ANALYSIS

1969, No. 136

An Act to amend the Land and Income Tax Act 1954

[*24 October 1969*

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) 1969, 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 1st day of April 1969, and in every subsequent year.

3. Interpretation—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of the term "minerals", the following definitions:

" 'Mining company' means a company to which section 152 or section 153 of this Act applies:

" 'Mining holding company' means any New Zealand company which, in the opinion of the Commissioner, is engaged exclusively or principally in the holding of shares in, or the investment of money in, or the making of loans to, any mining company:".

(2) This section shall apply—

(a) In relation to section 88D of the principal Act (as inserted by section 8 of this Act), with respect to any profit or gain derived from, or loss incurred on, the sale or other disposition of any share in any mining holding company or in any mining company made on or after the date of the passing of this Act:

(b) In relation to section 129BB of the principal Act (as inserted by section 16 of this Act), with respect to any payment made on or after the 1st day of April 1969 in respect of the whole or part of the amount unpaid on shares in a mining holding company:

(c) In relation to section 129C of the principal Act (as substituted by section 17 of this Act), with respect to any payment made on or after the 1st day of April 1965 in respect of the whole or part of the amount unpaid on shares in a mining company:

(d) In relation to section 152B of the principal Act (as inserted by section 21 of this Act), with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965, and in every subsequent year:

(e) In relation to subsection (1A) of section 153A of the principal Act (as inserted by section 23 (1) of this Act), with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965, and in every subsequent year:

(f) In relation to the second proviso to subsection (4) of section 153A of the principal Act (as added by section 23 (2) of this Act), with respect to any payment made on or after the 1st day of April 1969 in respect of the whole or part of the amount unpaid on shares in a mining holding company.

4. Rebate from tax payable by visiting experts—(1) The principal Act is hereby amended by inserting, after section 78J (as inserted by section 3 (1) of the Land and Income Tax Amendment Act (No. 3) 1968), the following section:

"78K. (1) For the purposes of this section—

" 'Approved' means approved for the purposes of this section by the Minister of Finance, or by the Commissioner acting with the general or special authority of the Minister of Finance, after the Minister of Finance or, as the case may be, the Commissioner has, if he considers it necessary, obtained the advice of the Visiting Experts Advisory Committee:

" 'Qualifying services', in relation to any taxpayer and to any income year, means services rendered by the taxpayer as a visiting expert during a visit or visits to New Zealand in connection with a particular project where the duration of that visit or those visits does not exceed in the aggregate 730 days, or, where the aggregate exceeds 730 days, such services rendered in the first 730 days:

" 'Qualifying taxable income', in relation to any taxpayer and to any income year, means an amount calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

a is the amount of assessable income from qualifying services derived by the taxpayer in that income year; and

b is the total assessable income derived by the taxpayer in that income year, excluding any

assessable income derived from interest to which section 79 of this Act applies or from dividends (not being investment society dividends); and

c is—

(i) In any case where the total assessable income derived by the taxpayer in that year includes income from interest to which section 79 of this Act applies or dividends (not being investment society dividends), the total taxable income that would have been derived by the taxpayer in that year if his total assessable income had not included income from such interest or such dividends:

(ii) In any other case, the total taxable income derived by the taxpayer in that income year:

"'Visiting expert' means an approved person (other than a company) who, being temporarily in New Zealand for the purpose,—

"(a) Provides, in the initial years of an approved new and continuing enterprise in New Zealand, whether as an independent consultant or as an employee, specialist, technical, or managerial expertise, which is essential for the satisfactory development of the enterprise; or

"(b) Provides, whether as an independent consultant or as an employee (not being an employee of the person in New Zealand who engages him, or an employee of any other person where that other person and the person who engages him are associated persons), expertise that is not generally available in New Zealand; or

"(c) Engages, whether as an independent consultant or as an employee, as a professional research worker in approved research work at an institution or university in New Zealand; or

"(d) Provides such expertise, or engages in such activities, as may be specified by the Governor-General from time to time by Order in Council.

"(2) For the purposes of this section, there is hereby established the Visiting Experts Advisory Committee (hereinafter in this section referred to as the committee), consisting of—

"(a) The Secretary to the Treasury, who shall be the Chairman of the committee:

"(b) A person to be appointed by the Minister of Finance, who shall hold office during the pleasure of the Minister:

"(c) The Director-General of the Department of Scientific and Industrial Research:

"(d) The Secretary of Industries and Commerce.

"(3) In the absence from any meeting of the committee of any member (being an officer of any department of State), he may authorise another officer of that department to attend the meeting in his stead, and the fact that a person attends and acts as a member of the committee at any such meeting shall be conclusive proof of his authority to do so.

"(4) While any officer of the Treasury is attending a meeting of the committee in the absence of the Secretary to the Treasury, he shall be the Chairman of the committee. If the Secretary to the Treasury is absent from any meeting of the committee and no officer attends the meeting in his stead, the members present shall appoint one of their number to act as the Chairman of the meeting.

"(5) At all meetings of the committee, 3 members shall constitute a quorum.

"(6) Every question before the committee shall be decided by a majority of the votes of the members present.

"(7) The Chairman at any meeting of the committee shall have a deliberative vote and, in the case of an equality of votes, he shall also have a casting vote.

"(8) Subject to this section, the committee may regulate its procedure in such manner as it thinks fit.

"(9) Where the Commissioner is satisfied, in relation to any taxpayer and to any income year, that, if this section had not been passed, the amount of income tax (ascertained in accordance with the provisions of section 203o of this Act) payable in respect of the qualifying taxable income derived by the taxpayer in the income year would exceed an amount equal to 35 percent of that qualifying taxable income, the Commissioner shall allow a rebate from that income tax of the amount of the excess."

(2) Section 3A of the principal Act (as inserted by section 5 of the Land and Income Tax Amendment Act (No. 2) 1968) is hereby consequentially amended by inserting in subsection (1), after the words "section 78B", the words "section 78K,".

5. Special exemption in certain cases for a housekeeper—(1) The principal Act is hereby further amended by repealing section 83 (as substituted by section 13 (1) of the Land and Income Tax Amendment Act 1965), and substituting the following section:

"83. (1) For the purposes of this section—

" 'Child' means any child in respect of whom a family benefit is payable under Part I of the Social Security Act 1964, or who is under the age of 18 years, or who is suffering from any mental or physical infirmity or disability affecting his or her ability to earn his or her living:

" 'Housekeeper', in relation to a taxpayer and an income year, means—

"(a) Where the taxpayer is a widow, a widower, a divorced person, an unmarried person, or a separated person,—

"(i) A woman who, or an institution which, has the care and control, either in the home of the taxpayer or elsewhere, of any child; or

"(ii) A woman who tends the home of the taxpayer, where the Commissioner is satisfied that the services of the woman are necessary by reason of any mental or physical infirmity or disability of the taxpayer; or

"(b) Where the taxpayer is a married person (other than a separated person),—

"(i) A woman who, or an institution which, has the care and control, either in the home of the taxpayer or elsewhere, of any child; or

"(ii) A woman who tends the home of the taxpayer,—

where, in either case, the Commissioner is satisfied that the services of the woman or the institution are necessary by reason of any mental or physical infirmity or disability of the taxpayer or his or her spouse; or

"(c) Where the taxpayer is a married woman (other than a separated person), a woman who, or an institution which, has the care and control, either in the home of the taxpayer or elsewhere, of any

child, where the Commissioner is satisfied that the services of the woman or the institution are necessary by reason of the employment or business activities of the taxpayer:

" 'Institution' means any creche, day nursery, play centre, kindergarten, or similar body, but does not, in relation to the care and control of a child who is 5 years of age or over, include any institution which is, in any way, concerned with the education of the child:

" 'Separated person' means a married person who is in fact separated and living separate and apart from his or her spouse, whether pursuant to a decree, order, or judgment of any Court, or pursuant to an agreement for separation, or by reason of the desertion of one of the parties by the other of them, or otherwise.

