



ANALYSIS

<p>Title.</p> <p>1. Short Title.</p> <p>2. Application of Act.</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">GENERAL</p> <p>3. Exempting milk treatment companies from income tax where shares held by exempt persons.</p> <p>4. Extending exemption of war pensions from income tax. Repeals.</p> <p>5. Refund of deferred maintenance where assets disposed of.</p> <p>6. Extending period for allowance of special depreciation on buildings and plant. Repeal.</p> <p>7. Extending period for allowance of initial depreciation on farm equipment and accommodation for farm workers.</p> <p>8. Deduction of developmental expenditure not to exceed £200 for any farming or agricultural business.</p> <p>9. Standard values for livestock of deceased farmer.</p> <p>10. Alternative values for livestock in gift to child.</p>	<p>11. Extending provisions as to assessment of mining companies for income tax. Repeal.</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">TAXATION OF MAORI AUTHORITIES AND MAORIS</p> <p>12. Interpretation.</p> <p>13. Tax on income derived by Maori authorities for more than twenty beneficiaries.</p> <p>14. Tax on income derived by Maori authorities for twenty or less beneficiaries.</p> <p>15. Adjustments where section 13 or section 14 ceases to apply by reason of decrease or increase in number of beneficiaries.</p> <p>16. Tax on income distributed by Maori authorities before 1 April 1950.</p> <p>17. Maori authority to make returns of income, and give notice to Maoris of amounts distributed.</p> <p>18. Repeal and savings.</p> <p>19. Deduction of donations to Tribal Executives from assessable income of Maori authorities.</p> <p>20. Repeal of provisions as to land being developed.</p> <p>21. Land owned by East Coast Commissioner deemed to be Maori land.</p>
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1952, No. 80

Title. AN ACT to amend the Land and Income Tax Act 1923.
[24 October 1952]

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 1952, 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

Application of Act.

2. Except as otherwise provided herein, this Act shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and fifty-two, and for every subsequent year.

PART I

GENERAL

Exempting milk treatment companies from income tax where shares held by exempt persons. 1935, No. 32

3. (1) Section seventy-eight of the principal Act is hereby amended by inserting, after paragraph (*ee*) (as substituted by section six of the Land and Income Tax Amendment Act 1935), the following paragraph:—

“(*eee*) The income of any company having for its sole or principal object the treatment and sale of milk, if every shareholder of the company is either—

“(i) A co-operative company the income of which is exempt from taxation under paragraph (*ee*) of this section; or

“(ii) A local authority or public authority the income of which is exempt from taxation under paragraph (*b*) of this section; or

“(iii) Her Majesty or any person holding shares for or on behalf of Her Majesty:”

(2) Section seventy-eight of the principal Act is hereby further amended by inserting in subparagraph (i) of the said paragraph (*ee*), after the words “treatment, manufacture, and sale of products of milk”, the words “or as a shareholder or supplier of a company the income of which is exempt from taxation under paragraph (*eee*) of this section”.

4. (1) Section seventy-eight of the principal Act is hereby amended by repealing paragraphs (f) and (ff), and substituting the following paragraph:—

Extending exemption of war pensions from income tax.

“(f) Income derived by any person from any pension or allowance under the War Pensions Act 1943 or under section forty-seven of the Superannuation Act 1947, or from any other pension or allowance granted in New Zealand or elsewhere by any Government in respect of any war or in respect of any disability or disablement attributable to or aggravated by service in any naval, military, air, or police forces:”.

1943, No. 22
1947, No. 57

(2) The following enactments are hereby consequentially repealed:—

Repeals.

(a) Section six of the Land and Income Tax Amendment Act 1924:

See Reprint of Statutes, Vol. VII, pp. 339, 350

(b) Section five of the Land and Income Tax Amendment Act 1930:

(c) Section eight of the Finance Act (No. 2) 1943:

1943, No. 9

(d) Section eight of the Land and Income Tax Amendment Act 1945.

