



ANALYSIS

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1965, No. 125

An Act to amend the Land and Income Tax Act 1954
[28 October 1965]

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

1. Short Title—This Act may be cited as the Land and Income Tax Amendment Act (No. 2) 1965, and shall be read together with and deemed part of the Land and Income Tax Act 1954 (hereinafter referred to as the principal Act).

2. Application—Except where this Act otherwise provides, this Act shall apply with respect to the tax on income derived in the income year that commenced on the first day of April, nineteen hundred and sixty-five, and in every subsequent year.

3. Powers of Board of Review or Supreme Court on determination of objection or case stated—(1) The principal Act is hereby amended by repealing section 31 (as substituted by section 2 (1) of the Land and Income Tax Amendment Act 1960), and substituting the following section:

“31. (1) On hearing any objection the Board may—

“(a) Confirm or cancel or vary the assessment, or reduce the amount thereof, or increase the amount thereof to the extent to which the Commissioner was empowered to make an assessment of an increased amount at the time he made the assessment to which the objection relates, and that last-mentioned assessment shall be altered by the Commissioner to such extent as may be necessary to conform to that determination:

“(b) Make any assessment which the Commissioner was empowered to make at the time he made the assessment to which the objection relates, or direct the Commissioner to make such an assessment, in which case an assessment shall be made by the Commissioner so as to conform to that direction.

“(2) Nothing in section 24 of this Act shall apply with respect to—

“(a) Any determination of the Board under paragraph (a) of subsection (1) of this section or any alteration made by the Commissioner to an assessment for the purpose of conforming to any such determination; or

“(b) Any assessment made by the Board or the Commissioner pursuant to paragraph (b) of that subsection.”

(2) Section 32 of the principal Act (as substituted by section 2 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by repealing subsection (11), and substituting the following subsections:

“(11) On hearing any case stated under this section, the Supreme Court may—

“(a) Confirm or cancel or vary the assessment, or reduce the amount thereof, or increase the amount thereof to the extent to which the Commissioner was empowered to make an assessment of an increased amount at the time he made the assessment to which the objection relates, and that last-mentioned assessment shall be altered by the Commissioner

to such extent as may be necessary to conform to that determination:

“(b) Make any assessment which the Commissioner was empowered to make at the time he made the assessment to which the objection relates, or direct the Commissioner to make such an assessment, in which case an assessment shall be made by the Commissioner so as to conform to that direction.

“(11A) Nothing in section 24 of this Act shall apply with respect to—

“(a) Any determination of the Court under paragraph (a) of subsection (11) of this section or any alteration made by the Commissioner to an assessment for the purpose of conforming to any such determination; or

“(b) Any assessment made by the Court or the Commissioner pursuant to paragraph (b) of that subsection.”

(3) This section shall apply with respect to objections made after the passing of this Act and to objections made before the passing of this Act which have not been determined by the Board of Review or, as the case may be, the Supreme Court before the passing of this Act, whether or not the hearing has been completed before the passing of this Act, and whether the income to which any such objection relates was derived in the income year that commenced on the first day of April, nineteen hundred and sixty-five, or in any earlier or subsequent year.

4. Special exemptions for absentees—Section 79A of the principal Act (as substituted by section 7 (1) of the Land and Income Tax Amendment Act 1964) is hereby amended by adding, as subsection (2), the following subsection:

“(2) Every absentee who has in an income year derived from New Zealand assessable income by way of superannuation, pension, retiring allowance, or other allowance or annuity in respect of or in relation to the past employment of the absentee or of any person of whom the absentee is or has been the wife or husband or a child or dependant shall, for the purpose of assessing ordinary income tax on the assessable income so derived by him or her in the income year, be entitled to a deduction by way of special exemption from that assessable income of an amount equal to—

“(a) The amount of the assessable income so derived; or

“(b) The sum of four hundred and sixty-eight pounds; or

“(c) The amount by which the sum of four hundred and sixty-eight pounds exceeds so much of the total deduction allowed in that year under paragraph (a) of subsection (1) of this section as has been calculated by reference to section 80 of this Act,—whichever is the least.”