"(2) For the purpose of assessing income tax, every taxpayer specified in paragraph (a), or in paragraph (b), or in paragraph (c) of the definition of the term 'housekeeper' in subsection (1) of this section shall be entitled in respect of a housekeeper or housekeepers whose services have been used during the income year to a deduction by way of special exemption from his or her assessable income of the aggregate amount of the payments made by the taxpayer during that year for the services of the housekeeper or housekeepers, being payments in respect of which no special exemption under any other provision of this Act has been, or will be. allowed to the taxpayer or to any other taxpayer:

"Provided that in no case shall the deduction by way of special exemption allowed to any taxpayer under this section in any income year exceed $240."

(2) Section 14 of the Income Tax Assessment Act 1957 is hereby amended by omitting from subsection (4) (as substituted by section 33 (1) of the Land and Income Tax Amendment Act 1965) the words "the housekeeper is employed by the employee", and substituting the words "the employee anticipates that the aggregate amount of the payments to be made, during the year in which the tax code declaration is delivered, in respect of the services of a housekeeper or housekeepers will be not less than $240".

(3) Section 14 of the Income Tax Assessment Act 1957 is hereby further amended by repealing subsection (5) (as sub-

stituted by section 33 (1) of the Land and Income Tax Amendment Act 1965), and substituting the following subsection:

"(5) A housekeeper who under subsection (4) of this section is a dependant of an employee for the purposes of any tax code shall cease to be such a dependant if and when, before the tax code ceases to apply to the employee, the employee knows or anticipates, or should have known or anticipated, that the aggregate amount of the payments as aforesaid to be made during the year aforesaid will be less than $240."

(4) The following enactments are hereby consequentially repealed:

(a) Section 13 of the Land and Income Tax Amendment Act 1965:

(b) Section 3 of the Land and Income Tax Amendment Act 1966:

(c) So much of the First Schedule to the Land and Income Tax Amendment Act (No. 3) 1968 as relates to section 83 of the principal Act.

(5) Subsections (2) and (3) of this section shall come into force on the date of the passing of this Act.

6. Rental income of building societies—Section 86 of the principal Act is hereby amended by repealing paragraph (d) of subsection (1), and substituting the following paragraph:

"(d) The income of a building society under the Building Societies Act 1965, except income of any of the kinds referred to in paragraph (d) of subsection (1) of section 88 of this Act:".

7. Benefit from share option or purchase schemes—(1) Section 88c of the principal Act (as inserted by section 14 (1) of the Land and Income Tax Amendment Act (No. 2) 1968) is hereby amended by adding to subsection (3) the following additional proviso:

"Provided also that in any case where the agreement under which the benefit is conferred provides unconditionally that, on the taxpayer ceasing his employment or service or on his death, all or any of the shares must be transferred to the employer of the taxpayer or to the person from whom the taxpayer acquired them, either without consideration or for a consideration not exceeding that paid by the taxpayer for the shares so to be transferred, the value of the benefit in respect of the shares so to be transferred shall be nil."

(2) Section 88C of the principal Act (as so inserted) is hereby consequentially further amended by repealing the proviso to subsection (1).

(3) This section shall be deemed to have come into force on the 11th day of December 1968 (being the date of the passing of the Land and Income Tax Amendment Act (No. 2) 1968), and shall apply to the tax on income derived in the income year that commenced on the 1st day of April 1968 and in every subsequent year.

8. Calculation of profit or loss on sale of mining shares—(1) The principal Act is hereby further amended by inserting, after section 88C (as inserted by section 14 (1) of the Land and Income Tax Amendment Act (No. 2) 1968), the following section:

"88D. For the purpose of calculating the amount of any profit or gain derived from, or the amount of any loss incurred on, the sale or other disposition by any person of any share in any mining holding company or in any mining company, the cost of that share shall be reduced by the amount of any deduction which has been allowed to that person in respect of that share under section 129BB or section 129C of this Act."

(2) This section shall apply with respect to the profit or gain derived from, or loss incurred on, the sale or other disposition of any share in any mining holding company or in any mining company made on or after the date of the passing of this Act.

9. Excess income on sale of livestock where sharemilker or lessee farmer quits farm and purchases another farm—(1) The principal Act is hereby further amended by inserting, after section 103A (as substituted by section 27 (1) of the Land and Income Tax Amendment Act 1964), the following section:

"103B. (1) For the purposes of this section—

" 'Assessable excess', in relation to any taxpayer, means the difference, referred to in paragraph (d) of subsection (2) of this section, between the amount taken into account in calculating the assessable income of the taxpayer in respect of the livestock sold or otherwise disposed of by him and the standard value last adopted, or, as the case may be, the nil value adopted under subsection (9A) of section 98 of this Act, in respect of the livestock:

" 'Sharemilker' means a sharemilker as defined in section 2 of the Sharemilking Agreements Act 1937.

"(2) This section applies, in relation to a taxpayer (not being an absentee, or a company, or a public authority, or a Maori authority, or an unincorporated body, or a trustee assessable and liable for income tax under section 155A or section 155B or section 155C or section 155D of this Act), where—

"(a) The Commissioner is satisfied that the taxpayer—

"(i) On ceasing to carry on, as a sharemilker owning all or part of the dairy herd, a farming business on land in New Zealand (being land not owned by him) has quit that land; or

"(ii) On ceasing to carry on a farming business on land in New Zealand (being land of which, or of substantially the whole of which, the taxpayer was the lessee) has quit that land by reason of the assignment, expiry, surrender, or forfeiture of the lease (being a lease which at the time of the assignment, expiry, surrender, or forfeiture was of no substantial value); and

"(b) The Commissioner is satisfied that the taxpayer has purchased, or entered into a binding contract to purchase, other land in New Zealand (hereinafter in this section referred to as the other land), being land the whole, or substantially the whole, of which is held in fee simple, or under a renewable lease within the meaning of section 63 of the Land Act 1948, or under a deferred payment licence within the meaning of section 65 of that Act, or under a lease within the meaning of section 122 of that Act, for the purpose of carrying on a farming business on the other land; and

"(c) The Commissioner is satisfied that, on account of the matters referred to in paragraphs (a) and (b) of this subsection, the taxpayer has sold or otherwise disposed of livestock used by him in the farming business formerly carried on; and

"(d) The price realised, or deemed for the purposes of this Act to have been realised, by the taxpayer for that livestock and taken into account in calculating the assessable income of the taxpayer was in excess of the standard value last adopted, or, as the case

may be, of the nil value adopted under subsection (9A) of section 98 of this Act, in respect of that livestock; and

"(e) The taxpayer gives notice to the Commissioner in accordance with subsection (3) of this section; and

"(f) If required by the Commissioner, the taxpayer makes arrangements to the satisfaction of the Commissioner for the payment of all income tax that is or may become payable.