1945, No. 37

5. (1) Section six of the Land and Income Tax Amendment Act 1944 (as amended by subsection two of section four of the Land and Income Tax Amendment Act 1950) is hereby further amended by inserting, after subsection eight, the following new subsection:—

Refund of deferred maintenance where assets disposed of.
1944, No. 28
1950, No. 22

“(9) Where any asset in respect of which a deduction for deferred maintenance has been allowed under this section has been disposed of by way of sale, gift, or exchange, the following provisions shall apply:—

“(a) Notwithstanding anything to the contrary in subsection seven of this section, the Commissioner may at any time refund the amount deposited in relation to that asset, whether or not an application for the refund has been made by the taxpayer, and whether or not the amount so deposited is less than fifty pounds:

“(b) Every amount refunded under this subsection shall, notwithstanding anything to the contrary in subsection eight of this section, be deemed to be assessable income derived by the taxpayer in the income year during

which the disposition occurs, or in such previous income year or years as the taxpayer elects, to the extent to which a deduction in respect of deferred maintenance has been allowed under this section in any such previous year or years:

“ Provided that, where the refund is made to the personal representatives of a deceased taxpayer in respect of a deposit made by the taxpayer in his lifetime, the amount refunded shall be deemed at the option of the personal representatives to be—

“(i) Income derived by the taxpayer immediately before his death; or

“(ii) Income derived by the taxpayer in such previous income year or years as the personal representatives elect, to the extent to which a deduction in respect of deferred maintenance has been allowed under this section in any such year or years; or

“(iii) Income derived by the personal representatives during such period or periods subsequent to the date of death and not later than the year in which the disposition occurs as the personal representatives elect:

“(c) Where an application for a refund of the whole or any part of the amount deposited in relation to that asset has been made, whether before or after the date of the disposition, and the refund has not been made before the date of the disposition, every refund of the whole or any part of that amount shall be deemed to be made under this subsection:

“(d) For the purpose of giving effect to the provisions of this subsection, the Commissioner may alter any assessment at any time, notwithstanding anything to the contrary in section sixteen of the principal Act.”

(2) This section shall apply with respect to deposits made and not refunded before the passing of this Act and to deposits made after the passing of this Act.

6. (1) Section fifteen of the Land and Income Tax Amendment Act 1945 (as amended by section eight of the Land and Income Tax Amendment Act 1951) is hereby further amended by omitting from subsection one the words "nineteen hundred and fifty-three", and substituting the words "nineteen hundred and fifty-four".

Extending period for allowance of special depreciation on buildings and plant.
1945, No. 37
1951, No. 80

(2) Section eight of the Land and Income Tax Amendment Act 1951, is hereby consequentially repealed.

Repeal.

7. Section eight of the Land and Income Tax Amendment Act (No. 2) 1950 is hereby amended by omitting from subsection five the words "nineteen hundred and fifty-three" wherever they occur, and substituting in each case the words "nineteen hundred and fifty-four".

Extending period for allowance of initial depreciation on farm equipment and accommodation for farm workers.
1950, No. 87

8. Section nine of the Land and Income Tax Amendment Act (No. 2) 1950 is hereby amended as from the commencement thereof by adding to the proviso to paragraph (b) of subsection one the words "in respect of any farming or agricultural business, whether the business is carried on by one person or by two or more persons in partnership or otherwise jointly or in common, whether as legal owners or as beneficial owners, and whether as trustees or otherwise".

Deduction of developmental expenditure not to exceed £200 for any farming or agricultural business.

