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1975, No. 115

An Act to amend the Land and Income Tax Act 1954

[*10 October 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. 3) 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—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 1975 and in every subsequent year.

3. Special exemption in respect of gifts of money—(1) Section 84B of the principal Act (as inserted by section 4 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by adding to subsection (2) (as amended by section 12 of the Land and Income Tax Amendment Act 1971) the following paragraph:

"(m) The Norman Kirk Memorial Trust Fund."

(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 1974 and in every subsequent year.

4. Special exemption in respect of life insurance premiums, and other specified contributions—(1) Section 85 of the principal Act (as substituted by section 4 (1) of the Land and Income Tax Amendment Act 1965) is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) For the purposes of this section shares in one company held by another company shall be deemed to be held by the shareholders in the last-mentioned company."

(2) Section 85 of the principal Act (as so substituted) is hereby further amended by repealing the proviso to subsection (2) (as added by section 13 (4) of the Land and Income Tax Amendment Act 1971), and substituting the following proviso:

"Provided that where any such policy has been assigned or mortgaged for the purpose of providing security for, or for any other purpose relating to, the borrowing of money for investment in or use by—

"(a) Any association of any of the kinds referred to in subsection (1) of section 153BB of this Act (not being a group, association, trust, fund, society, or syndicate of any of the kinds referred to in subsection (6) of the said section 153BB); or

"(b) Any company—

"(i) Which, if it were an unincorporated association of the persons who hold shares in the company, would be a syndicate to which section 153BB of this Act would apply; and

"(ii) The shares in which are held by not more than 25 persons; and

"(iii) Which was incorporated on or after the 3rd day of September 1971,—

the foregoing provisions of this subsection shall not apply to premiums paid in respect of that policy in any income year during the whole or any part of which that policy remained so assigned or mortgaged."

5. Incomes wholly exempt from taxation—Section 86 (1) of the principal Act is hereby amended by inserting, after paragraph (jj) (as inserted by section 5 of the Land and Income Tax Amendment Act 1966), the following paragraph:

"(jjj) Income derived by any non-resident entertainer (within the meaning of regulations made under section 39 of the Income Tax Assessment Act 1957) from any activity or performance—

"(i) Pursuant to a cultural programme of, or wholly or partly sponsored by, any overseas government or the Government of New Zealand; or

"(ii) Pursuant to a programme of a foundation, trust, or other organisation, being a foundation, trust, or other organisation outside New Zealand which exists for the promotion, whether in whole or in part, of any cultural activity and which is not carried on for the private pecuniary profit of any proprietor, member, or shareholder; or

"(iii) In relation to any game or sport where the participants are the official representatives of an association, league, union, or other body which administers the game or sport in an overseas country:".

6. Superannuation funds—(1) The principal Act is hereby amended by repealing paragraph (1) of section 86 (1) (as substituted by section 12 (2) of the Land and Income Tax Amendment Act 1970), and substituting the following paragraph:

"(1) Income derived by the trustees of a superannuation fund:".

(2) The principal Act is hereby further amended by repealing section 154c (as inserted by section 35 (1) of the

Land and Income Tax Amendment Act 1970 and amended by section 55 (8) of the Land and Income Tax Amendment Act 1973 and section 38 (6) of the Land and Income Tax Amendment Act (No. 2) 1974), and substituting the following section:

"154C. (1) For the purposes of this section—

" 'Non-exempt superannuation scheme' means any scheme or fund (not being a scheme or fund which is a superannuation fund as defined in section 2 of this Act) established for the purpose of providing benefits which consist principally of superannuation, pension, or other retirement benefits, being any scheme or fund established—

"(a) For the purpose of providing such benefits for the employees of any employer; or

"(b) For the purpose of providing such benefits for contributors thereto otherwise than as employees of any employer:

" 'Trustee', in relation to a non-exempt superannuation scheme, includes a person by whom that non-exempt superannuation scheme is managed or controlled.

"(2) The trustee of a non-exempt superannuation scheme shall, subject to the provisions of this section, be assessable and liable for income tax (at the rate of tax calculated by reference to that income alone) on the income of the non-exempt superannuation scheme for any income year as if he were beneficially entitled to that income.

"(3) Notwithstanding anything in this Act, the following provisions shall apply with respect to that trustee:

"(a) The assessable income of that trustee shall not include contributions made to the non-exempt superannuation scheme:

"(b) That trustee shall not be entitled to—

"(i) Any deduction in respect of benefits paid from the non-exempt superannuation scheme; or

"(ii) Any deduction by way of special exemption; or

"(iii) Any rebate under any of the provisions of sections 80 to 84 of this Act:

"(c) Nothing in sections 155 to 155D of this Act shall apply with respect to that trustee."

(3) The following enactments are hereby consequentially repealed:

(a) Sections 7A, 86D, and 86E of the principal Act:
(b) Sections 3, 12 (2), 13, 14, and 35 (1) of the Land and Income Tax Amendment Act 1970:
(c) Section 55 (8) of the Land and Income Tax Amendment Act 1973:
(d) Subsections (4) to (6) of section 38 of the Land and Income Tax Amendment Act (No. 2) 1974.

(4) The Income Tax (Private Superannuation Funds Investment) Order 1971 is hereby revoked.