"(3) Every notice under paragraph (e) of subsection (2) of this section shall—

"(a) Be made in writing at the time the taxpayer purchases, or enters into a binding contract to purchase, the other land, or within such reasonable time thereafter as the Commissioner in his discretion may allow; and

"(b) Request the Commissioner to apply this section to the assessable excess, or to such part of the assessable excess as the taxpayer specifies.

"(4) Upon receiving the notice referred to in subsection (3) of this section, any relief given under section 103 or section 103A of this Act in respect of any sale or other disposition of livestock which resulted in the assessable excess shall be withdrawn, and the Commissioner shall—

"(a) Determine that the assessable excess, or such part thereof as the taxpayer specifies in that notice,—

"(i) Shall be deemed to be assessable income of the taxpayer derived in the fifth income year following the income year in which the livestock was sold or otherwise disposed of; and

"(ii) Shall be deemed not to be assessable income of the taxpayer derived in the income year in which the livestock was sold or otherwise disposed of; and

"(b) Make or amend any assessment in respect of that last-mentioned income year or any other income year accordingly, notwithstanding anything to the contrary in section 24 of this Act; and

"(c) Refund to the taxpayer any tax paid in excess as a result thereof.

"(5) Notwithstanding any determination of the Commissioner under subparagraph (i) of paragraph (a) of subsection (4) of this section, the taxpayer shall, if he so elects by notice in accordance with subsection (7) of this section

(which election shall, subject to subsection (8) of this section, be irrevocable), be entitled to allocate the whole or part of the assessable excess in respect of which the Commissioner has made a determination under that subparagraph to any one or more of the 4 income years next succeeding the income year in which the livestock was sold or otherwise disposed of (being a year or years in which the taxpayer carries on a farming business on that other land).

"(6) Upon receiving notice of allocation under subsection (5) of this section the Commissioner shall re-determine that the amount so allocated shall be deemed to have been assessable income derived by the taxpayer in the income year to which it is so allocated and not in the fifth income year next succeeding the income year in which the livestock was sold or otherwise disposed of.

"(7) Every notice of allocation under subsection (5) of this section shall be in writing, and shall be given to the Commissioner within the time within which the taxpayer is required to furnish a return of income for the year to which the amount is so allocated, or within such further time as the Commissioner, in his discretion, may allow in any case or class of cases.

"(8) Notwithstanding subsections (4), (5), and (6) of this section, where a taxpayer who has made an election under subsection (5) of this section ceases to carry on that business on the other land before the expiry of the fourth income year following the income year in which the livestock was sold or otherwise disposed of, the amount of the assessable excess in respect of which the Commissioner has made a determination under subparagraph (i) of paragraph (a) of subsection (4) of this section, and in respect of which the Commissioner has not made a re-determination under subsection (6) of this section, shall be re-determined by the Commissioner to be deemed to have been derived by the taxpayer in the income year in which the taxpayer has ceased to carry on that business and not in the fifth income year succeeding the income year in which the livestock was sold or otherwise disposed of.

"(9) Notwithstanding the provisions of sections 103 and 103A of this Act, those sections shall not apply to any sale or other disposition of livestock which results in an assessable excess to which this section applies.

"(10) Every reference in this section to an income year shall, where the taxpayer furnishes a return of income under section 8 of this Act for an accounting year ending with an

annual balance date other than the 31st day of March, be deemed to be a reference to the accounting year corresponding with that income year, and in every such case the provisions of this section shall, with any necessary modifications, apply accordingly."

(2) This section shall apply to any assessable excess resulting from any sale or other disposition of livestock made on or after the 1st day of April 1969.

10. Supplementary depreciation allowance on hotels, motels, and farm buildings—(1) The principal Act is hereby further amended by inserting, after section 113A (as inserted by section 14 (1) of the Land and Income Tax Amendment Act 1959), the following section:

"113AA. (1) For the purposes of this section—

" 'Building' includes an extension or addition to an existing building:

" 'Cost', in relation to any building, does not include any costs incurred in the acquisition, preparation, or development of land, or in the construction of access roads, or any other costs in respect of which a deduction by way of depreciation is not allowed under section 113 of this Act:

" 'Hotel' and 'motel' mean a building—

"(a) Erected or constructed wholly or substantially for the purpose of providing for the travelling public accommodation which includes (whether or not in conjunction with another building) the provision for the travelling public, as a matter of course, of—

"(i) Meals or full facilities (not being communal facilities) for the preparation, cooking, and serving of meals; and

"(ii) Beds fully supplied with linen and bedding; and

"(b) Used wholly or substantially for that purpose:

" 'New' means not having previously been used by any person.

"(2) Subject to the provisions of this section, in calculating the assessable income for any income year of a taxpayer, being the owner of a new hotel or new motel first used on or after the 1st day of April 1969, the Commissioner may allow, in

addition to the depreciation allowed under section 113 of this Act, a deduction by way of supplementary depreciation of an amount equal to 1 percent of the cost of the hotel or motel:

"Provided that where the taxpayer was not the owner of the hotel or motel during the whole of the income year, the Commissioner shall allow such lesser amount as he thinks just.

"(3) Subject to the provisions of this section, in calculating the assessable income for any income year of any taxpayer engaged in any farming or agricultural business on any land in New Zealand who has, on or after the 1st day of April 1969, first used any new building (not being a building to provide accommodation for any person) wholly for the purposes of that business, the Commissioner may allow, in addition to the depreciation allowed as a deduction under section 113 of this Act, a deduction by way of supplementary depreciation of an amount equal to the smaller of—

"(a) An amount equal to 6 percent of the cost of the building; or

"(b) The amount by which 10 percent of the cost of the building exceeds the amount of any depreciation allowed as a deduction under section 113 of this Act for that income year:

"Provided that where the building is not used by the taxpayer for the whole of the income year, the Commissioner shall allow such lesser amount as he thinks just.

"(4) Notwithstanding the provisions of subsections (2) and (3) of this section, in no case shall the deduction under this section by way of supplementary depreciation in respect of any building to which this section applies exceed, in any income year, the amount by which the cost of the building exceeds the aggregate of all deductions allowed in all previous income years in respect of the depreciation of that building.