9. Section sixteen of the Land and Income Tax Amendment Act 1939 is hereby amended by inserting, after subsection nine, the following subsections:—

Standard values for livestock of deceased farmer.
1939, No. 34

"(9A) Notwithstanding anything to the contrary in the foregoing provisions of this section, the executor or administrator of any taxpayer dying after the thirty-first day of August, nineteen hundred and fifty, who at the date of his death was deriving income from livestock shall, in the return of income for the period ending with the date of death of the taxpayer, adopt as the value of any livestock on hand at that date the value of that livestock as determined for the purposes of the Death Duties Act 1921, unless he elects in respect of any class of livestock to adopt instead thereof a lower value being either—

See Reprint of Statutes, Vol. VII, p. 354

"(a) The standard value last adopted by the deceased taxpayer and for the time being in force under subsection nine of this section; or

“(b) A new standard value, being higher than the standard value referred to in paragraph (a) hereof,—

in which event the standard value so adopted in respect of any class of livestock shall be deemed to have been adopted with the concurrence of the Commissioner and shall be taken into account for the purpose of computing the assessable income derived by the deceased taxpayer for the period ending with the date of his death and (subject to the provisions of subsection nine of this section) for the purpose of computing the assessable income derived by the executor or administrator for any period or periods after the date of death. In any case in which a standard value is adopted under this subsection the amount of income tax (if any) required to be allowed as a debt under section nine of the Death Duties Act 1921 in respect of the income of the deceased taxpayer for the period ending with the date of his death shall be calculated in accordance with this subsection.

See Reprint
of Statutes,
Vol. VII,
p. 360

“(9B) In any case where a taxpayer dying after the thirty-first day of August, nineteen hundred and fifty, was at the date of his death a member of a partnership deriving income from livestock, and his executor or administrator carries on the business in partnership with the surviving partner or partners, subsection nine A of this section shall, with the necessary modifications, apply for the purpose of computing the assessable income derived from the partnership by the deceased taxpayer or by his executor or administrator:

“Provided that the executor or administrator may not elect to adopt any standard value unless that standard value was in force under subsection nine of this section for the purposes of the partnership at the date of death of the taxpayer, or is adopted by the executor or administrator and the other partner or partners for the purposes of the partnership.”

Alternative
values for
livestock in
gift to child.
1939, No. 34
1949, No. 29

10. (1) Notwithstanding anything to the contrary in section sixteen of the Land and Income Tax Amendment Act 1939 or in section nine of the Land and Income Tax Amendment Act 1949, where any livestock used by a taxpayer in any farming business is sold or otherwise disposed of by the taxpayer to any child of the taxpayer without consideration in money or money's worth or for

a consideration that is less than the market price of the livestock at the date of the sale or other disposition, and the livestock is thereupon used in a farming business carried on by the child, the livestock shall be deemed for the purposes of the principal Act to have been sold at and to have realized the market price thereof at the date of the sale or other disposition, unless the taxpayer elects to adopt instead of that market price a price fixed in accordance with subsection two of this section.

(2) The taxpayer may elect to adopt instead of the market price a price in respect of any class of the livestock equal to the greatest of the following amounts:—

(a) The actual price (if any) at which that class of the livestock was sold:

(b) The standard value last adopted by the taxpayer and for the time being in force under section sixteen of the Land and Income Tax Amendment Act 1939 in respect of that class of the livestock:

1939, No. 34

(c) Such standard value as the Commissioner considers reasonable, having regard to the standard values generally adopted in respect of livestock of the same type and quality,—

in which event the livestock shall be deemed to have realized the price adopted by the taxpayer in pursuance of that election.

(3) Notice of any election made under this section shall be given to the Commissioner in writing not later than the date on which the taxpayer furnishes his return of income for the income year during which the sale or other disposition takes place or, in any case where the Commissioner requires the adoption of the true value under subsection nine of section sixteen of the Land and Income Tax Amendment Act 1939, within one month after the Commissioner has given notice of that requirement, except that in respect of a sale or other disposition which took place during the income year that ended on the thirty-first day of March nineteen hundred and fifty-two, the notice of election shall be given within six months after the passing of this Act. No notice of election given after the time so specified shall have any effect unless the Commissioner in his discretion accepts it and gives notice to the taxpayer accordingly.

(4) The price which under this section the livestock is deemed to have realized shall be taken into account in calculating the assessable income of the person selling or otherwise disposing of the livestock; and the child acquiring the livestock shall, for the purpose of calculating his assessable income, be deemed to have purchased the livestock at that price.

