

New Zealand

ANALYSIS

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Modifying special exemption in respect of dependent relatives. 3. Repealing special provisions as to income-tax of companies using capital borrowed out of New Zealand. | <ol style="list-style-type: none"> 4. Taxation of income derived from Native land being developed under Part I of Native Land Amendment Act, 1936. 5. Agreements for relief from double taxation of income. 6. Refunds of tax paid by non-resident traders and other persons on income exempted by Order in Council. Repeal. 7. Abolition of excess profits tax. Schedule. |
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1946, No. 38

Title.

AN ACT to amend the Land and Income Tax Act, 1923.
[12th October, 1946]

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 Land and Income Tax Amendment Act, 1946, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal Act).

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

2. (1) Section eleven of the Land and Income Tax Amendment Act, 1939, is hereby amended as follows:—

(a) By omitting from subsection two the words “ but does not include any person to whom or on whose behalf a monetary benefit is payable out of the Social Security Fund ”:

(b) By inserting, after subsection two, the following subsection:—

“(2A) No special exemption shall be allowed under this section in respect of any relative of the taxpayer to whom or on whose behalf any monetary benefit other than a family benefit was payable out of the Social Security Fund during the whole or any part of the income year.”

(2) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty-six, and for every subsequent year.

3. (1) Section six of the Land and Income Tax Amendment Act, 1933, section thirteen of the Land and Income Tax Amendment Act, 1935, and section fifteen of the Finance Act, 1939, are hereby repealed.

(2) Section one hundred and twenty-five of the Social Security Act, 1938, is hereby consequentially amended as follows:—

(a) By omitting from subsection three the words “ or section six of the Land and Income Tax Amendment Act, 1933 ”:

(b) By omitting from the said subsection three the words “ those sections ”, and substituting the words “ that section ”.

(3) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty-six, and for every subsequent year.

4. (1) For the purposes of this section,—

“ Beneficial owners ”, in relation to any land, means the persons who are beneficially entitled (whether in severalty or as tenants in common) to an estate in fee-simple in that land, whether legal or equitable:

Modifying special exemption in respect of dependent relatives.
1939, No. 34

Repealing special provisions as to income-tax of companies using capital borrowed out of New Zealand.
1933, No. 43
1935, No. 32
1939, No. 3
1938, No. 7

Taxation of income derived from Native land being developed under Part I of Native Land Amendment Act, 1936.

1939, No. 34

“ Native authority ” has the same meaning as in section twenty-nine of the Land and Income Tax Amendment Act, 1939:

“ Tax ” means income-tax, and includes social security charge and national security tax:

Income shall be deemed to be distributed to a beneficial owner when it is paid to the beneficial owner or applied for his benefit or for any purpose authorized by him.

1939, No. 34

(2) Notwithstanding anything to the contrary in section twenty-nine of the Land and Income Tax Amendment Act, 1939, or in any other Act, any income derived by a Native authority (whether as trustee or agent or otherwise) from any land that is being developed or improved by the Native authority under Part I of the Native Land Amendment Act, 1936 (not being land that is occupied by any person as a lessee, or as an occupier nominated under the said Part I), shall be deemed to be assessable income derived by the beneficial owners of that land in the income year in which that income is distributed to the beneficial owners, and the Native authority shall be assessable and liable for tax accordingly as agent for the respective beneficial owners in respect of the income so distributed in any income year, and all the provisions of the principal Act as to agents shall apply accordingly.

1936, No. 53

(3) Notwithstanding anything to the contrary in section five hundred and fifty of the Native Land Act, 1931, or in any other enactment, a Native authority may pay the tax payable in respect of any income distributed by the Native authority to a beneficial owner, and may deduct and retain out of any income available for distribution to a beneficial owner such amount or amounts as may be necessary to pay any tax that may be or become payable in respect of the income distributed or to be distributed to that beneficial owner.

(4) This section shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty, and for every subsequent year.

5. (1) The Governor-General may from time to time, by Order in Council, declare that arrangements specified in the Order, being arrangements that have been made with the Government of any territory outside New Zealand with a view to affording relief from double taxation in relation to income-tax, social security charge, and national security tax, or any of those taxes, and any taxes of a similar character imposed by the laws of that territory, shall, notwithstanding anything to the contrary in the principal Act or any other enactment, have effect in relation to income-tax, social security charge, and national security tax, or any of those taxes, as the case may be; and every such Order in Council shall, subject to the provisions of this section, have effect according to its tenor.