"(5) Where any taxpayer, being a company included in a group of companies, transfers any building to which this section applies to another company included in that group of companies, that other company shall be entitled to a deduction by way of supplementary depreciation in respect of that building under this section in the same manner and to the same extent as the first-mentioned company.

"(6) Notwithstanding any other provisions of this section, the Commissioner may refuse to allow, in whole or in part, any deduction under this section in any case where he is not satisfied that complete and satisfactory accounts have been kept by or on behalf of the taxpayer."

(2) The principal Act is hereby consequentially amended—

(a) By inserting—

(i) In subsection (1A) and also in subsection (1B) of section 114A (as substituted by section 7 of the Land and Income Tax Amendment Act (No. 2) 1962 and subsequently amended); and

(ii) In subsection (1) of section 114D (as inserted by section 23 of the Land and Income Tax Amendment Act (No. 2) 1968); and

(iii) In subsection (8) of section 117C (as inserted by section 13 of the Land and Income Tax Amendment Act (No. 2) 1963),—

in each case, after the words "under section 113", the words "or under section 113AA":

(b) By adding to the proviso to subsection (1) of section 117 (as substituted by section 24 (1) of the Land and Income Tax Amendment Act (No. 2) 1968) the words "or under section 113AA of this Act".

(3) Section 119F of the principal Act (as inserted by section 23 of the Land and Income Tax Amendment Act 1965) is hereby consequentially amended by inserting, after paragraph (a), the following paragraph:

"(aa) Supplementary depreciation under section 113AA of this Act; and".

(4) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1969 and in every subsequent income year:

Provided that in any case where a taxpayer furnishes a return of income under section 8 of this Act for a year ending with the date of the annual balance of his accounts, being a date not earlier than the 1st day of April 1969 and not later than the 30th day of September 1969, this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1968 and in every subsequent income year.

11. Deduction of certain expenditure by rock oyster farmers and by mussel farmers—(1) Section 119G of the principal Act (as inserted by section 19 (1) of the Land and Income Tax Amendment Act 1968) is hereby amended by repealing subsection (1), and substituting the following subsection:

"(1) Subject to section 119E of this Act,—

"(a) Any taxpayer engaged in the business of rock oyster farming in New Zealand shall, in calculating the assessable income derived by him from that

business, be entitled to deduct any expenditure incurred in that business in any income year commencing after the 31st day of March 1968 and ending not later than the 31st day of March 1971, and not deductible otherwise than under this section, in—

"(i) The acquisition and preparation of spatting sticks; or

"(ii) The construction and erection of posts, rails, or other structures for the holding of spatting sticks during spat catching and maturing; or

"(iii) The construction of fences (including breakwater fences); and

"(b) Any taxpayer engaged in the business of mussel farming in New Zealand shall, in calculating the assessable income derived by him from that business, be entitled to deduct any expenditure incurred in that business in any income year commencing after the 31st day of March 1969 and ending not later than the 31st day of March 1971, and not deductible otherwise than under this section, in—

"(i) The acquisition, preparation, and mooring of pontoons, rafts, or other floating structures for collecting spat; or

"(ii) The acquisition, mooring, and outfitting of moored floating platforms from which the collected spat is suspended for subsequent growth; or

"(iii) The collecting and depositing of shell or other suitable material on the sea bed to create spatting surfaces:

"Provided that, instead of claiming a deduction for the income year in which the expenditure is incurred of the total amount of the expenditure allowable as a deduction under the foregoing provisions of this subsection, any taxpayer to whom this subsection applies shall, if he so elects by notice in accordance with subsection (3) of this section (which election shall, subject to subsection (4) of this section, be irrevocable), be entitled to allocate, in such manner as he specifies in the notice, the whole or any part of that total amount to any one or more of the 9 income years (being a year or years in which the taxpayer continues to carry on that business) next succeeding the income year in which the expenditure is incurred and to deduct the amount so allocated to any such income year in calculating the

assessable income derived by him from that business in that year; and any amount so allocated shall not be allowed as a deduction in calculating the assessable income derived by the taxpayer from that business in the income year in which the expenditure is incurred."

(2) Section 119G of the principal Act (as so inserted) is hereby further amended—

(a) By omitting from subsection (3) the words "five income years", and substituting the words "9 income years":

(b) By omitting from the proviso to subsection (3) the words "the four immediately succeeding income years", and substituting the words "the 8 immediately succeeding income years":

(c) By omitting from the proviso to subsection (3) the words "the fifth income year", and substituting the words "the ninth income year":

(d) By omitting from subsection (4) the words "the fifth income year", and substituting the words "the ninth income year".

(3) Section 119G of the principal Act (as so inserted) is hereby further amended by repealing subsection (6), and substituting the following subsection:

"(6) For the purposes of this section—

" 'Development plan', in relation to the business of a taxpayer, means a plan, project, or scheme which—

"(a) In the opinion of the Commissioner, has been entered into by the taxpayer for the purpose of the development or expansion of that business, being development or expansion involving expenditure of any of the kinds referred to in subsection (1) of this section; and

"(b) Upon application in that behalf made in writing by or on behalf of the taxpayer before the terminating date, has been approved in writing by the Commissioner as a development plan for the purposes of this section:

" 'The terminating date' means the date of the termination of the period specified in paragraph (a) of subsection (1) of this section or, as the case requires, paragraph (b) of that subsection."

(4) Section 119E of the principal Act (as inserted by section 17 (1) of the Land and Income Tax Amendment Act (No. 2) 1963) is hereby amended by repealing subsection (2)

(as added by section 19 (3) of the Land and Income Tax Amendment Act 1968), and substituting the following subsection:

"(2) Subsection (1) of this section shall, with all necessary modifications, apply with respect to any amount received on the assignment, expiry, surrender, or forfeiture of a lease of lease-land within the meaning of the Rock Oyster Farming Act 1964 or of a lease of a leased area within the meaning of the Marine Farming Act 1968, together in each case with the improvements on the lease-land or, as the case may be, the leased area, in the same manner as it applies with respect to the amount received on the sale of land together with the improvements thereon."

(5) Section 19 of the Land and Income Tax Amendment Act 1968 is hereby consequentially amended by repealing subsection (3).

12. Deduction of gifts of money made by companies to universities and approved institutes for education or research—(1) The principal Act is hereby further amended by repealing section 126A (as inserted by section 24 (1) of the Land and Income Tax Amendment Act 1965), and substituting the following section:

"126A. (1) Subject to this section, any company shall, in calculating the assessable income derived by it during any income year, be entitled to a deduction of the amount of any gift of money of the amount of $2 or more (being an amount that is not deductible otherwise than under this section) made by it during that income year to—

"(a) Any university within the meaning of the Universities Act 1961; or

"(b) Any society, association, or institute, whether incorporated or not, which provides specialised technological education or training or specialised commercial education or training, and which is approved by the Minister of Finance for the purposes of this section; or

"(c) The Medical Research Council of New Zealand established under the Medical Research Council Act 1950; or

"(d) Any research society, association, or institute, whether incorporated or not, which is approved by the Minister of Finance for the purposes of this section

on the recommendation of the said Medical Research Council of New Zealand or of the National Research Advisory Council established under the National Research Advisory Council Act 1963—

for the purposes of education, training, or research, being education, training, or research which is of importance in the general economy of New Zealand:

"Provided that this section shall not apply to any gift in excess of $5,000 made to any one donee, unless the prior approval of the Minister of Finance has been given to the making of the gift.