7. Gains and losses due to exchange variations in respect of the repayment of loans—(1) The principal Act is hereby amended by inserting, after section 88E (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1972), the following section:

"88F. (1) For the purposes of this section—

" 'Exchange variation', in relation to the repayment in whole or in part of any loan, excluding interest, means the difference between—

"(a) The amount of that repayment expressed in New Zealand currency at the official exchange rate in New Zealand at the date on which the repayment was made; and

"(b) The amount expressed in New Zealand currency at the official exchange rate in New Zealand which would have been required to make that repayment on the date on which the loan was first made or on the 8th day of August 1975, whichever is the later:

" 'Loan' means—

"(a) In relation to money lent to any taxpayer, money which—

"(i) Is lent on or after the 1st day of January 1974; and

"(ii) Is lent with the consent of the Minister of Finance under the Capital Issues Regulations 1965 or the Overseas Investment Regulations 1974 or with the consent of the Reserve Bank under the Exchange Control Regulations 1965, as the case may require; and

"(iii) Is lent in a currency other than New Zealand currency; and

"(iv) Is expressed to be repayable in a currency other than New Zealand currency:

"(b) In relation to money lent by any taxpayer, money which—

"(i) Is lent on or after the 1st day of January 1974; and

"(ii) Is lent with the consent of the Reserve Bank under the Exchange Control Regulations 1965 if required; and

"(iii) Is expressed to be repayable in a currency other than New Zealand currency.

"(2) For the purposes of this section where a loan is received in 2 or more instalments, each instalment shall be deemed to be a separate loan, and repayments made shall, except as otherwise expressly provided by the terms of the loan, be deemed to be applied so that the separate loans are repaid in the order in which they were so received.

"(3) Notwithstanding anything in this Act, where in any income year an exchange variation arises in respect of the repayment, in whole or in part, of any loan made to any taxpayer carrying on business in New Zealand for the purposes of his business in New Zealand or by any taxpayer in the course of carrying on business in New Zealand, being an exchange variation arising in respect of a repayment made after the 8th day of August 1975, and the Commissioner is satisfied that any profit is derived or loss is incurred by that taxpayer in respect of that exchange variation, the amount of that profit or, as the case may be, that loss shall be taken into account in calculating the assessable income derived by that taxpayer from that business in that income year.

"(4) Where the Commissioner is satisfied that arrangements have been made between a taxpayer and another person with a view to the affairs of the taxpayer and of that other person being so arranged or conducted that this section would, but for this subsection, have effect more favourably in relation to that taxpayer than would otherwise have been the case,—

"(a) The amount of any loss which the taxpayer has incurred shall not exceed the amount of the loss which that taxpayer would, in the opinion of the Commissioner, have incurred; and

"(b) The amount of any profit which the taxpayer has derived shall not be less than the amount of the profit which that taxpayer would, in the opinion of the Commissioner, have derived—

if those arrangements had not been made."

(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 1975 and in every subsequent year:

Provided that in any case where a taxpayer furnishes a return of income under section 8 of the principal Act for a year ending with the date of the annual balance of his accounts, being a date not earlier than the 9th day of August 1975 and not later than the 30th day of September 1975, this section 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.

8. Income derived from use or occupation of land—(1) Section 91 (1) (b) of the principal Act is hereby amended by adding, after the second proviso, the following proviso:

"Provided further that in any case where—

"(i) Expenditure of a capital nature is incurred in the acquisition or construction on or after the 1st day of April 1975 of plant or machinery by a company, being a company of a kind that may make an election pursuant to the second proviso to this paragraph; and

"(ii) The plant or machinery so acquired or constructed is first used on or after the 1st day of April 1975 by that company primarily and principally in planting or maintaining trees on the land in New Zealand on which that company carries on its forestry business or in preparing or otherwise developing that land for its forestry operations; and

"(iii) Depreciation of any such asset, being plant or machinery, is caused by fair wear and tear or by the fact of the asset becoming obsolete or useless, and that depreciation cannot be made good by repair,—

the Commissioner may, in calculating the assessable income derived by the company, whether from that business or otherwise, allow, subject to section 117 of this Act, a deduction by way of depreciation in respect of the asset in respect of which that expenditure of a capital nature is incurred, in the same

manner and to the same extent that he would allow a deduction by way of depreciation in respect of that asset if it were plant or machinery of any of the kinds referred to in subsection (1) of section 113, or in paragraph (a) or paragraph (b) of subsection (2) of section 114F, of this Act:".

(2) Section 91 of the principal Act is hereby further amended by inserting, after subsection (1F) (as inserted by section 15 (2) of the Land and Income Tax Amendment Act 1965), the following subsection:

"(1G) Where a deduction has been allowed in respect of any asset pursuant to the third proviso to paragraph (b) of subsection (1) of this section, the expenditure of a capital nature in respect of that asset shall, to the extent of the deduction so allowed, be deemed not to form part of the cost of the timber for the purposes of the said paragraph (b)."

(3) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1975 and in every subsequent year:

Provided that in any case where a taxpayer furnishes a return of income under section 8 of the principal 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 1975 and not later than the 30th day of September 1975, this section 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.