(5) The foregoing provisions of this section shall, with the necessary modifications, apply in any case where a share or interest in any livestock used in any farming business is sold or otherwise disposed of by a taxpayer to any child of the taxpayer without consideration in money or money's worth or for a consideration that is less than the true value of the share or interest at the date of the sale or other disposition, and the livestock is thereupon used in a farming business carried on by the child or by a partnership of which the child is a member:

Provided that, in any case where the livestock is, upon the sale or other disposition, used in a farming business carried on by a partnership of which the child is a member, the taxpayer may not elect to adopt any price unless that price is based on a standard value that was in force under subsection nine of section sixteen of the Land and Income Tax Amendment Act 1939 for the purposes of the partnership at the date of the sale or other disposition, or on a standard value that is adopted by the child and the other partner or partners for the purposes of the partnership.

(6) For the purposes of this section the term "child" includes a stepchild, but does not include any child or stepchild under the age of eighteen years at the date of the sale or other disposition.

11. (1) Section ninety-seven of the principal Act (as amended by section four of the Land and Income Tax Amendment Act 1941) is hereby further amended by omitting from subsection one the words "gold mining, mercury mining, or scheelite mining", and substituting the words "mining gold, mercury, scheelite, molybdenite, copper, lead, zinc, antimony, tin, and manganese, or any of those minerals".

(2) Section four of the Land and Income Tax Amendment Act 1941 is hereby consequentially repealed.

1939, No. 34

Extending provisions as to assessment of mining companies for income tax.

1941, No. 18

Repeal.

PART II

TAXATION OF MAORI AUTHORITIES AND MAORIS

12. (1) For the purposes of this Part of this Act, unless the context otherwise requires,— Interpretation.

“ Maori authority ” means the Board of Maori Affairs, the Maori Trustee, the East Coast Commissioner, a Maori Land Board, or a body corporate under Part XVII of the Maori Land Act 1931; and includes any other person or body of persons administering or having control of Maori land or reserves or any other property or income in trust for or on behalf of or for the benefit of any Maoris otherwise than as the executor, administrator, or trustee of the estate of any deceased Maori, or as a trustee under any deed or other document executed by a Maori and creating a trust of any property or income:

See Reprint
of Statutes,
Vol. VI, p. 250

“ Maori ” means a person belonging to the aboriginal race of New Zealand; and includes a person descended from a Maori; and, except for the purposes of the definition of the expression “ Maori authority ”, also includes any person legally or beneficially entitled to any income of a Maori authority.

(2) For the purposes of this Part of this Act an amount shall be deemed to be distributed by a Maori authority to a Maori—

- (a) Where the amount is paid or credited by the Maori authority to the Maori in any manner or under any name, or is applied by the Maori authority exclusively for the individual personal benefit of the Maori:
- (b) Where any amount is advanced by the Maori authority to the Maori or for his individual personal benefit, to the extent to which, in the opinion of the Commissioner, the making of the advance was not a *bona fide* investment by the Maori authority but was virtually a distribution of income:
- (c) Where any property is transferred or otherwise disposed of by the Maori authority to the Maori without consideration in money or

money's worth or for a consideration that is less than the market price or true value thereof, to the extent by which the market price or true value exceeds the amount or value of the consideration (if any).

(3) Any amount distributed by a Maori authority to a Maori shall be deemed to be distributed out of income except to the extent to which the Commissioner determines that the amount does not represent income derived by the Maori authority:

Provided that, where the distribution is made in the course of the winding up or termination of a trust or authority, the amount distributed shall be deemed to be distributed out of income to the extent only to which the Commissioner determines that the amount represents either income derived in the year in which the distribution is made or income derived in a previous year which has not been assessed as undistributed income under section thirteen of this Act.

Tax on
income derived
by Maori
authorities
for more
than twenty
beneficiaries.

