

AMUSEMENT TAX BILL

EXPLANATORY NOTE

THIS Bill consolidates with amendments the Amusement Tax Act 1955 and the Amusement Tax Amendment Act 1956.

Clause 2 defines terms used in the Bill. The principal changes in this clause relate to the definitions of "entertainment" and "payment for admission".

"Entertainment" is defined as meaning any horse race meeting or exhibition of cinematograph film in respect of which there is charged a payment for admission. As a result, only payments for admission to entertainments of those kinds will be liable for amusement tax.

"Payment for admission" has been extended to cover all kinds of payment that are liable to be taxed, including those payments referred to in *clause 7 (1)* where payment is made for admission by a lump sum.

Clause 3 imposes amusement tax at the rates set out in the Schedule. Those rates are the same as the present rates.

Subclause (3) is new, and imposes an obligation on the proprietor of an entertainment to pay the tax within seven days after the day on which the entertainment is held or within such further time as the Commissioner allows.

Clause 4 is new, and requires every entertainment to be registered in the manner prescribed by regulations. The present obligation is contained in regulations under the present Act.

Clause 5 substantially re-enacts the provisions of section 4 of the present Act prescribing the conditions as to payment of amusement tax, but omits the present provision in section 4 (1) (b) that returns need not be furnished to the Commissioner where admission to an entertainment is made through a barrier which automatically registers the number of persons admitted, and also the provision in section 4 (2) making persons admitted to an entertainment in breach of that section liable to a penalty.

Clause 6 re-enacts the existing provision that amusement tax may be recovered by the Commissioner by suit in his official name as a debt due to the Crown.

Clause 7: Subclause (1) substantially re-enacts the provisions of section 6 of the present Act relating to the calculation of tax where payment for admission is made in a lump sum. *Subclauses (2) to (5)* are new, and provide for a right of objection to a Board of Review under the Inland Revenue Department Amendment Bill against decisions of the Commissioner under *subclause (1)*.

Clause 8 re-enacts the existing provision exempting from amusement tax payments for admission to entertainments where the whole of the proceeds is devoted to charitable purposes.

Clause 9: Subclause (1) provides for the remission or refund of the tax where the net proceeds of an entertainment are donated to charitable purposes and the whole of the expenses of the entertainment does not exceed 50 per cent of the total takings. This replaces the present provision under which the Commissioner is required to decide whether the expenses incurred were reasonable.

Subclause (2) is new, and enables the Commissioner to refund or remit the tax in cases where the whole of the net proceeds of the entertainment is devoted to charitable purposes but the expenses exceed 50 per cent of the total takings, if the Commissioner is satisfied that that excess was due to climatic conditions or unforeseen circumstances.

The clause does not re-enact the provisions of section 9 (b) of the present Act relating to entertainments promoted by the National Council of Adult Education or a Regional Council of Adult Education. If such a Council promotes an entertainment, it will be exempt from amusement tax if it complies with the provisions of *clause 8* or *clause 9*.

The provisions of section 9 (c) and (d) of the present Act are omitted as inapplicable. Entertainments referred to in those paragraphs will now be exempt from the tax.

Clause 10 re-enacts the existing provisions for the refunding of tax paid in error, but extends from three months to six months the time within which application for a refund must be made.

Clause 11 re-enacts the existing provision that authorised officers may enter places of entertainment with a view to seeing that the provisions of the Act or any regulations thereunder are being complied with.

Clause 12 re-enacts the existing provision as to the making of regulations, and includes a new provision authorising the making of regulations relating to the registration of entertainments. The clause also includes a provision requiring all regulations to be laid before Parliament.

Clause 13 is new, and provides that proceedings for an offence against the Act or any regulations thereunder may be commenced within two years after the time when the offence was committed.

Clause 14 repeals the Amusement Tax Act 1955 and the Amusement Tax Amendment Act 1956.

Hon. Mr Nordmeyer

AMUSEMENT TAX

ANALYSIS

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A BILL INTITULED

An Act to consolidate and amend the law relating to amusement tax

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

1. Short Title, etc.—(1) This Act may be cited as the Amusement Tax Act 1960.

(2) This Act shall come into force on the first day of
10 October, nineteen hundred and sixty.