9. Depreciation allowances, etc., on motorcars—(1) Section 112AA of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1974) is hereby amended, as from its commencement, by repealing subsection (3), and substituting the following subsection:

"(3) Where and to the extent that in any income year any taxpayer incurs expenditure in excess of $6,000 in the acquisition, on or after the 23rd day of October 1974, of any motorcar, the amount of that expenditure shall—

"(a) For the purpose of determining the amount of any deduction allowable under this Act in respect of the depreciation of that motorcar; or

"(b) For the purpose of calculating the amount of any loss incurred by the taxpayer on the disposal, loss, or destruction of that motorcar,—

be deemed to be reduced by the amount of that excess."

(2) Section 112AA of the principal Act (as so inserted) is hereby further amended, as from its commencement, by omitting from subsection (5) the word "capital".

(3) Section 112AA of the principal Act (as so inserted) is hereby further amended, as from its commencement, by adding, after subsection (5), the following subsections:

"(6) In any case where a taxpayer has incurred expenditure in excess of $6,000 in the acquisition of any motorcar and that motorcar is sold or otherwise disposed of on or after the 23rd day of October 1974, then for the purposes of subsection (1A) of section 117 of this Act the cost of any motorcar acquired by the taxpayer to replace the motorcar sold or disposed of shall be deemed to be the lesser of—

"(a) The purchase price of the replacement motorcar:

"(b) $6,000.

"(7) This section shall not apply to any expenditure incurred by any taxpayer in the acquisition of any motorcar if the business of that taxpayer comprises dealing in motorcars and that motorcar—

"(a) Was acquired for the purpose of selling or otherwise disposing of it; and

"(b) During the period, if any, prior to its sale or disposal, was held by that taxpayer solely as trading stock of his business of dealing in motorcars; and

"(c) During the period, if any, prior to its sale or disposal, was not used by that taxpayer in any arrangement involving its hire, lease, or rental, not being a hire purchase agreement as defined in section 2 of the Hire Purchase Act 1971."

(4) This section shall apply to the tax on income derived in the income year that commenced on the 1st day of April 1974 and in every subsequent year.

10. Deduction of testamentary annuities charged on property—(1) Section 127 (1) of the principal Act is hereby amended by inserting after the words "has been transferred to a beneficiary and" the words "that property so transferred or any property substituted therefor by the beneficiary".

(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 1974 and in every subsequent year.

11. New markets export development grants—(1) The principal Act is hereby further amended by inserting, after

section 129AB (as inserted by section 21 (1) of the Land and Income Tax Amendment Act 1973), the following section:

"129AC. (1) For the purposes of this section, the expression 'new markets export development grant' means any grant made and designated by the Secretary of Trade and Industry or any officer authorised by him in that behalf as a new markets export development grant, being a grant in respect of expenditure incurred on or after the 1st day of April 1975 and on or before the terminating date by the taxpayer to whom the grant is made, which expenditure would, but for paragraph (e) (iv) of the definition of the expression 'export market development expenditure' in section 129A (1) of this Act, constitute export market development expenditure for the purposes of that section.

"(2) In any case where a new markets export development grant is received by any taxpayer in any income year, the amount of that grant shall be deemed not to be assessable income of that taxpayer for that income year or any other income year."

(2) Section 125AA (1) of the principal Act (as inserted by section 14 of the Land and Income Tax Amendment Act 1973) is hereby amended by inserting in paragraph (a), after the words "or section 129AB", the words "or section 129AC".

(3) Section 129A (1) of the principal Act (as inserted by section 11 of the Land and Income Tax Amendment Act (No. 2) 1962) is hereby amended by omitting from subparagraph (iii) of paragraph (e) of the definition of the expression "export market development expenditure" (which subparagraph was added by section 19 (1) of the Land and Income Tax Amendment Act 1973) the word "grant:", and substituting the words "grant; or".

(4) The said section 129A (1) is hereby further amended by adding to the said paragraph (e) of the definition of the expression "export market development expenditure" the following subparagraph:

"(iv) Has been, or is to be, paid or reimbursed to him by way of a new markets export development grant:".

(5) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1975 and in every subsequent year:

Provided that in any case where a taxpayer furnishes a return of income under section 8 of the principal 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 1975 and not later than the 30th day of September 1975, this section 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.

12. Deduction by reference to export of goods—(1) In respect of the tax on income derived in the income year that commenced on the 1st day of April 1972 and in either of the 2 income years next succeeding that income year, the principal Act shall be deemed to have had effect as if it had been amended by omitting from paragraph (a) and also from paragraph (c) of subsection (3) of section 129B (as inserted by section 20 of the Land and Income Tax Amendment Act (No. 2) 1963) the words "during either of the 2 income years immediately succeeding the base period" (as substituted by section 25 (3) of the Land and Income Tax Amendment Act 1966), and substituting in each case the words "during any of the 3 income years immediately succeeding the base period".

(2) Section 129B of the principal Act (as so inserted) is hereby amended—

(a) By omitting from paragraph (a) and also from paragraph (c) of subsection (3) the words "during either of the 2 income years immediately succeeding the base period" (as substituted by section 25 (3) of the Land and Income Tax Amendment Act 1966), and substituting in each case the words "during any of the 4 income years immediately succeeding the base period":

(b) By omitting from subsection (5) (as substituted by section 21 (2) of the Land and Income Tax Amendment Act (No. 2) 1972) the words "the 1st day of April 1972", and substituting the words "the 1st day of April 1975":

(c) By omitting from paragraph (c) and also from item "z" of the formula in paragraph (d) of the said subsection (5) the expression "20 percent", and substituting in each case the expression "25 percent":

(d) By omitting from subparagraph (i) and subparagraph (ii) of paragraph (d) and from item "z" of the formula in paragraph (e) of subsection (5A) (as inserted by section 22 (4) of the Land and Income Tax Amendment Act 1973) the expression "20 per-

cent", and substituting in each case the expression "25 percent".