Agreements
for relief
from double
taxation of
income.

(2) Without limiting the generality of the foregoing provisions, it is hereby declared that any arrangements to which effect is given under this section may contain provision, in relation to any of those taxes,—

(a) For relief from tax:

(b) For charging the income derived from any sources in New Zealand to persons not resident in New Zealand:

(c) For determining the income to be attributed to persons not resident in New Zealand and their agencies, branches, or establishments in New Zealand:

(d) For determining the income to be attributed to persons resident in New Zealand who have special relationships with persons not so resident.

(3) Any such arrangements may include provision for relief from tax for periods before the passing of this Act or before the making of the arrangements, and provisions as to income which is not itself subject to double taxation.

(4) Any Order in Council under this section may be at any time amended or revoked by a subsequent Order in Council; and any such amending or revoking Order in Council may contain such transitional provisions as appear to the Governor-General to be necessary or expedient.

(5) Where any arrangements have effect under this section, the obligation as to secrecy imposed by any enactment, and in particular by section six of the principal Act, shall not prevent the Commissioner or any authorized officer of the Land and Income Tax Department from disclosing to any authorized officer of the Government with which the arrangements are made such information as is required to be disclosed under the arrangements.

(6) Without limiting the power to make regulations conferred on the Governor-General by section one hundred and seventy-two of the principal Act, it is hereby declared that all such regulations may be made under that section as are desirable or necessary for the purpose of carrying out the provisions of this section or any arrangements having effect thereunder.

6. (1) In any case where the Commissioner is satisfied that income-tax, social security charge, or any other tax has been paid in respect of any income which is exempt from taxation by virtue of any Order in Council under section eleven of the Land and Income Tax Amendment Act, 1935, or under section five of this Act (whether made before or after the passing of this Act), being income derived before the date of the Order in Council, the Commissioner, notwithstanding anything to the contrary in section eight of the Land and Income Tax Amendment Act, 1944, or in Regulation 19A of the Social Security Contribution Regulations 1939, may refund the amount of the tax or charge so paid if written application therefor is made by or on behalf of the taxpayer at any time within four years after the date of the Order in Council.

(2) Section fifteen of the Finance Act (No. 2), 1942, is hereby repealed.

7. (1) The Excess Profits Tax Act, 1940, is hereby repealed.

(2) The enactments specified in the Schedule to this Act are hereby consequentially amended in the manner indicated in that Schedule.

(3) This section shall be deemed to have come into force on the first day of April, nineteen hundred and forty-six, and shall not apply with respect to the tax for any year of assessment before that date.

Refunds of tax paid by non-resident traders and other persons on income exempted by Order in Council.
1935, No. 32

1944, No. 28
Serial numbers 1939/13 and 1945/35

Repeal.
1942, No. 14

Abolition of excess profits tax.
1940, No. 22

SCHEDULE
CONSEQUENTIAL AMENDMENTS

Schedule

Title of Act.	Number of Section affected.	Nature of Amendment.
1939, No. 34— The Land and Income Tax Amend- ment Act, 1939	Section 23 (1) (f), as set out in section 5 (1) of the Land and Income Tax Amendment Act, 1941	By omitting the words "excess profits tax" where they first occur; by omitting from the proviso the words "by which the taxable income of the pro- prietary company for that in- come year exceeds the amount of the excess profits tax (if any) payable by that company in respect of income derived by it during that year", and sub- stituting the words "of the taxable income of the pro- prietary company for that in- come year".
1941, No. 18— The Land and Income Tax Amend- ment Act, 1941	Section 23 (3) (c), as amended by section 5 (3) (b) of the Land and Income Tax Amend- ment Act, 1941	By omitting the words "(not in- cluding excess profits tax)".
1941, No. 18— The Land and Income Tax Amend- ment Act, 1941	Section 3 (2)	By omitting the words "excess profits tax".
	Section 3 (5)	By repealing this subsection.
	Section 5 (2)	By repealing this subsection.
1942, No. 2— The Finance Act, 1942	Section 4	By repealing this section.