13. (1) Where income is derived or held by a Maori authority in respect of any trust or authority during any income year in trust for or on behalf of or for the benefit of any number of Maoris exceeding twenty at the end of the year, the following provisions of this section shall apply.

(2) Any amount distributed by the Maori authority to any Maori during any income year out of income shall be deemed to be income derived by the Maori in that income year (whether it was derived by the Maori authority in that year or any previous year), and the Maori shall be assessable and liable for income tax on that amount accordingly.

(3) So much of the income derived by the Maori authority in any income year as remains after deducting therefrom—

(a) All amounts (if any) distributed by the Maori authority to any Maori or Maoris during that income year out of income; and

(b) Any loss which may be carried forward and deducted from that income in accordance with section eighty-one of the principal Act,—

shall be deemed to be undistributed income derived by the Maori authority, and the Maori authority shall be assessable and liable for income tax in respect of that

undistributed income at the minimum rate prescribed by the appropriate annual taxing Act for income derived by individual taxpayers during that income year.

(4) Where the amount distributed by the Maori authority to any Maori or Maoris during any income year out of income exceeds the income derived by the Maori authority in that year, the amount of the excess may be allowed as a deduction in computing the undistributed income derived by the Maori authority for any of the four immediately preceding income years, and the tax on any such undistributed income shall be assessed or reassessed accordingly.

(5) This section shall apply and be deemed to have always applied to income derived or distributed by a Maori authority during the income year that ended with the thirty-first day of March, nineteen hundred and fifty-one, and during every subsequent year.

14. (1) Where income is derived by a Maori authority in respect of any trust or authority during any income year in trust for or on behalf of any Maori or any number of Maoris not exceeding twenty at the end of the year, the following provisions of this section shall apply.

Tax on income derived by Maori authorities for twenty or less beneficiaries.

(2) The income shall for the purpose of assessing income tax thereon be deemed to be income derived by the Maori authority as trustee for the Maori or Maoris, and also to be income derived by the Maori or Maoris as beneficiaries entitled in possession to the receipt thereof under the trust during the same income year within the meaning of paragraph (a) of section one hundred and two of the principal Act, and the Maori authority shall be assessable and liable for income tax thereon accordingly.

(3) This section shall apply and be deemed to have always applied to income derived by a Maori authority during the income year that ended with the thirty-first day of March, nineteen hundred and fifty-one, and during every subsequent year.

15. Where during any income year to which sections thirteen and fourteen of this Act apply the number of Maoris having a beneficial interest in the income of a Maori authority in respect of any trust or authority—

Adjustments where section 13 or section 14 ceases to apply by reason of decrease or increase in number of beneficiaries.

(a) Decreases so that the income ceases at the end of the year to be assessable under section thirteen of this Act; or

(b) Increases so that the income ceases at the end of the year to be assessable under section fourteen of this Act,—

the Commissioner may make such adjustments in the assessments of income tax as he considers just and reasonable, having regard to all relevant circumstances.

Tax on income distributed by Maori authorities before 1 April 1950.

16. (1) Where during the income year that ended with the thirty-first day of March, nineteen hundred and forty-eight, nineteen hundred and forty-nine, or nineteen hundred and fifty, any amount was distributed by a Maori authority to a Maori out of its income in respect of any trust or authority, that amount shall be deemed to be income derived by the Maori in that income year (whether it was derived by the Maori authority in that income year or any previous year), and the Maori shall be assessable and liable for income tax on that amount accordingly.

(2) For the purpose of giving effect to the provisions of this section, the Commissioner may alter any assessment at any time, notwithstanding anything to the contrary in section sixteen of the principal Act.

Maori authority to make returns of income, and give notice to Maoris of amounts distributed.

17. (1) Every Maori authority shall in each year furnish to the Commissioner, on or before the date prescribed as the date by which returns of income are required under the principal Act to be furnished in that year, a return in the prescribed form setting forth a complete statement of all the income derived by the Maori authority in respect of any trust or authority during the preceding year, together with particulars of the amount or amounts distributed to each Maori during that income year, the date of each distribution, the full name and address of each Maori receiving any such distribution, and the number (if any) of each of those Maoris on the Maori electoral roll.