(3) Section 25 of the Land and Income Tax Amendment Act 1966 is hereby consequentially repealed.

13. Deduction by reference to export goods to new markets—(1) 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:

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

"(a) The terms 'export goods', 'non-qualifying goods', and 'value of export sales' have the meanings given to those terms by section 129B of this Act:

"(b) The term 'new market', in relation to any taxpayer and to export goods of any kind, means—

"(i) Any country outside New Zealand; or

"(ii) Any part of any such country,—

which has been approved by the Secretary as constituting, for the purposes of this section, a distinct and separate market and is a country or, as the case may be, a part of a country which the Secretary certifies is a country or, as the case may be, a part of a country to which export goods of that kind have not (otherwise than in quantities determined by the Secretary to be token quantities) been exported from New Zealand by that taxpayer or by any other person during the period of 36 months immediately preceding the date on which that taxpayer first, within the period commencing on the 1st day of April 1975 and ending with the terminating date, sold or otherwise disposed of export goods of that kind (otherwise than in quantities determined by the Secretary to be token quantities) to that country or, as the case may be, to that part of that country:

"(c) The term 'new market export goods', in relation to any taxpayer and to any export goods, means export goods which have been sold or otherwise disposed of by that taxpayer to a new market, being a new market in relation to that taxpayer and to those export goods:

"(d) The term 'the first specified period', in relation to any taxpayer and to the sale or other disposal by him

of any new market export goods, means the shorter of—

"(i) The period of 12 months commencing on the date certified by the Secretary as the date on which that taxpayer first, within the period commencing on the 1st day of April 1975 and ending with the terminating date, sold or otherwise disposed of those new market export goods (otherwise than in quantities determined by the Secretary to be token quantities):

"(ii) The period commencing on that first-mentioned date and ending with the date on which that taxpayer ceased to carry on the business in the course of which sales or other disposals of those new market export goods were made:

"(e) The term 'the second specified period', in relation to any taxpayer and to the sale or other disposal by him of any new market export goods, means the shorter of—

"(i) The period of 12 months immediately succeeding the first specified period in relation to that taxpayer and to the sale or other disposal by him of those new market export goods:

"(ii) The period commencing on the day after the last day of the first specified period in relation to that taxpayer and to the sale or other disposal by him of those new market export goods and ending with the date on which that taxpayer ceased to carry on the business in the course of which sales or other disposals of those new market export goods were made:

"(f) The term 'the Secretary' means the Secretary of Trade and Industry.

"(2) The Secretary may authorise such officer or officers of the Department of Trade and Industry as he thinks fit to perform or exercise all or any of his functions, duties, or powers under this section.

"(3) For the purposes of this section, where a taxpayer has received or is entitled to receive an amount under a policy of insurance or otherwise in respect of loss, destruction, or damage that has occurred, after their export from New Zealand, in respect of export goods owned by him, and the Commissioner is satisfied that these goods had been exported

from New Zealand by the taxpayer for the purpose of the sale or other disposal thereof by him to a new market, being a new market in relation to the taxpayer and to those goods,—

"(a) In the case of loss or destruction, the taxpayer shall be deemed to have sold those goods to that new market, at the time of the loss or destruction, for a consideration equal to that amount:

"(b) In the case of damage—

"(i) If the taxpayer has sold or otherwise disposed of those goods for a consideration, he shall be deemed to have sold or otherwise disposed of those goods to that new market, and that consideration shall be deemed to be increased by that amount:

"(ii) If the taxpayer ceased to be the owner of the goods in any other manner, he shall be deemed to have sold those goods to that new market at the time when he so ceased, for a consideration equal to that amount.

"(4) Where a taxpayer carrying on in New Zealand any business or businesses in which goods are sold or otherwise disposed of has, on or after the 1st day of April 1975, sold or otherwise disposed of new market export goods, the taxpayer shall, on production to the Commissioner of the certificate given by the Secretary in relation to those new market export goods, be entitled, in addition to any deduction under section 129B of this Act, in calculating the assessable income derived by him from that business or, as the case may be, those businesses,—

"(a) In the income year which includes the last day of the first specified period in relation to the taxpayer and to the sale or other disposal of those new market export goods, to a deduction of an amount equal to 15 percent of the value of export sales of those new market export goods:

"(b) In the income year which includes the last day of the second specified period in relation to the taxpayer and to the sale or other disposal of those new market export goods, to a deduction of an amount equal to 15 percent of the amount by which the value of export sales of those new market export goods in that second specified period exceeds the value of export sales of those new market export goods in that first specified period.

"(5) Where any goods have been added to the definition of the term 'non-qualifying goods' by an Order in Council made under paragraph (k) of that definition in section 129B of this Act, this section shall continue to apply to those goods in the same manner as if that Order in Council had not been made to the extent that—

"(a) There were sales or other disposals of those goods before the date on which the Order in Council came into force; or

"(b) There were firm orders, both as to price and quantity, for sales or other disposals of those goods, placed and accepted before that date.