(3) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952, and the First Schedule to that Act is accordingly amended by omitting the reference to the
15 Amusement Tax Act 1955, and substituting a reference to this Act.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Admission”, in relation to any entertainment, means admission as a spectator or as one of an audience; and includes admission to any place in which the entertainment is held: 5

“Board of Review” or “Board” means a Board of Review constituted under the Inland Revenue Department Amendment Act 1960:

“Charitable purpose” includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community: 10

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1952; and, except as otherwise provided in this Act, includes a District Commissioner of Stamp Duties as defined in that Act: 15

“Entertainment” means—

(a) A horse race meeting; or 20

(b) An exhibition of a cinematograph film which is not merely illustrative of a lecture or talk delivered contemporaneously with the exhibition—

being a meeting or exhibition in respect of which there is charged a payment for admission: 25

“Payment for admission” means the amount of any payment, or the aggregate amount of any payments (including the amount of any payment made in respect of the reservation of any seat or place), which exceeds one shilling and ninepence and entitles any person to admission to an entertainment, a series of entertainments, an entertainment during a certain period of time, or a part of a place of entertainment: 30

“Proprietor”, in relation to an entertainment, includes any person responsible for the management thereof. 35

Cf. 1955, No. 6, s. 2; 1956, No. 67, s. 2 (1)

3. Imposition of amusement tax—(1) Subject to the provisions of this Act, there shall be charged, levied, and paid a duty (in this Act referred to as amusement tax) in respect of every payment for admission to an entertainment. 40

(2) Amusement tax shall be calculated in accordance with the rates specified in the Schedule to this Act.

(3) A proprietor of an entertainment shall, within seven days after the day on which the entertainment is held, or
5 within such further time as the Commissioner allows, pay to the Commissioner the amusement tax payable in respect of any payment for admission to the entertainment.

Cf. 1955, No. 6, s. 3

4. Registration of entertainment—Every entertainment shall
10 be registered in the manner prescribed.

5. Conditions of admission to an entertainment—(1) No person shall be admitted to any entertainment, unless—

(a) A ticket stamped with a stamp (not before used) or
15 otherwise marked to denote that the proper amusement tax has been paid has first been issued to him;
or

(b) The Commissioner has approved of arrangements
made by the proprietor of the entertainment for
furnishing returns of payments for admission to the
20 entertainment:

Provided that the Commissioner may, as a condition of any approval given under this subsection, require the proprietor of the entertainment to furnish security up to an amount and in a manner approved by the Commissioner for the payment
25 of amusement tax.

(2) If any person is admitted to an entertainment and the provisions of subsection (1) of this section are not complied with, the proprietor of the entertainment is liable to a penalty of fifty pounds and is in addition liable to pay any
30 amusement tax which should have been paid.

(3) Where the proprietor of any entertainment who has made arrangements, pursuant to this section, for the furnishing of returns of payments for admission to the entertainment fails to furnish the returns in accordance with the terms of
35 the arrangement, he is liable to a penalty of five pounds for every day in respect of which the default continues.

(4) The amount of any penalty under this section shall be recoverable as if it were amusement tax.

Cf. 1955, No. 6, s. 4

6. Recovery of amusement tax—Amusement tax payable by the proprietor of an entertainment shall be recoverable from the proprietor by the Commissioner by suit in his official name in any Court of competent jurisdiction as a debt due to the Crown.

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Cf. 1955, No. 6, s. 5 (2)

7. Payment for admission by lump sum—(1) Where the Commissioner is of opinion that any payment represents payment for privileges, rights, or purposes in addition to the right to admission to an entertainment, the amusement tax shall be charged only on such part of the payment as in the opinion of the Commissioner represents payment for admission to the entertainment, and the Commissioner shall notify the proprietor of the entertainment accordingly.

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(2) Where the proprietor is dissatisfied with any decision of the Commissioner under subsection (1) of this section, he may, within twenty-one days after notice of that decision has been given to him, object to that decision by delivering or posting to the Commissioner a written notice of objection stating shortly the grounds of his objection and requiring the objection to be heard and determined by a Board of Review; and, in that event, the objection shall be heard and determined by a Board of Review, and the provisions of the Inland Revenue Department Amendment Act 1960 shall apply in respect of the institution, hearing, and determination of the proceedings on the objection.

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(3) No notice of objection given after the time so specified shall be of any force or effect unless the Commissioner in his discretion accepts the same and gives notice to the objector accordingly.