"(2) The deduction provided for in this section shall not, in the case of any company, in any income year exceed in the aggregate 5 percent of the assessable income of the company for that year."

(2) The following enactments are hereby consequentially repealed:

(a) Section 24 of the Land and Income Tax Amendment Act 1965:

(b) Section 22 of the Land and Income Tax Amendment Act 1966.

(3) This section shall apply with respect to gifts made on or after the 27th day of June 1969.

13. Pensions payable by employers to former employees—Section 128A of the principal Act (as inserted by section 23 of the Land and Income Tax Amendment Act 1966) is hereby amended by repealing subsection (2), and substituting the following subsection:

"(2) Notwithstanding the provisions of subsection (1) of this section or of any other section of this Act, no deduction shall be allowed in respect of any amount paid by way of a pension (being a payment which but for this subsection would have been allowable as a deduction under this section) where the taxpayer is a proprietary company and the former employee or a relative of that employee is or was a shareholder in the company:

"Provided that where the Commissioner is satisfied that the employee was employed as a bona fide full-time employee of the company, the Commissioner may allow a deduction in accordance with subsection (1) of this section of so much of the amount paid by way of a pension as the Commissioner

determines would have been granted by the company in similar circumstances if that employee or a relative of that employee were not, or had not been, a shareholder in the company."

14. Deduction of export-market development expenditure and of tourist-promotion expenditure—(1) Section 129A of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by repealing paragraph (c) of the definition of the expression "prescribed outgoings" in subsection (1), and substituting the following paragraph:

"(c) Expenses directly attributable to the making of investigations and the preparation of information, designs, estimates, or other material for the purposes of—

"(i) Submitting a tender for the supply of goods that are not of the same kind and specification as goods that are being regularly produced or supplied by the tenderer; or

"(ii) The prospective supply of services outside New Zealand in relation to construction projects, courses of educational training, or the furnishing of technical advice or assistance; or".

(2) Section 129A of the principal Act (as so inserted) is hereby further amended by omitting from subsection (2) (as amended by section 23 (1) of the Land and Income Tax Amendment Act 1968) the words "before the first day of April, nineteen hundred and seventy-two", and substituting the words "before the 1st day of April 1973".

(3) Section 18 of the Land and Income Tax Amendment Act (No. 2) 1963 is hereby consequentially amended by omitting from subsection (4) (as amended by section 23 (2) of the Land and Income Tax Amendment Act 1968) the words "before the first day of April, nineteen hundred and seventy-two", and substituting the words "before the 1st day of April 1973".

(4) Section 23 of the Land and Income Tax Amendment Act 1968 is hereby consequentially repealed.

15. Deduction by reference to the export of goods—(1) 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—

(a) By repealing the proviso to paragraph (h) of the definition of the term "export goods" in subsection (1):

(b) By adding to the same definition the following proviso:

"Provided that the Governor-General may from time to time, by Order in Council, exclude any goods or any specified class or classes of goods from the operation of paragraph (e) or paragraph (h) of this definition:".

(2) Section 129B of the principal Act (as so inserted) is hereby further amended by inserting in subsection (1), after the definition of the expression "increase in export sales for the income year", the following definition:

" 'Minerals' means—

"(a) All minerals (whether beneficiated or not), coal, oil, kauri gum, clay, stone, gravel, sand, and precious stones; and

"(b) All metals occurring in their native state and ores of any metals (whether beneficiated or not); and

"(c) Scrap metal and scrap metal alloys in any form (but, subject to paragraph (d) of this definition, not including ingots or billets produced from scrap metal or from scrap metal alloys); and

"(d) Primary aluminium and primary aluminium alloys (including primary aluminium and primary aluminium alloys produced from scrap resulting from the processing of alumina):".

(3) Section 129B of the principal Act (as so inserted) is hereby further amended by repealing subsection (5) (as substituted by section 19 (1) of the Land and Income Tax Amendment Act (No. 2) 1967), and substituting the following subsection:

"(5) Subject to the provisions of this section, where there is, in relation to an income year and to a taxpayer carrying on in New Zealand any business or businesses in which goods are sold or otherwise disposed of, an increase in export sales for the income year (being the income year that commenced on the 1st day of April 1969 or either of the 2 income years next succeeding that income year), a deduction shall be allowed under this section, in calculating the assessable income derived by the taxpayer in the income year from that business or, as the case may be, those businesses, of the greater of the following amounts:

"(a) An amount equal to 15 percent of the increase in export sales for that income year:

"(b) An amount calculated in accordance with the following formula:

$$\frac{x}{y} \times z$$

where—

x is an amount equal to the value of the export sales during that income year; and

y is an amount equal to the value of the export sales during the income year immediately preceding that income year; and

z is an amount equal to 15 percent of the increase in export sales for the income year immediately preceding that income year."

(4) Section 129B of the principal Act (as so inserted) is hereby further amended by adding to subsection (12) the following paragraph:

"(c) A company to which section 78F of this Act applies."

(5) The following enactments are hereby consequentially repealed:

(a) Subsection (1) of section 19 of the Land and Income Tax Amendment Act (No. 2) 1967:

(b) Subsection (1) of section 24 of the Land and Income Tax Amendment Act 1968.

(6) Subsections (3) and (5) of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1969, and in the 2 income years next succeeding that income year.

16. Deduction in respect of amounts paid on shares in mining holding companies—The principal Act is hereby further amended by inserting, after section 129B (as inserted by section 20 of the Land and Income Tax Amendment Act (No. 2) 1963), the following section:

"129BB. (1) For the purposes of this section—

" 'Share' does not include the whole or part of any amount that, pursuant to the provisions of paragraph (b) of subsection (3) of section 143A of this Act, is deemed to be share capital in the capital of a company:

" 'Specified amount', in relation to any payment in respect of the whole or part of the amount unpaid

on any shares owned by any taxpayer in a mining holding company, means so much of the amount of that payment as the Commissioner is satisfied is to be used for the purpose of—

"(a) Subscribing for, or paying calls on, shares in a mining company; or

"(b) Making loans to a mining company,—

for the purpose, in either case, of enabling the mining company to carry on in New Zealand exploring or searching for or mining any one or more of the minerals referred to in section 152 of this Act (including any mineral declared by the Minister of Finance pursuant to that section to be a qualifying mineral for the purposes of that section) or petroleum, or to carry on any development work relating to such exploring or searching or mining.