"(6) Where the Commissioner is satisfied that arrangements have been made between a taxpayer and another person with a view to the affairs of the taxpayer and of that other person being so arranged or conducted that this section would, but for this subsection, have effect more favourably in relation to that taxpayer than would otherwise have been the case, the amount of any deduction to which the taxpayer is entitled shall not exceed the amount of the deduction to which that taxpayer would, in the opinion of the Commissioner, have been entitled if those arrangements had not been made.

"(7) 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, this section shall, with any necessary modifications, apply accordingly.

"(8) This section shall not apply to—

"(a) A company that is assessable for income tax under section 146 or section 146A or section 146B or section 153F of this Act:

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

(2) Section 35 of the principal Act (as substituted by section 2 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by inserting, after paragraph (d), the following paragraph:

"(da) Any matter which—

"(i) Is left to the approval or determination of the Secretary of Trade and Industry pursuant to section 129BA of this Act; or

"(ii) In respect of which a certificate has been given by the Secretary of Trade and Industry pursuant to that section:".

(3) This section shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1975 and in every subsequent year:

Provided that in any case where a taxpayer furnishes a return of income under section 8 of the principal 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 1975 and not later than the 30th day of September 1975, this section 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.

14. Deduction by reference to export of qualifying services—The principal Act is hereby further amended by inserting, after section 129BA (as inserted by section 13 of this Act), the following section:

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

" 'Fees', in relation to qualifying services and to any taxpayer, means fees or other remuneration (being receipts of a business carried on by the taxpayer) receivable either directly or indirectly from outside New Zealand by way of reward for the supply by the taxpayer of those qualifying services and includes, in any case where any contract for the supply of such services is entered into on the basis of a reward for services plus the separate reimbursement of specific costs relating to those services, any amounts relating to those specific costs:

" 'Prescribed period', in relation to any income year, means the period commencing on the day immediately following the end of that income year and ending with the day on or before which the taxpayer is required in accordance with section 14 of this Act to furnish his return of income for that income year:

" 'Qualifying services', in relation to any taxpayer, means services of a professional or technical nature which are supplied by that taxpayer for reward in connection with or in relation to any project outside New Zealand, (not being services which are supplied to or on behalf of any person where that person is entitled to a deduction under this section in respect

of the supply of those services) and which are services of any of the following kinds, namely:

"(a) The provision of architectural services (including supervision in relation to the performance of any contract), or surveying, valuation, design, or planning services; or

"(b) The provision of engineering services (including supervision, in relation to the performance of any contract) not being services which consist of altering, extending, repairing, constructing, manufacturing, fabricating, demolishing, or removing any building, construction, goods, material, substance, or thing; or

"(c) The provision of advisory services relating to the establishment of accounting, auditing, management, organisational, training, or other systems (including the provision of data processing system programmes in relation to any such system); or

"(d) The provision of advisory services relating to the establishment or development of any farming, agricultural, horticultural, fishing, or forestry project; or

"(e) The provision of any other services specified by the Governor-General from time to time by Order in Council to be qualifying services for the purpose of this section.

"(2) Where in relation to any income year (being an income year commencing on or after the 1st day of April 1975 and ending on or before the terminating date) any taxpayer carrying on business in New Zealand has derived assessable income which consists of fees for qualifying services and the Commissioner is satisfied that, after those fees were derived, an amount in respect of those fees (being an amount which in the opinion of the Commissioner is not less than the amount of the net surplus remaining after deducting from the gross amount of those fees all necessary costs incurred by that taxpayer outside New Zealand in connection with or in relation to those qualifying services and, where applicable, any sum, not exceeding such sum as the Commissioner considers to be reasonable, which is retained in the meantime for the purposes of the business activities of the taxpayer carried on outside New Zealand) has been transferred to the credit of the taxpayer—

"(a) By the transfer of foreign currency to New Zealand through the New Zealand banking system; or

"(b) By payment in New Zealand, in New Zealand currency, from funds held in New Zealand which would otherwise be remittable from New Zealand in terms of the Exchange Control Regulations 1965—

within the income year or within the prescribed period in relation to that income year or within such later time as the Commissioner in his discretion may allow, a deduction shall be allowed in calculating the assessable income derived by the taxpayer in the income year of an amount equal to the smaller of—

"(c) An amount equal to 5 percent of the gross amount of those fees:

"(d) An amount equal to the amount so transferred to the credit of the taxpayer in respect of those fees.

"(3) Where the Commissioner is satisfied that arrangements have been made between a taxpayer and another person with a view to the affairs of the taxpayer and of that other person being so arranged or conducted that this section would, but for this subsection, have effect more favourably in relation to that taxpayer than would otherwise have been the case, the amount of any deduction to which the taxpayer is entitled shall not exceed the amount of the deduction to which that taxpayer would, in the opinion of the Commissioner, have been entitled if those arrangements had not been made.

"(4) 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."

15. Deduction for dividends paid on specified preference shares—(1) The principal Act is hereby further amended by inserting, after section 142A (as substituted by section 3 (1) of the Land and Income Tax Amendment Act (No. 3) 1968), the following section:

"142B. (1) For the purposes of this section, the term 'specified preference shares', in relation to any company, means shares in the company—

"(a) That have been issued and subscribed for in cash on or after the 22nd day of May 1975; and

"(b) That are preferential as to dividends; and

"(c) That are fully paid up in cash; and

"(d) That are entitled to a fixed rate of dividend without a further right to participate in profits; and

"(e) That are both issued and redeemable at par value only; and

"(f) That are not, within 5 years after the date of allotment, convertible into, or redeemable by the issue of, shares or stock in the capital of the company or in the capital of any other company.

