold in the purchaser as completely and effectually as if such conveyance or transfer had been executed by the owner of such land, estate, or interest; and
- (d) in cases where the land is under the provisions of the Transfer of Land Act, 1893. the Registrar of Titles shall, upon production to him of the transfer, register the same. and, notwithstanding any provision of the said Act to the contrary, production of the certificate of title shall not be required; provided that, for the purposes of registration the registrar shall, if necessary, do and perform all such acts and things as are provided for in the case of dealings with land where the certificate of title is lost or not produced, and in such case the purchaser shall be entitled to receive a certificate of title to the land purchased.

Regulations, Penalties, etc.

66. The Governor may make regulations—

Governor may
make regulations.
No. 15 of 1907,
s. 65.

- (1) Prescribing the duties of all persons engaged or employed under or in the administration of this Act;
- (2) For the security to be given by any such persons, the limits of districts, and places within which any such persons are to act;
- (3) Prescribing the returns to be furnished to the Commissioner, the form and contents thereof, and the time and mode of furnishing the same; and the form, time, and manner of giving notices of appeal;
- (4) Prescribing the mode of payment of the tax or fine;
- (5) Making provision for the assessment and taxation of taxpayers absent from or not permanently resident in Western Australia, whether they are or are not represented in Western Australia by agents;
- (6) Providing, where there is no provision in this Act, or no sufficient provision, in respect of any matter or thing necessary to give effect to this Act, in what manner and form the deficiency shall be supplied;
- (7) For any purpose, whether general or to meet particular cases, that may be desirable in order to carry out the objects and purposes of this Act, or to give effect to anything for which regulations are contemplated or required by this Act;
- (8) To enable the Commissioner in his discretion to accept returns of land or income in an abridged or modified form if the information supplied enables the assessment to be duly made.

No. 24 of 1913,
s. 13.

67. All such regulations shall be published in the *Government Gazette*, and shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament is then sitting, and if Parliament is not then sitting then within fourteen days after the beginning of the next session, and upon publication in the *Government Gazette* all such regulations shall have the force of law.

Publication of
regulations.
No. 15 of 1907,
s. 66.

Occupier refusing to give the name of owner liable to a penalty.
No. 15 of 1907, s. 67.

68. If the occupier or person in possession of any land when requested by the Commissioner or by any authorised officer refuses to disclose the name of the owner of such land, or of the person entitled to receive the rents and profits thereof, or wilfully misstates the same or neglects or refuses to give any information in his possession, which is lawfully required by the Commissioner or any such officer for the purpose of this Act, he shall; for every such offence, be liable to a penalty not exceeding twenty pounds.

Penalty for making false returns, etc.
No. 15 of 1907, s. 68.

69. If any person—

- (a) fails or neglects to furnish any returns within the prescribed time; or
- (b) knowingly and wilfully makes any false statement in any returns, or makes any false answer for the purpose of evading or enabling any other person to evade assessment or taxation; or
- (c) by any falsehood, wilful neglect, fraud, art, or contrivance whatsoever evades or attempts to evade assessment or taxation; 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,

No. 17 of 1922, s. 24.

he shall be liable to a penalty of not less than two pounds, nor more than one hundred pounds; and in any case where the offence was an evasion of assessment or taxation, or an attempt to evade assessment or taxation, the person offending shall be liable to be assessed and charged treble the amount of the tax to which such person would otherwise be liable.

No. 36 of 1924, s. 12.

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.

Additional tax for late returns and for omission in returns.
No. 24 of 1918, s. 16.

70. Any person who—

- (a) fails or neglects to duly furnish any return or information as and when required by this Act or the regulations or by the Commissioner; or
 - (b) fails to include any assessable income in any return;
- or

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

No. 17 of 1922,
s. 25.

shall, if a taxpayer, be liable to pay, on demand by the Commissioner, by way of additional tax an amount of not exceeding ten per centum of the amount of tax assessable to him, in addition to any additional tax which may become payable by him in accordance with section fifty-three of this Act:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient, remit the additional tax or any part thereof.

71. Any person who obstructs or hinders any officer acting in the discharge of his duties under this Act or the regulations, or refuses or wilfully neglects to answer or gives any false or evasive answer to any lawful question put by any such officer relating to any land, property, or income belonging to such person, shall be liable to a penalty not exceeding fifty pounds.

Penalty for obstructing officers, etc.

No. 15 of 1907,
s. 69.

72. Every person, whether a taxpayer or not, shall comply with any demand or requirement made by the Commissioner under the authority of this Act.