"(2) Where a taxpayer has, on or after the 1st day of April 1969, made any payment in respect of the whole or part of the amount unpaid on any shares owned by him in a mining holding company, a deduction shall be allowed, subject to this section, of an amount equal to one-third of the specified amount of that payment in calculating the assessable income derived by the taxpayer in the income year in which the payment is made.

"(3) Where, in any case, a deduction has been allowed under subsection (2) of this section in respect of the specified amount of any payment to a mining holding company, and, in the opinion of the Commissioner,—

"(a) The mining holding company has not within such time after the date of the payment as the Commissioner considers reasonable used the specified amount for any of the purposes specified in paragraph (a) or paragraph (b) of the definition of the expression 'specified amount' in subsection (1) of this section; or

"(b) Any mining company, having received the specified amount from the mining holding company, has not within such time thereafter as the Commissioner considers reasonable used that specified amount for its purposes,—

the Commissioner may disallow the deduction and, notwithstanding anything to the contrary in section 24 of this Act, may alter any assessment accordingly.

"(4) This section shall not apply to any payment which is made by any company to the extent to which the Commissioner is of the opinion that it is made out of reinvestment profit of the company (being reinvestment profit within the meaning of section 152B of this Act)."

17. Deduction in respect of amounts paid on shares in mining companies—(1) The principal Act is hereby further amended by repealing section 129C (as inserted by section 26 of the Land and Income Tax Amendment Act 1965), and substituting the following section:

"129C. (1) Where a taxpayer has, on or after the 1st day of April 1965, made any payment in respect of the whole or part of the amount unpaid on any shares owned by him in a company which, at the time of the payment, is a mining company, and the Commissioner is satisfied that the payment will be used for and is necessary for the purposes of that company, a deduction shall be allowed, subject to this section, of one-third of the amount of that payment in calculating the assessable income derived by the taxpayer in the income year in which the payment is made.

"(2) Where, in any case, a deduction has been allowed under subsection (1) of this section in respect of any payment made on any shares in any mining company, and the mining company has not within such time after the date of the payment as the Commissioner considers reasonable used that payment for the purposes of the company, the Commissioner may disallow the deduction and, notwithstanding anything to the contrary in section 24 of this Act, may alter any assessment accordingly.

"(3) This section shall not apply to any payment which—

"(a) Is made by a mining holding company to the extent to which the Commissioner is of the opinion that it is made out of payments received by that mining holding company, being payments in respect of which a deduction has been allowed to any person under section 129BB of this Act; or

"(b) Is made by any company to the extent to which the Commissioner is of the opinion that it is made out of reinvestment profit of the company (being reinvestment profit within the meaning of section 152B of this Act).

"(4) For the purposes of this section the term 'share' does not include the whole or part of any amount that, pursuant

to the provisions of paragraph (b) of subsection (3) of section 143A of this Act, is deemed to be share capital in the capital of a company."

(2) The following enactments are hereby consequentially repealed:

(a) Section 26 of the Land and Income Tax Amendment Act 1965:

(b) Section 25 of the Land and Income Tax Amendment Act (No. 2) 1968.

18. Extension of income equalisation reserve provisions to income derived from forestry—(1) Section 136C of the principal Act (as inserted by section 29 (2) of the Land and Income Tax Amendment Act 1965) is hereby amended by inserting in subsection (1), after the words "any taxpayer engaged in any farming or agricultural business on land in New Zealand", the words "or any taxpayer (not being a company, or a public authority, or a Maori authority, or an unincorporated body) who derives assessable income from forestry in New Zealand".

(2) Section 136B of the principal Act (as inserted by section 29 (2) of the Land and Income Tax Amendment Act 1965) is hereby amended by inserting, after the definition of the term "accounting year", the following definition:

" 'Assessable income from forestry' means assessable income from the sale of—

"(a) Standing or cut or fallen timber in its natural state grown on land owned by the taxpayer in New Zealand (other than land in respect of which the taxpayer is a licensee); or

"(b) Rights to cut or remove such timber;—

but does not include assessable income to which section 96 of this Act relates:".

(3) Section 136B (as so inserted) is hereby consequentially amended by repealing the definition of the term "maximum deposit", and substituting the following definition:

" 'Maximum deposit', in respect of an accounting year, means—

"(a) Where the taxpayer derives assessable income from forestry, an amount equal to the amount of the assessable income from forestry derived by the taxpayer in that accounting year; and

"(b) Where the taxpayer is engaged in any farming or agricultural business on any land in New Zealand, an amount equal to 25 percent (or such higher proportion as the Governor-General, by Order in Council, declares in respect of that accounting year) of the amount of the assessable income derived by the taxpayer in that accounting year from that business—

the amount being calculated in either case without reference to any adjustments made pursuant to any provision of this Act authorising the apportionment or allocation of income derived or expenditure incurred to any accounting year other than the accounting year in which the income was in fact derived, or, as the case may be, the expenditure was in fact incurred, or pursuant to the provisions of sections 136C to 136K of this Act:".

(4) Section 136D of the principal Act (as inserted by section 29 (2) of the Land and Income Tax Amendment Act 1965) is hereby consequentially amended—

(a) By inserting after the words "in respect of his farming or agricultural business", the words "or in respect of his assessable income from forestry":

(b) By inserting after the words "from that business", the words "or, as the case may be, from forestry".

19. Assessment of companies included in a group of companies—(1) Section 141 of the principal Act (as substituted by section 27 (1) of the Land and Income Tax Amendment Act (No. 2) 1968) is hereby amended by omitting from paragraph (a) of subsection (2) the words "At any time during that income year".

(2) Section 141 of the principal Act (as so substituted) is hereby further amended by repealing paragraph (c) of subsection (3), and substituting the following paragraph:

"(c) The proportion of the paid-up capital, and of the nominal value of the allotted shares, and of the voting power, and of the title to profits held by any person in any company at the end of any income year shall be determined by the Commissioner; and

"(i) In determining those proportions, the Commissioner shall disregard any alteration in those proportions which, in his opinion, is of a temporary nature and has or purports to have the purpose or effect of in any way—

"(A) Altering the incidence of income tax; or

"(B) Relieving the company or any other company from its liability to pay income tax,—

by in either case excluding that company or any other company from, or including that company or any other company in, any group of companies in relation to that income year; and

"(ii) In determining those proportions, other than the proportion of the voting power, the Commissioner shall disregard all shares in the company which bear a fixed rate of dividend only:".

(3) Section 141 of the principal Act (as so substituted) is hereby further amended—

(a) By inserting in paragraph (e) of subsection (3), after the words "in relation to", the words "any income year and to":

(b) By adding to that paragraph the words "at the end of that income year".

(4) Section 141 of the principal Act (as so substituted) is hereby further amended by repealing paragraph (a) of subsection (6), and substituting the following paragraph:

"(a) Any loss carried forward pursuant to section 137 of this Act by any company included in the first-mentioned group, so far as that loss has not been deducted from or set off against the assessable income derived by that company for that income year pursuant to that section; and".