5. Special exemptions for married persons—(1) Section 81 of the principal Act (as amended by section 4 (4) of the Public Revenues Amendment Act 1963) is hereby further amended by omitting from subsection (3) the words “out of the Consolidated Revenue Account”, and substituting the words “under Part I of the Social Security Act 1964”.

(2) Section 82 of the principal Act (as amended by section 4 (4) of the Public Revenues Amendment Act 1963) is hereby further amended by omitting from subsection (3) the words “out of the Consolidated Revenue Account”, and substituting the words “under Part I of the Social Security Act 1964”.

6. Certain armed forces gratuities exempt from taxation—(1) Section 86 of the principal Act is hereby amended by repealing paragraph (hh) of subsection (1) (as inserted by section 9 of the Land and Income Tax Amendment Act 1959 and amended by section 5 of the Land and Income Tax Amendment Act (No. 2) 1962), and substituting the following paragraph:

“(hh) Income derived by any person from any gratuity granted or paid to him—

“(i) Pursuant to the Navy Act 1954 on the completion of a specified period of service as a member of the Royal New Zealand Naval Volunteer Reserve; or

“(ii) Pursuant to the New Zealand Army Act 1950 on the completion of a specified period of service as a member of the Territorial Force; or

“(iii) Pursuant to the Royal New Zealand Air Force Act 1950 on the completion of a specified period of service as a member of the Territorial Air Force or the Active Reserve of the Air Force Reserve or as an officer of the Air Training Corps:

“Provided that the amount of the exemption under this paragraph in any income year shall not exceed sixty pounds of that income.”

(2) The following enactments are hereby repealed:

(a) Section 9 of the Land and Income Tax Amendment Act 1959:

(b) Section 5 of the Land and Income Tax Amendment Act (No. 2) 1962.

(3) This section shall come into force on the first day of November, nineteen hundred and sixty-five, and shall not apply with respect to income derived from a gratuity where the specified period of service in respect of which the gratuity is granted or paid has ended before that date.

7. Liability to tax of gratuities payable to regular members of armed forces—(1) Section 88 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Nothing in the proviso to paragraph (b) of subsection (1) of this section shall apply with respect to—

“(a) Any gratuity granted or paid pursuant to the Navy Act 1954 to a member of the Royal New Zealand Navy:

“(b) Any gratuity granted or paid pursuant to the New Zealand Army Act 1950 to a member of the Regular Force:

“(c) Any gratuity granted or paid pursuant to the Royal New Zealand Air Force Act 1950 to a member of the Regular Air Force or of the Regular Section of the Women’s Royal New Zealand Air Force,—

being in each case a payment designated as a gratuity in the regulations, notice, order, instructions, or other instrument of authority pursuant to which it is payable.”

(2) This section shall apply with respect to every gratuity referred to in subsection (1) of this section, whether it was granted or paid before or after the passing of this Act.

(3) Any assessment made before the passing of this Act which would have been valid if this section had been in force when the assessment was made shall be deemed to have been validly and lawfully made.

8. Aggregation of incomes of husband and wife—Section 104 of the principal Act (as substituted by section 14 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by omitting from subparagraph (ii) of paragraph (a) of subsection (4), and also from subparagraph (vi), the words “section 79A (excluding the amount specified in paragraph (iii) of subsection (2) of that section) or section 80

of this Act”, and substituting in each case the words “paragraph (a) of subsection (1) of section 79A of this Act (excluding so much of the special exemption under that paragraph as has been calculated by reference to sections 81 to 84B of this Act) or under subsection (2) of section 79A of this Act or under section 80 of this Act”.

9. Deduction for depreciation of approved safety frames attached to tractors—(1) The principal Act is hereby further amended by inserting, after section 113B (as inserted by section 8 of the Land and Income Tax Amendment Act (No. 2) 1963), the following section:

“113c. (1) For the purposes of this section—

“‘Safety frame’ means a safety frame in respect of which a certificate of approval has been issued under section 21B of the Machinery Act 1950 and is for the time being in force:

“‘Tractor’ means a tractor as defined in section 21B of the Machinery Act 1950.

