

## New Zealand



### ANALYSIS

**Title.**

1. Short Title.

2. Further provisions as to deduction at source of combined charge on income included in certain payments. Repeal.

3. Payments to employees or former employees while on naval, military, or air service to be deducted from employer's assessable income in certain cases, and to be assessed to employees for income-tax purposes. Repeal.

1943, No. 2

**Title.**

AN ACT to make Provision with respect to Public Finance and others Matters. [16th March, 1943

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

**Short Title.**

1. This Act may be cited as the Finance Act, 1943.

**Further provisions as to deduction at source of combined charge on income included in certain payments.**

2. (1) This section shall be read together with and deemed part of the Social Security Act, 1938 (in this section referred to as the principal Act).

1938, No. 7

1942, No. 2

1942, No. 14

(2) In all cases where, in pursuance of or in intended or purported compliance with subsection four of section one hundred and eighteen of the principal Act, or section eleven of the Finance Act, 1942, or section thirteen of the Finance Act (No. 2), 1942, or any notice or requirement given or made by the

Commissioner in pursuance or purported pursuance of any of those provisions, any moneys have been deducted by any person (whether before or after the passing of the Finance Act, 1942, or of this Act) from any moneys payable by that person to any other person, the moneys so deducted shall be deemed for all purposes to have been validly and lawfully deducted pursuant to section thirteen of the Finance Act (No. 2), 1942. Without limiting the generality of the foregoing provision, it is hereby declared that no person other than the Commissioner shall have any remedy or right of action against any other person in respect of the moneys so deducted, except the remedies hereinafter conferred, and that the payment to the Commissioner of any moneys so deducted shall absolutely discharge the person making the deduction from any liability to any other person in respect of the moneys so deducted and paid. If any moneys so deducted before the passing of this Act are not paid to the Commissioner within twenty-one days after the passing of this Act the moneys so deducted shall be deemed not to have been duly paid within the meaning of subsection two of section one hundred and nineteen of the principal Act, and the person who made the deduction shall be deemed to be guilty of wilful neglect or default within the meaning of subsection three of that section.

(3) Without limiting the provisions of subsection five of section thirteen of the Finance Act (No. 2), 1942, it is hereby declared that for the purposes of that section and of this section all references to payments and to moneys payable shall be deemed to include any moneys paid or payable by one person as agent to another person as his principal. All references in this section to the payment of moneys to the Commissioner shall be deemed to include payment in accordance with regulation twelve of the Social Security Contribution Regulations 1939.

Serial number  
1939/13

(4) Notwithstanding anything hereinbefore contained, in any case where the Commissioner is satisfied that any moneys deducted as aforesaid (whether before or after the passing of the Finance Act, 1942, or of this Act) have been deducted from moneys payable to a person who is exempt from the combined charge or who is not liable for the combined charge to the

extent of the amount so deducted, the Commissioner may, upon application made by or on behalf of that person within three years after the date of the deduction, forthwith refund to him the amount so deducted or so much thereof as in the opinion of the Commissioner exceeds the amount of the combined charge for which that person is liable.

(5) In any case where, by reason of the operation of any of the statutory provisions referred to in subsection two of this section, any moneys have been deducted as aforesaid (whether before or after the passing of the Finance Act, 1942, or of this Act) from any moneys payable to any person in any income year, and all amounts so deducted, together with the other moneys (if any) paid to the Commissioner on account of the combined charge on the income derived by that person in that income year, exceed the amount of the combined charge (if any) payable by him in respect of that income, the Commissioner shall, upon application made by or on behalf of that person within three years after the date of the deduction, refund to him the amount of the excess, or, if no combined charge is so payable, shall refund the whole of the amount so deducted.

(6) Subsection six of section thirteen of the Finance Act (No. 2), 1942, is hereby repealed.

3. (1) This section shall be read together with and deemed part of the Land and Income Tax Act, 1923 (in this section referred to as the principal Act).

(2) For the purposes of this section,—

(a) The term “serving employee”, in relation to any employer, means a person who has (whether before or after the passing of this Act) been called up for service in any of His Majesty’s naval, military, or air forces, whether on voluntary enlistment or otherwise, and whether within New Zealand or elsewhere, and who when he was so called up was employed by his employer in such circumstances that the whole or any part of the wages, salary, allowance, or other remuneration paid to him by his employer is allowable as a deduction in calculating the employer’s assessable income; and the term “employer” has a corresponding meaning:

1942, No. 2

Repeal.

1942, No. 14

Payments to employees or former employees while on naval, military, or air service to be deducted from employer’s assessable income in certain cases, and to be assessed to employees for income-tax purposes.

See Reprint of Statutes, Vol. VII, p. 271

(b) Any person who occupies or has occupied in relation to any company the position of director, by whatever name called, shall be deemed to be or to have been employed by the company.

(3) In calculating the assessable income of any employer the Commissioner may allow as a deduction any moneys paid by that employer to any serving employee, and not deductible otherwise than under this section, if the Commissioner is satisfied that the payment or payments have been made for the purpose of supplementing the income of the serving employee, or were in any manner induced by or due to the employment or former employment of the serving employee by the employer, or were otherwise directly or indirectly connected with or related to that employment or former employment:

Provided that no deduction shall be allowed under this subsection in excess of the rates of the wages, salary, allowance, or other remuneration payable to the serving employee at the time when he was called up, or in excess of the rate of four pounds a week, whichever is the less.

(4) The assessable income of any serving employee shall, for the purposes of the principal Act, be deemed to include all moneys paid to him by his employer and not forming part of his assessable income otherwise than by virtue of this section:

Provided that this subsection shall not apply with respect to any payment or payments if the Commissioner is satisfied that the payment or payments have not been made for the purpose of supplementing the income of the serving employee, and were not in any manner induced by or due to the employment or former employment of the serving employee by the employer, and were not otherwise directly or indirectly connected with or related to that employment or former employment.

(5) All moneys included in the assessable income of any serving employee by virtue of this section shall, for the purposes of the principal Act, be deemed to be earned income.

1938, No. 7

(6) For the purposes of Part IV of the Social Security Act, 1938, all moneys included in the assessable income of any serving employee by virtue of this section shall be deemed to be salary or wages, and the person paying any such moneys shall be deemed to be the employer of the serving employee.

See Reprint  
of Statutes,  
Vol. VII, p. 376

(7) The payment of any moneys that are allowed as a deduction under subsection three of this section or are included in the assessable income of any person under subsection four of this section shall be deemed not to constitute a gift within the meaning of Part IV of the Death Duties Act, 1921.

(8) The provisions of this section shall apply with respect to any moneys paid by any employer to any serving employee notwithstanding that the legal relationship of employer and employee may not in fact exist between them at the time of payment.

Repeal.  
1939, No. 34

(9) Section four of the Land and Income Tax Amendment Act, 1939, is hereby repealed.

(10) This section shall apply with respect to the tax for the year of assessment commencing on the first day of April, nineteen hundred and forty, and for every subsequent year:

Provided that nothing in this section shall affect the rights of any party to any proceedings in any Court under any judgment given in the proceedings before the passing of this Act.