(5) This section shall be deemed to have come into force on the 11th day of December 1968 (being the date of the passing of the Land and Income Tax Amendment Act (No. 2) 1968), and shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1968 and in every subsequent year.

20. Companies engaged in mining for certain minerals—(1) Section 152 of the principal Act (as substituted by section 30 (1) of the Land and Income Tax Amendment Act 1965) is hereby amended by repealing subsection (1), and substituting the following subsections:

"(1) Subject to subsection (1A) of this section, this section applies to any company, whether incorporated in New Zealand or elsewhere, in respect of which the Commissioner is satisfied—

"(a) That its sole or principal source of income is the business of mining in New Zealand any one or more of the following minerals, namely:

"(i) Antimony, asbestos, barite, bentonite, bituminous shale, chromite, copper, dolomite, feldspar, gold, halloysite, kaolin, lead, magnesite, manganese, mercury, mica, molybdenite, nickel, perlite, phosphate, platinum group, pyrite, silver, sulphur, talc, tin, titanium, titanomagnetite, tungsten, uranium, wollastonite, zinc, or zircon; or

"(ii) Any other mineral which is declared by the Minister of Finance to be a qualifying mineral for the purposes of this section; or

"(b) That its undertaking is, or is to be, in New Zealand and comprises, or is to comprise, solely or principally the carrying on in New Zealand of exploring or searching for or mining any one or more of the minerals referred to in paragraph (a) of this subsection (including any mineral declared by the Minister of Finance to be a qualifying mineral under that paragraph), or the carrying on of any development work relating to such exploring or searching or mining.

"(1A) This section shall not apply to any company whose undertaking comprises, or is to comprise, solely or principally the carrying on of any activities specified in paragraph (b) of subsection (1) of this section as a service to any other person for reward, unless the Commissioner is satisfied that the main purpose of the undertaking is to provide that service for a reward which is solely or principally related to and dependent upon the production of any one or more of those minerals or the participation by that company in any profits from the production of any one or more of those minerals.

"(1B) Notwithstanding anything to the contrary in this Act, the taxable income derived in any year by any company to which this section applies shall be deemed to be—

"(a) In any case where the aggregate amount of the dividends paid since the commencement of business by the company does not exceed twice the amount of so much of the capital of the company as has been paid up by the giving of fully adequate consideration in money or money's worth, an amount equal to half the total sum paid as dividends during that year to the shareholders of the company; and

"(b) In any other case, an amount equal to the total sum paid as dividends during that year to the shareholders of the company,—

and the company shall be assessed and liable accordingly."

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965, and in every subsequent year.

21. Profit or gain from sale of mining shares—(1) The principal Act is hereby further amended by inserting, after section 152A (as inserted by section 29 of the Land and Income Tax Amendment Act (No. 2) 1968), the following section:

"152B. (1) For the purposes of this section—

" 'Exploration or mining' means exploration for or mining any one or more of the minerals referred to in section 152 of this Act (including any mineral declared by the Minister of Finance pursuant to that section to be a qualifying mineral for the purposes of that section) or petroleum:

" 'Mining purposes' means—

"(a) Subscribing for, or paying calls on, shares in any mining holding company or in any mining company; or

"(b) Making loans to a mining company for the purpose of enabling the mining company to carry on in New Zealand exploration or mining, or to carry on development work in relation to such exploration or mining; or

"(c) Making loans to a mining holding company, where the loans made are to be used to finance exploration or mining to be carried out by a mining company in New Zealand, or to finance development work in relation to such exploration or mining:

" 'Mining share' means a share in any mining holding company or in any mining company:

" 'Prescribed period' means—

"(a) In relation to any profit or gain derived from a sale or other disposition of a mining share, the income year in which the sale or other disposition took place and the 6 income years immediately succeeding that income year:

"(b) In relation to any amount repaid in respect of any loan made to any mining holding company or to any mining company, the income year in which

that amount was repaid and the 6 income years immediately succeeding that income year:

"'Reinvestment profit', in relation to any company, means any amount that has been excluded from the assessable income of the company under subsection (3) or subsection (7) or subsection (10) of this section, not being an amount that has ceased to be reinvestment profit pursuant to any provision of this section.

"(2) For the purposes of this section, in calculating the amount of any profit or gain derived by any company from any sale or other disposition of a mining share, the Commissioner shall adopt as the cost of that mining share an amount equal to the difference between the following two sums:

"(a) The aggregate of—

"(i) The amount of the consideration given by the company in respect of the acquisition of that share; and

"(ii) The amount of any capital subsequently contributed by the company in respect of that share:

"(b) The aggregate of—

"(i) The amount of any reinvestment profit of the company included in that consideration; and

"(ii) The amount of any reinvestment profit of the company included in that capital.

"(3) Where, in any income year, any company (in this subsection referred to as the vendor company) derives a profit or gain from the sale or other disposition of a mining share (being a profit or gain to which paragraph (a) or paragraph (c) of subsection (1) of section 88 of this Act applies), then, notwithstanding those paragraphs, that profit or gain shall not be included in the assessable income derived by the vendor company in that income year to the extent to which the Commissioner is satisfied that—

"(a) The consideration received for that sale or other disposition (being a sale or other disposition to a mining holding company or to a mining company) consists of shares in that mining holding company or, as the case may be, that mining company allotted to the vendor company; or

"(b) The consideration received for that sale or other disposition is used, or is to be used, within the prescribed period for mining purposes.

"(4) In any case where the Commissioner is satisfied that any part of any reinvestment profit of any company has, before the end of the prescribed period, been used for purposes other than mining purposes, and that it will not be used for mining purposes within the prescribed period, the amount of that part—

"(a) Shall be included in the assessable income derived by that company in the income year in which it was so used; and

"(b) Shall no longer be reinvestment profit of the company.

"(5) In any case where the Commissioner is satisfied that any part of any reinvestment profit of any company has not, before the end of the prescribed period, been used for mining purposes, the amount of that part—

"(a) Shall be included in the assessable income derived by that company in the last income year included in that prescribed period; and

"(b) Shall no longer be reinvestment profit of the company.

"(6) Where in any income year any amount is repaid in respect of any loan made by any company (in this subsection referred to as the lender company) to a mining holding company or to a mining company (being a loan which in the opinion of the Commissioner has been made wholly or partly out of reinvestment profit of the lender company), there shall, subject to subsection (7) of this section, be included in the assessable income derived by the lender company in that income year an amount calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

a is the amount of so much of the loan as, in the opinion of the Commissioner, was made out of reinvestment profit of the lender company; and

b is the amount of the loan; and

c is the amount repaid.

"(7) Where an amount would otherwise be included in the assessable income derived by any company in any income year pursuant to subsection (6) of this section in respect of any repayment of a loan, then, notwithstanding that subsection, that amount shall not be included in the assessable income derived by that company in that income year to the

extent to which the Commissioner is satisfied that that repayment is used, or is to be used, within the prescribed period for mining purposes.