“(2) Subject to the provisions of this section, where a taxpayer engaged in any business in New Zealand has on or after the first day of January, nineteen hundred and sixty-six,—

“(a) Acquired a safety frame and attached it to a tractor which is used wholly for the purposes of the business; or

“(b) Acquired a tractor which is for use wholly for the purposes of the business and to which a safety frame is attached or of which it forms part—

the Commissioner may, in his discretion, subject to section 113A and also to section 117 of this Act, in calculating the assessable income derived by the taxpayer from the business allow in respect of the safety frame a deduction by way of depreciation in accordance with this section of an amount equal to the cost of the safety frame (including the cost of attaching it to the tractor).

“(3) Unless in any case the Commissioner otherwise determines, the amount of any deduction allowed under this section in respect of any safety frame shall be allowed as follows:

“(a) In any case to which paragraph (a) of subsection (2) of this section applies, the amount of the deduction shall be allowed in respect of the income derived by the taxpayer from the business in the income year in which the safety frame is attached by the taxpayer to the tractor:

“(b) In any case to which paragraph (b) of subsection (2) of this section applies, the amount of the deduction shall be allowed in respect of the income derived by the taxpayer from the business in the income year in which the tractor is first used by the taxpayer wholly for the purposes of the business.

“(4) Where a taxpayer elects to receive a deduction by way of depreciation under this section in respect of any safety frame, no deduction by way of depreciation shall be allowed to that taxpayer under any other provision of this Act in respect of that safety frame.

“(5) Where a deduction has been allowed under this section to any taxpayer in respect of any safety frame, no further deduction shall be allowed under this section to the same or any other taxpayer in respect of that safety frame.

“(6) If any question arises under this section as to the cost of any safety frame that is attached to or forms part of a tractor, it shall be determined by the Commissioner.”

(2) Section 117A of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by inserting in subsection (10), after the words “section 113”, the words “or section 113c”.

(3) Section 117C of the principal Act (as inserted by section 13 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by inserting in subsection (8), after the words “section 113”, the words “or section 113B or section 113c”.

10. Additional depreciation allowance on certain capital expenditure in erecting, altering, or extending buildings for use as meat export slaughterhouses or meat-packing houses—Section 114B of the principal Act (as inserted by section 29 of the Land and Income Tax Amendment Act 1964) is hereby amended by omitting from paragraph (a) of subsection (2) the words “nineteen hundred and sixty-six”, and substituting the words “nineteen hundred and sixty-eight”.

11. Deduction by reference to export of goods—Section 129B of the principal Act (as inserted by section 20 of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by inserting, after subsection (6), the following subsection:

“(6A) Where—

“(a) During an income year in respect of which a taxpayer claims a deduction under this section the taxpayer exports export goods of any class or classes; and

“(b) During the base period in relation to that income year another person has exported export goods (being goods that were produced or manufactured by the taxpayer or had previously been trading stock of the taxpayer) which were of a class or classes the same as or similar to the class or classes of export goods referred to in paragraph (a) of this subsection,—

the amount of the deduction to which the taxpayer is entitled under this section in respect of that income year shall not (except to the extent to which, in the opinion of the Commissioner, the taxpayer would be under an unfair disadvantage for the purposes of this section) exceed the amount of the deduction to which he would, in the opinion of the Commissioner, have been entitled if the taxpayer himself had exported during that base period the export goods which that other person exported during that base period.”

12. Payments to shareholders and debenture holders in certain cases—Section 40 of the Land and Income Tax Amendment Act 1964 is hereby amended by adding, as subsection (2), the following subsection:

“(2) No payment shall be made to any shareholder or debenture holder under section 144 of the principal Act in any case unless written application for the payment has been received by the Commissioner before the first day of April, nineteen hundred and sixty-five.”

This Act is administered in the Inland Revenue Department.