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(4) On the determination of the objection the Board may either confirm, modify, or cancel the decision of the Commissioner, and the amusement tax shall be payable in accordance with the determination of the Board.

(5) If no such objection is made and duly prosecuted, the decision of the Commissioner shall be final and conclusive.

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Cf. 1955, No. 6, s. 6

8. Exemption from amusement tax—Amusement tax shall not be charged in respect of any payment for admission to an entertainment where the whole of the takings is devoted to charitable purposes in New Zealand or elsewhere without any charge on the takings for any expenses of the entertainment.

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Cf. 1955, No. 6, s. 7; 1956, No. 67, s. 2 (2)

9. Refund or remission of the tax in certain cases—

(1) Where the whole of the net proceeds of an entertainment is devoted to charitable purposes in New Zealand or elsewhere and the whole of the expenses of the entertainment does not exceed fifty per cent of the total takings, the Commissioner shall remit or refund the amusement tax in respect of the entertainment.

(2) Where the Commissioner is satisfied that, owing to adverse climatic conditions or unforeseen circumstances, the expenses of an entertainment to which subsection (1) of this section applies exceed fifty per cent of the total takings, the Commissioner may remit or refund the amusement tax in respect of that entertainment. In this subsection the term “Commissioner” does not include a District Commissioner of Stamp Duties.

Cf. 1955, No. 6, s. 7; 1956, No. 67, s. 2 (2)

10. Refunds of tax paid in excess or in error—(1) If at any

time within six months after the payment of any amusement tax the Commissioner is satisfied that any such tax has been paid in excess, or has been paid in error, he may authorise a refund of the amount so paid in excess or in error.

(2) All money payable under this Act by way of refund of amusement tax shall, without further appropriation than this section, be paid out of the Consolidated Fund.

Cf. 1955, No. 6, s. 8

11. Authorised officers may enter places of entertainment—

(1) Any person authorised for the purpose by writing under the hand of the Commissioner may enter any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at all reasonable times, with a view to seeing whether the provisions of this Act or any regulations made thereunder are being complied with.

(2) If any person prevents or obstructs the entry of any person so authorised, he is liable on summary conviction to a fine not exceeding twenty pounds.

Cf. 1955, No. 6, s. 9

12. Regulations—(1) The Governor-General may from

time to time, by Order in Council, make regulations for the purposes of this Act for all or any of the following matters:

(a) For the registration of entertainments:

- (b) For the supply and use of stamps or stamped tickets, and for securing the defacement of stamps when used:
- (c) For the marking of tickets, other than stamped tickets, to denote that the proper amusement tax has been paid: 5
- (d) For the use of tickets covering the admission of more than one person and the calculation of amusement tax thereon, and for the payment of amusement tax on the transfer from one part of a place of entertainment to another: 10
- (e) For controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances: 15
- (f) Generally with respect to such other matters or things as may be deemed necessary or expedient for the purpose of carrying this Act into effect. 20
- (2) Any person who acts in contravention of or fails to comply in any respect with any provision in any such regulations or any condition imposed by the Commissioner under any such regulations is liable on summary conviction to a fine not exceeding fifty pounds. 25
- (3) All regulations made under this section shall be laid before Parliament.

Cf. 1955, No. 6, s. 10

13. Limitation of proceedings for offences—Notwithstanding anything to the contrary in the Summary Proceedings Act 1957, any information in respect of any offence against this Act or any regulations under this Act may be laid at any time within two years after the time when the matter of the information arose. 30

14. Repeals and savings—(1) The Amusement Tax Act 1955 and the Amusement Tax Amendment Act 1956 are hereby repealed. 35

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed
 5 or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and
 10 as if that provision had been in force when the document was made or the thing was done.

SCHEDULE

Section 3

RATES OF AMUSEMENT TAX

Payment for Admission	Tax for Each Person
Not exceeding 1s. 9d.	No tax.
Exceeding 1s. 9d. but not exceeding 2s. 6d.	3d.
Exceeding 2s. 6d. but not exceeding 3s.	4d.
Exceeding 3s. but not exceeding 3s. 6d.	5d.
Exceeding 3s. 6d.	2d., plus an additional 1d. for every 1s. or part of 1s. of the payment.