"(2) This section shall not apply to the extent that any specified preference shares in any private company (as defined in section 2 of the Companies Act 1955) are to be issued to or are held by—

"(a) Any holder of any other class or classes of shares in the capital of the company; or

"(b) Any person where that person and any holder of any other class or classes of shares in the capital of the company are associated persons,—

unless the Commissioner has approved the terms of issue of the specified preference shares as being ordinary commercial conditions consistent with those applying between parties at arms length, and those terms as approved are continued.

"(3) This section shall not apply to any company which is under the control of persons who are not deemed to be resident in New Zealand within the meaning of this Part of this Act.

"(4) For the purposes of subsection (3) of this section, section 3 of this Act shall have effect as if for the word 'one-half' wherever it occurs there were substituted in each case the word 'one-quarter'.

"(5) The Commissioner may, in calculating the assessable income derived in any income year by any company to which this section applies, allow a deduction of the amount of the dividends paid by the company in that income year in respect of specified preference shares of that company in any case where the Commissioner is satisfied at all times in that income year that the aggregate amount of the nominal value of all the preference shares, including specified preference shares, of the company does not exceed 50 percent of the aggregate amount of the ordinary paid-up capital of the company.

"(6) 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) Section 3A of the principal Act (as inserted by section 5 of the Land and Income Tax Amendment Act (No. 2) 1968) is hereby amended by inserting in subsection (1), after the expression "137," (as inserted by section 27 (7) of the Land and Income Tax Amendment Act 1973), the expression "142B".

(3) Section 86C of the principal Act (as inserted by section 10 (1) of the Land and Income Tax Amendment Act 1964) is hereby amended by inserting in subsection (1) (as amended by section 14 (1) of the Land and Income Tax Amendment Act 1971), before the word "Dividends", the words "Subject to subsection (1A) of this section".

(4) Section 86C of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (1) (as so amended), the following subsection:

"(1A) Subsection (1) of this section shall not apply to dividends derived from any company in any case where the dividends have been allowed as a deduction under section 142B of this Act in calculating the assessable income of that company in any income year."

16. Primary producer co-operative companies—The principal Act is hereby amended by inserting, after section 145 (as substituted by section 26 of the Land and Income Tax Amendment Act 1968), the following section:

"145A. (1) For the purposes of this section—

" 'Primary producer co-operative company', in relation to any income year, means a company (not being a company to which section 146, section 146A, or section 146B of this Act applies)—

"(a) Which is registered under the Co-operative Companies Act 1956 or the Co-operative Freezing Companies Act 1960; and

"(b) Which has 50 or more shareholders; and

"(c) Not less than 60 percent in nominal value of the allotted shares of which are held by or on behalf

of persons engaged in carrying on the business of—

"(i) Animal husbandry (including poultry-keeping and bee-keeping); or

"(ii) Growing fruit, vegetables, or other crop producing plants; or

"(iii) Horticulture; or

"(iv) Viticulture; or

"(v) Fishing (within the meaning of section 113 of this Act); or

"(vi) Fish farming pursuant to a licence issued under the Freshwater Fish Farming Regulations 1972; or

"(vii) Rock oyster farming or mussel farming; and

"(d) Which carries on as its sole or principal activity any one or more qualifying activities; and

"(e) Not less than 80 percent of the total value of the transactions of which are transactions with its shareholders in relation to qualifying activities:

" 'Qualifying activities', in relation to any co-operative company and to any income year, means—

"(a) The collection, treatment, processing, packing, storage, distribution, or marketing of produce, being dairy produce, wool, eggs, poultry, products and by-products of bees, fruit, grain, seeds, flowers, market garden produce, or fish (including shellfish and crustaceans), supplied by its shareholders; or

"(b) The slaughtering of stock supplied by its shareholders, and the processing, storage, or marketing of any products thereof; or

"(c) The making of wine or other potable liquor from grapes supplied by its shareholders; or

"(d) The production or distribution of fertilisers, lime, or stock food for use by its shareholders; or

"(e) The topdressing of land used in the carrying on of any farming or agricultural business by its shareholders; or

"(f) Such other activities involving transactions with its shareholders as may from time to time be declared by the Governor-General by Order in Council to be qualifying activities for the purposes of this section:

" 'Qualifying assets', in relation to any co-operative company and to any income year, means any land, building, plant, machinery, equipment, or trading stock used by that company wholly or principally for the purpose of carrying on the qualifying activities of the company and such other assets or class of assets (being assets used in connection with qualifying activities) as may be determined by the Commissioner, either generally or in any particular case:

" 'Qualifying liability', in relation to any co-operative company and to any income year, means any loan, having a fixed term of one year or more, which has been applied in acquiring, erecting, or installing any qualifying assets, any other loan, having a fixed term of one year or more, which has been applied in repaying any qualifying liability, and such other liability (being a liability incurred in connection with qualifying assets) as may be determined by the Commissioner:

" 'Transaction', in relation to any co-operative company and to any income year, means—

"(a) Where the qualifying activities of the company involve the acceptance of produce from its shareholders, the purchase or other acquisition by the company of produce, being trading stock (as defined in section 98 (1) of this Act), whether the trading stock is sold or otherwise disposed of by the company to a shareholder or to any other person; or

"(b) Where the qualifying activities of the company involve the supply of trading stock or services to its shareholders, the sale or other disposition of trading stock (as so defined), whether the trading stock was purchased or otherwise acquired from a shareholder or from any other person, or the supply of services.