Requirements of Commissioner to be complied with.

No. 24 of 1918,
s. 17.

73. Every contract, agreement, or understanding, whether arrived at or evidenced by matter of record under seal or by writing or by parol, having or purporting to have or which might have the effect of removing, qualifying, or altering the operation of any land or income assessment, return, exemption, or deduction, or of in any way affecting the incidence of any land or income assessment or tax, or displacing the benefit of any exemption or deduction, authorised by or consequent upon any provision of this Act shall (whether such contract, agreement, or understanding shall have been or be made before or after the passing of this Act) be wholly void and inoperative so far as such contract, agreement, or understanding purports or is intended to have or might have the effect aforesaid, but without prejudice to the validity of such contract, agreement, or understanding in any other respect or for any other purpose:

Contracts, etc. affecting assessment, incidence of assessment, etc., void.

No. 15 of 1907,
s. 70.

No. 17 of 1922,
s. 26.

Provided that the interest of the lessor in any lands subject to any such agreement made before the commencement of this Act by a lessee to pay the land tax, shall, for the purpose of contribution under section twelve, be calculated upon a basis excluding the value of the reversionary interest.

Penalties may be imposed by regulation.
No. 15 of 1907, s. 71.

74. Any person guilty of a breach of any of the provisions of this Act shall, except where otherwise expressly provided, be liable to a penalty not exceeding twenty pounds, and the Governor may, by regulation, impose a penalty not exceeding twenty pounds for the breach of any of the regulations under this Act.

Proceedings to be heard summarily.
No. 15 of 1907, s. 72.

75. All penalties imposed by this Act or by the regulations thereunder may be recovered summarily under the provisions of the Justices Act, 1902: But notwithstanding anything in the Justices Act, 1902, or in any other Act to the contrary, any information or complaint in respect of any penalty under this Act may be laid at any time within three years next after the date of the offence.

Action against officers, etc.
No. 15 of 1907, s. 73.

76. In any action against any officer or person for anything done in pursuance of this Act, or in the execution of the powers or authorities conferred thereby, or by the regulations, the defendant in such action may plead the general issue, and give the special matter in evidence at the trial.

Evidence.
No. 15 of 1907, s. 74.
No. 17 of 1922, s. 27.

77. The production of the *Government Gazette* containing any regulations purporting to be regulations under this Act, or any notice purporting to be published in pursuance of this Act or the regulations, shall be conclusive evidence that such regulation or publication was duly made or published, and the production of any assessment or of any document under the hand of the Commissioner purporting to be a copy of or extract from any assessment shall be conclusive evidence of the making of the assessment, and except in the case of proceedings on appeal against the assessment (when the same shall be *prima facie* evidence only) shall be conclusive evidence that the amount and the particulars of such assessment appearing in such assessment or document are absolutely correct.

Exchange of information.
No. 15 of 1907, s. 75.
No. 14 of 1917, s. 6.

78. Notwithstanding anything contained in this Act, it shall be lawful for the Commissioner, and he is hereby authorised to communicate any matter which may come to his knowledge in the performance of his official duties to the Commissioner or Deputy Commissioner of Taxation for the Commonwealth of Australia or to the Commissioner of Income Tax for any other State of the Commonwealth or any other person occupying a corresponding position in any such State with reference to the collection of duties of income tax:

Provided that this section shall not come into operation unless or until reciprocal authority to afford similar information to the Commissioner has been conferred on the Commonwealth Commissioner of Taxation and his deputy in Western Australia, or such other Commissioner of Taxation as the case may be.

79. Any information obtained by the Commissioner or any officer of the Taxation Department in the performance of his or their duties under this Act may be used in connection with his or their duties under any other Act administered by the Taxation Department, and any such information may be used as evidence in any legal proceedings under any such Act.

Information obtained under this Act may be used under other Acts.

No. 15 of 1907,
s. 76.

No. 14 of 1917,
s. 7.

80. This Act shall not apply to the income of persons absent from the State on naval or military service with His Majesty's forces received subsequently to the thirty-first day of December, one thousand nine hundred and fifteen, during the present war, so far as such income arises or accrues from a source included in paragraphs (a) and (b) of subsection (1) of section fifteen of this Act.

Exemption in the case of persons on naval or military service.

No. 15 of 1907,
s. 77.

No. 14 of 1917,
s. 5.

81. The amendments of the principal Act made by the Land and Income Tax Assessment Act, 1921 (No. 17 of 1922), 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.

No. 17 of 1922,
s. 30.