(2) The Maori authority shall in each year send to each Maori to whom any amount has been distributed a notice in writing in the form or to the effect following:—

“The sums paid or credited to you during the year ended 31 March 19 amounted to £ , and the Commissioner of Inland Revenue has been informed of the amount so paid or credited. If you are required

under the Land and Income Tax Act or Regulations to furnish a return of income to the Commissioner of Inland Revenue, this amount must be included in that return. This amount is liable for income tax in your hands, but as the social security charge thereon has already been accounted for, you should exclude the amount from your declaration of income for social security purposes."

(3) The returns and notices relating to income derived and amounts distributed during any income year that ended on or before the thirty-first day of March, nineteen hundred and fifty-two, shall be furnished and given not later than the thirtieth day of September, nineteen hundred and fifty-three.

(4) This section shall apply and be deemed to have always applied to income derived or distributed by a Maori authority during the income year that ended with the thirty-first day of March, nineteen hundred and forty-eight, and during every subsequent year.

18. (1) Section twenty-nine of the Land and Income Tax Amendment Act 1939 is hereby repealed.

Repeal and
savings.
1989, No. 34

(2) Notwithstanding anything to the contrary in the said section twenty-nine or in section one hundred and two of the principal Act or in any other enactment, no Maori authority or Maori shall be assessable or liable for income tax on any income derived or distributed by a Maori authority, except as provided in this Part of this Act.

(3) Where before the passing of this Act any Maori or any Maori authority has been assessed for income tax in accordance with the provisions of section twenty-nine of the Land and Income Tax Amendment Act 1939 the amount so assessed shall, notwithstanding anything to the contrary in this Part of this Act, be deemed to be and to have been correctly assessed and properly payable, and no refund of any such income tax shall be made in consequence of the foregoing provisions of this Part of this Act.

(4) Section five hundred and fifty of the Maori Land Act 1931 shall not apply or be deemed to have applied at any time since the commencement of that Act so as to prevent the payment by a Maori of any income tax for which he is assessed, or the payment out of income derived by a Maori authority in respect of any trust or

See Reprint
of Statutes,
Vol. VI, p. 346

authority of any income tax for which the Maori authority is assessed in respect of that trust or authority, or which the Maori authority is required to pay under section seven of the Finance Act 1942, or which the Maori authority is authorized to pay by a Maori who is beneficially interested in that income.

1942, No. 2

Deduction of donations to Tribal Executives from assessable income of Maori authorities.

1945, No. 43

19. Notwithstanding anything to the contrary in section eighty of the principal Act, the Commissioner may, in calculating the assessable income of a Maori authority, allow as a deduction any donation made by the Maori authority to any Tribal Executive or Tribal Committee constituted under the Maori Social and Economic Advancement Act 1945 for the purposes of that Act:

Provided that the amount allowed as a deduction under this section to any Maori authority in respect of any income year shall not exceed five per cent of so much of the assessable income derived by the Maori authority in that year as remains after making all other deductions that may be allowed by the Commissioner in calculating the assessable income.

Repeal of provisions as to land being developed.

1946, No. 38

20. (1) Section four of the Land and Income Tax Amendment Act 1946 is hereby repealed.

(2) Where the Board of Maori Affairs has at any time before the passing of this Act in effect declared that any land which is being or has been developed or improved under Part I of the Maori Land Amendment Act 1936 is farming land the profits of which are taxable, section four of the Land and Income Tax Amendment Act 1946 shall be deemed to have ceased to apply to the land on the date of the declaration.

1936, No. 53

Land owned by East Coast Commissioner deemed to be Maori land.

21. All land owned by the East Coast Commissioner on the passing of this Act shall for the purposes of assessing land tax be deemed to be and to have always been Maori land within the meaning of the principal Act.