"(2) Where, in relation to any co-operative company and to any income year, the Commissioner is satisfied that the value of the transactions of the company in that income year with its shareholders in relation to the qualifying activities of the company would have been 80 percent of the total value of the transactions of the company in that income year if it were not for the fulfilling by the company of its statutory obligations, or abnormal trading conditions, or other extraordinary circumstances affecting the company in that income

year, he may, in his discretion, determine, in relation to that company and to that income year, such lower percentage as he thinks just for the purposes of paragraph (e) of the definition of the term 'primary producer co-operative company' in subsection (1) of this section.

"(3) For the purposes of subsection (1) of this section, shares held in one co-operative company by or on behalf of another co-operative company shall be deemed to be held by the shareholders of the last-mentioned company.

"(4) In calculating the assessable income of any primary producer co-operative company for any income year, the Commissioner shall allow, in addition to any deduction allowed under section 145 of this Act, a deduction of the amount of the profits derived by that company from the carrying on of its qualifying activities in that income year to the extent to which he is satisfied, having regard to any increase or decrease during that income year in the value of the qualifying assets of that company or in the amount of its qualifying liabilities and to such other factors as he considers equitable, that those profits have been applied or appropriated for the purposes of the development or expansion of its qualifying activities:

"Provided that the amount of any deduction allowed under this subsection shall not exceed the amount which would, apart from the provisions of this subsection, have been the amount of the assessable income of the company for that income year.

"(5) For the purposes of determining whether there has been any increase or decrease in the qualifying assets of any primary producer co-operative company, the amount of any profits of the primary producer co-operative company derived from the carrying on of its qualifying activities in any income year, which is appropriated by that company during or within 6 months after the end of that income year for the purposes of the development or expansion of its qualifying activities, shall be deemed to be a qualifying asset to the extent to which the Commissioner is satisfied that the amount will be expended for such purposes not later than the end of the third income year following that income year.

"(6) Where in any income year any primary producer co-operative company sells or otherwise disposes of any qualifying asset (other than trading stock), such amount as the Commissioner considers to be equitable in respect of the proceeds of that sale or other disposition, having regard to

any deduction allowed under this section in relation to that qualifying asset and the extent to which the proceeds of sale has been applied or appropriated for the purposes of the development or expansion of its qualifying activities, shall be deemed to be assessable income derived by that company in that income year.

"(7) Where in any income year any primary producer co-operative company ceases to be a primary producer co-operative company, such amount as the Commissioner considers equitable in respect of the qualifying assets of that company, having regard to any deductions allowed under this section in relation to those qualifying assets, shall be deemed to be assessable income derived by that company in that income year.

"(8) Where in any income year there is paid to a shareholder of a co-operative company—

"(a) On the surrender of any of his shares in that company, any amount in excess of the paid up value of those shares; or

"(b) On the winding up of that company, any amount in excess of the paid up value of his shares in that company,—

so much of the excess as the Commissioner considers to be attributable to any increase in the value of the assets of the company caused by the application or appropriation by that company of any amount in respect of which a deduction has been allowed under subsection (4) of this section shall be deemed to be assessable income derived by that shareholder in that income year.

"(9) For the purposes of this section—

"(a) Where any company, being an industrial and provident society registered under the Industrial and Provident Societies Act 1908, has resolved to register under the Co-operative Companies Act 1956 or under the Co-operative Freezing Companies Act 1960 and the Commissioner is satisfied that it is in the process of doing so, the company shall be deemed for the purposes of this section to be registered under the appropriate Act:

"(b) For the purpose of determining whether any company, being an industrial and provident society to which paragraph (a) of this subsection applies, meets the requirements of the term 'primary producer co-operative company' in subsection (1) of this section—

"(i) Any reference in subsections (1) and (3) of this section to the holding of allotted shares in a co-operative company shall be deemed to be a reference to membership of an industrial and provident society:

"(ii) Any reference in subsections (1) and (3) of this section to shareholders in a co-operative company shall be deemed to be a reference to members of an industrial and provident society:

"(iii) The reference in subsection (3) of this section to the holding of shares in a co-operative company by or on behalf of another co-operative company shall be deemed to be a reference to membership of an industrial and provident society by a co-operative company, or the holding of shares in a co-operative company by or on behalf of an industrial and provident society, or the membership of an industrial and provident society by another industrial and provident society, as the case may be.

"(10) Every reference in this section to an income year shall, where a co-operative company 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."

17. Assessment of life insurance companies—(1) Section 149 (1) (a) of the principal Act (as substituted by section 29 (1) of the Land and Income Tax Amendment Act 1973) is hereby amended by repealing subparagraph (i), and substituting the following subparagraph:

"(i) The issue by that company of policies of life insurance upon human life in New Zealand, being policies each of which gives to the policyholder the right to participate in allotments of surplus funds by way of reversionary bonuses or otherwise and, except in the case of a whole of life policy, has a minimum term of at least 5 years; and".

