



ANALYSIS

Title	2. Application
1. Short Title	3. Profits or gains from land transactions

 1975, No. 18

An Act to amend the Land and Income Tax Act 1954

[4 July 1975]

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) 1975, 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—This Act shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1974 and in every subsequent year.

3. Profits or gains from land transactions—(1) Section 88AA of the principal Act (as inserted by section 9 (1) of the Land and Income Tax Amendment Act 1973) is hereby amended by inserting in subsection (1), after paragraph (c), the following paragraph:

“(ca) All profits or gains, not being profits or gains which are included in the assessable income pursuant to any of the paragraphs (a), (b), (c), or (d) of this subsection, derived from the sale or other disposition of land where that land was sold or

disposed of by the taxpayer within 10 years after the date on which it was acquired by him and, in the opinion of the Commissioner, at least 20 percent of the amount of those profits or gains was due to any one or any combination of 2 or more of the following:

“(i) Any zoning or change of zoning in relation to that land under the Town and Country Planning Act 1953 after the acquisition of that land by the taxpayer; or

“(ii) The likelihood of any such zoning or change of zoning; or

“(iii) Any consent granted in relation to that land pursuant to any provision of that Act or any decision of the Town and Country Planning Appeal Board made in relation to that land pursuant to that Act, where that consent was granted or that decision made after the acquisition of that land by the taxpayer; or

“(iv) The likelihood of any such consent being granted or of any such decision being made; or

“(v) The removal of any condition, obligation, restriction, prohibition, or covenant imposed under that Act in relation to that land, where that removal occurred after the acquisition of that land by the taxpayer; or

“(vi) The likelihood of the removal of any such condition, obligation, restriction, prohibition, or covenant; or

“(vii) Any change or occurrence of a similar nature to any of the changes or occurrences referred to in any of the foregoing subparagraphs of this paragraph or the likelihood of any such change or occurrence in respect of or in relation to that land:”.

(2) Section 88AA of the principal Act (as so inserted) is hereby further amended by inserting in paragraph (e) of subsection (1), after the words “the paragraphs (a), (b), (c),”, the expression “(ca),”.

(3) Section 88AA of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsections:

“(2A) Paragraph (ca) of subsection (1) of this section shall not apply to the sale or other disposition of any land in any case where the Commissioner is satisfied that—

“(a) The land was acquired and used, or intended to be used, by the taxpayer primarily and principally—

“(i) For the purposes of a farming or agricultural business carried on by the taxpayer; or

“(ii) As a residence for that taxpayer and any member of his family living with him or for the purpose of erecting a dwelling house on that land to be occupied as a residence for that person and any member of his family living with him; and

“(b) Having regard to the circumstances of the sale or other disposition of the land and any other relevant matters, that land was acquired by the person to whom it was sold or otherwise disposed of primarily and principally for the purposes of—

“(i) In the case of land to which subparagraph (i) of paragraph (a) of this subsection applies, the use, on a continuing basis, of that land in any farming or agricultural business; or

“(ii) In the case of land to which subparagraph (ii) of the said paragraph (a) applies, as a residence for that person and any member of his family living with him or, as the case may be, erecting a dwellinghouse on that land to be occupied as a residence for himself and any member of his family living with him; and

“(c) In any case where the land was occupied primarily and principally for the purposes of any farming or agricultural business, the sale or disposition of the land by the taxpayer was due to circumstances or events (other than those referred to in any of the subparagraphs (i) to (vii) of paragraph (ca) of subsection (1) of this section) which arose after the land was acquired by the taxpayer.

“(2B) There shall be allowed as a deduction from the amount of any profits or gains which are included in the assessable income of any taxpayer pursuant to paragraph (ca) of subsection (1) of this section for any income year an amount equal to the greater of—

“(a) The sum of \$1,000:

“(b) An amount equal to the product of an amount equal to 10 percent of those profits or gains multiplied by such number (not exceeding 10) of complete consecutive periods of 12 months, the first of which such periods commenced on the date of acquisition of that land by the taxpayer, as are included in the period that commenced on that date and ended with the date of that sale or other disposition:

“Provided that in no case shall the amount of the deduction allowed under this subsection exceed the amount of those profits or gains before any deduction is allowed under this subsection.”

(4) Section 88AA 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—

“‘Disposition’, in relation to any land, includes compulsory acquisition under any Act by the Crown or by any public authority or by any local authority:

“‘Land’ includes—

“(a) Any estate or interest in land, whether legal or equitable, corporeal or incorporeal, freehold or chattel; and

“(b) Any option to acquire land or any such estate or interest in land,—
but does not include a mortgage.”

(5) This section shall apply to any profit or gain derived from any sale or other disposition made on or after the 23rd day of October 1974.

This Act is administered in the Inland Revenue Department.