"(8) In any case where the Commissioner is satisfied that any profit or gain (not being a profit or gain to which subsection (3) of this section applies) is derived in any income year by any company from any sale or other disposition of a mining share, and that, in calculating the amount of that profit or gain any amount of reinvestment profit of the company was taken into account under paragraph (b) of subsection (2) of this section, there shall, subject to subsection (10) of this section, be included in the assessable income derived by that company in that income year, an amount equal to the smaller of the following two amounts:

"(a) The amount of that reinvestment profit:

"(b) The amount of that profit or gain.

"(9) For the purposes of this section,—

"(a) Any share held in a mining holding company or in a mining company shall, on the winding up of any such company, be deemed to have been sold to that company; and

"(b) All distributions received on that winding up in respect of that share shall be deemed to be consideration received for that sale; and

"(c) That sale shall be deemed to be a sale to which the provisions of subsection (8) of this section apply.

"(10) Where an amount would otherwise be included in the assessable income derived by any company (in this subsection hereinafter referred to as the vendor company) in any income year pursuant to subsection (8) of this section in respect of any sale or other disposition of a mining share, then, notwithstanding that subsection, that amount shall not be included in the assessable income derived by the vendor company in that income year to the extent to which the Commissioner is satisfied that—

"(a) The consideration received for that sale or other disposition of a mining share (being a sale or other disposition to a mining holding company or to a mining company) consists of shares in that mining holding company, or, as the case may be, in that mining company, allotted to the vendor company; or

"(b) The consideration received for that sale or other disposition of a mining share (being a sale within the meaning of subsection (9) of this section) consists of mining shares; or

"(c) The consideration received for that sale or other disposition is used, or is to be used, within the prescribed period for mining purposes."

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965, and in every subsequent year.

22. Assessment of petroleum mining companies—(1) Section 153 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

"(1) Subject to subsection (1A) of this section, this section applies to any New Zealand company in respect of which the Commissioner is satisfied—

"(a) That its sole or principal source of income is the business of mining in New Zealand for petroleum; or

"(b) That its undertaking is, or is to be, in New Zealand and comprises, or is to comprise, solely or principally the carrying on in New Zealand of exploring or searching for or mining petroleum, or the carrying on of any development work relating to that exploring or searching or mining.

"(1A) This section shall not apply to any company whose undertaking comprises, or is to comprise, solely or principally the carrying on of any of the activities specified in paragraph (b) of subsection (1) of this section as a service to any other person for reward, unless it is proved to the satisfaction of the Commissioner that the main purpose of the undertaking is to provide that service for a reward which is solely or principally related to and dependent upon the production of petroleum or the participation by that company in any profits from the production of petroleum."

(2) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965, and in every subsequent year.

23. Assessment of companies holding shares in exploration companies—(1) Section 153A of the principal Act (as

inserted by section 33 of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Notwithstanding anything to the contrary in this section, this section shall not apply to any loan to the extent to which, in the opinion of the Commissioner, the loan is made by a holding company (being a mining holding company) out of reinvestment profit of that company (being reinvestment profit within the meaning of section 152B of this Act)."

(2) Section 153A of the principal Act (as so inserted) is hereby further amended by adding to subsection (4) the following additional proviso:

"Provided also that in respect of any amount written off from any loan which in the opinion of the Commissioner has been made by a holding company (being a mining holding company) wholly or partly out of payments received by that holding company (being payments in respect of which a deduction has been allowed to any taxpayer under section 129BB of this Act) the deduction otherwise allowable under this subsection shall to that extent be reduced by one-third."

(3) Subsection (1) of this section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1965 and in every subsequent year.

(4) Subsection (2) of this section shall apply with respect to any payment made on or after the 1st day of April 1969 in respect of the whole or part of the amount unpaid on shares in a mining holding company.

24. Meaning of expression "specified trust"—(1) Section 155 of the principal Act (as substituted by section 32 of the Land and Income Tax Amendment Act (No. 2) 1968) is hereby amended by adding to paragraph (a) of subsection (1) the following subparagraph:

"(vi) In order to vary the terms of a will or codicil or, in relation to any estate, to vary the application of the law relating to the distribution of intestate estates, in either case for the sole purpose of effecting a settlement out of Court of an application made or proposed to be made under the Family Protection Act 1955 or of a claim made or proposed to be made under the Law Reform (Testamentary Promises) Act 1949, where the Commissioner is of the opinion that the terms of the trust

are substantially the same as those likely to have been ordered by the Court; or".

(2) This section shall be deemed to have come into force on the 11th day of December 1968 (being the date of the passing of the Land and Income Tax Amendment Act (No. 2) 1968), and shall apply to the tax on income derived in the income year that commenced on the 1st day of April 1968 and in every subsequent year.

25. Excess retention tax payable by privately controlled investment companies only—(1) Section 172BB of the principal Act (as substituted by section 37 (1) of the Land and Income Tax Amendment Act 1966) is hereby amended by omitting from subsection (1) (as substituted by section 38 (1) of the Land and Income Tax Amendment Act (No. 2) 1968) the words "is established exclusively or principally for" wherever they occur, and substituting in each case the words "is engaged exclusively or principally in".

(2) This section shall apply with respect to the tax for the year of assessment that commenced on the 1st day of April 1969 and for every subsequent year.

26. Dividends paid in excess of distributable portion of income—(1) Section 172H of the principal Act (as substituted by section 27 of the Land and Income Tax Amendment Act 1959) is hereby amended by repealing each of the provisos to subsection (1A) (as inserted by section 10 (2) of the Land and Income Tax Amendment Act 1961).

(2) This section shall apply with respect to any distribution of income derived in the accounting year corresponding with the income year which commenced on the 1st day of April 1968 and in every subsequent accounting year.

27. Amendments consequential on abolition of social security income tax—(1) Section 22 of the New Zealand Loans Act 1953 is hereby amended—

(a) By omitting from subsection (3) the words "and social security income tax" wherever they occur:

(b) By omitting from subsection (4) and also from subsection (6) the words "or social security income tax".

(2) Section 172J of the principal Act (as inserted by section 15 of the Land and Income Tax Amendment Act (No. 2) 1958) is hereby amended by omitting from paragraph (b) the words "ordinary income tax", and substituting the words "income tax".

(3) The Income Tax Assessment Act 1957 is hereby amended by omitting from the Title the words "ordinary income tax and social security income tax", and substituting the words "income tax".

(4) This section shall be deemed to have come into force on the 1st day of April 1969 (being the date of the commencement of the Land and Income Tax Amendment Act (No. 3) 1968), and shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1969 and in every subsequent year.

(5) For all purposes whatsoever in respect of any tax which at the commencement of this section has been already assessed and paid, or is still assessable or payable, in or for the year ending with the 31st day of March 1969 or in or for any previous year, in accordance with any provision of any enactment that is amended by this section, that provision shall, notwithstanding the amendment thereof, be deemed to remain in full force or effect.

This Act is administered in the Inland Revenue Department.