(2) This section shall be deemed to have come into force on the 5th day of November 1973 (being the date of the passing of the Land and Income Tax Amendment Act 1973) and shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1973 and in every subsequent year.

18. Assessment of life reinsurance companies—(1) Section 149A (1) (a) (i) of the principal Act (as inserted by section 30 of the Land and Income Tax Amendment Act 1973) is hereby amended by repealing clause (B), and substituting the following clause:

"(B) Each of which gives to the policyholder the right to participate in allotments of surplus funds by way of reversionary bonuses or otherwise and, except in the case of a whole of life policy, has a minimum term of at least 5 years; and".

(2) This section shall be deemed to have come into force on the 5th day of November 1973 (being the date of the passing of the Land and Income Tax Amendment Act 1973) and shall apply with respect to the tax on income derived in the income year that commenced on the 1st day of April 1973 and in every subsequent year.

19. Unit trusts—Section 153B of the principal Act (as inserted by section 20 (1) of the Land and Income Tax Amendment Act 1960) is hereby amended by inserting in paragraph (b) of the definition of the expression "unit trust" in subsection (1), after the words "the Public Trustee", the words "or any Group Investment Fund established by the Public Trustee".

20. Income derived by non-residents from renting films—(1) The principal Act is hereby amended by inserting, after section 154B (as inserted by section 34 (1) of the Land and Income Tax Amendment Act 1966), the following heading and section:

"Non-resident Film Renters

"154BA. (1) For the purposes of this section—

" 'Film' means any exposed slide, strip, or motion film or any videotape, and includes—

"(a) Any cinematograph film, whether or not it is accompanied by reproduction of sound:

"(b) Any film intended for or capable of use on television:

"(c) Any film used for advertising purposes:

"(d) Any part of any film:

" 'Rents', in relation to films, means rents or other consideration for or in relation to the renting, hiring,

or otherwise issuing films, or making other arrangements for the exhibition thereof; and includes—

"(a) Any receipts from the sale or hire of film containers:

"(b) Any receipts from the sale or hire of cinematograph or photographic materials, equipment, or accessories other than films:

"(c) Any receipts from the sale or hire of advertising materials relating to any film,—

and 'renting' has a corresponding meaning.

"(2) This section shall apply to any person, being—

"(a) Any person not deemed to be resident in New Zealand within the meaning of this Part of this Act; or

"(b) A New Zealand company that is under the control of persons who are not deemed to be resident in New Zealand within the meaning of this Part of this Act—

in respect of the income derived by that person (whether as principal or agent or trustee) from New Zealand from renting films:

"Provided that this section shall not apply to any such person in any case where the Commissioner is satisfied that the income from renting films is a minor and relatively insignificant part of the income of that person from any business.

"(3) Notwithstanding anything in this Act, every person to whom this section applies who derives income from renting films in any income year shall be deemed to have derived from that activity in that income year an assessable income of an amount equal to 15 percent of the gross rents receivable by that person or by any other person in that income year in respect of that activity carried on by that person, and that person shall be assessable and liable for income tax accordingly.

"(4) The income from renting films of any person to whom this section applies shall not be assessable or liable for income tax except as provided in this section, and, in the calculation of any other assessable income derived by any such person, no regard shall be had to the income from renting films or to any expenditure or loss incurred in connection with that income from renting films.

"(5) Where any person to whom this section applies is required under an agreement with any other person, whether

or not deemed to be resident in New Zealand within the meaning of this Part of this Act, to pay to that other person any portion of any film rents or any royalty, commission, or other amount in respect of film rents, that other person shall not be liable for income tax in respect of any such amount so paid to him.

"(6) 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 to that income year, and, in every such case, this section shall, with any necessary modifications, apply accordingly."

(2) The following enactments are hereby consequentially repealed—

(a) Section 23 of the Finance Act 1954:

(b) So much of the First Schedule to the Cinematograph Films Act 1961 as relates to the Finance Act 1954.

21. Terminating dates of taxation incentives—(1) The principal Act is hereby amended by repealing the Third Schedule (as substituted by section 34 (1) of the Land and Income Tax Amendment Act (No. 2) 1974), and substituting the new Third Schedule set out in the Schedule to this Act.

(2) The Land and Income Tax Amendment Act (No. 2) 1974 is hereby consequentially amended by repealing section 34 and the Second Schedule.

Section 21

SCHEDULE

NEW THIRD SCHEDULE TO PRINCIPAL ACT

"THIRD SCHEDULE

TERMINATING DATES

Section of Act	General Description	Terminating Date
119D	Development expenditure on farming or agricultural land	31 March 1977
119G	Development expenditure on rock oyster or mussel farms or freshwater fish farms	31 March 1977
129A (2)	Export-market development expenditure	31 March 1978
129A (2A)	Tourist-promotion expenditure	31 March 1977
129AA	Export-market development by self-employed persons	31 March 1978
129AC	New markets export development grants	31 March 1978
129B	Increased exports	31 March 1979
129BA	Increased exports to new markets	31 March 1979
129BAA	Export of qualifying services	31 March 1979

The reference in the second column of this Schedule to the nature of the deduction is by way of general description only and shall not be construed as limiting or extending the deduction under the section referred to in the first column of this Schedule."

This Act is administered in the Inland Revenue Department.