

*Right Hon. Mr. Nash*

## LAND AND INCOME TAX AMENDMENT

### ANALYSIS

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### A BILL INTITULED

An Act to Amend the Land and Income Tax Act, 1923. Title.

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

1. This Act may be cited as the Land and Income Tax Amendment Act, 1949, and shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter referred to as the principal Act).  
Short Title.  
See Reprint of Statutes, Vol. VII, p. 271
- 10 2. Except as otherwise provided herein, this Act shall apply with respect to the tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty-nine, and for every subsequent year.  
Application of this Act.

3. (1) Section twenty-one of the Land and Income Tax Amendment Act, 1939, is hereby amended, as from the passing thereof, by inserting, after subsection one, the following subsections:—

“(1A) For the purposes of paragraph (a) of subsection one of section twenty-three of this Act, where a company is not under the control of any one person, the company shall be deemed to be under the control of not more than four persons if there is any one group of persons not exceeding four in number by whom more than one-half of the shares or more than one-half of the voting power in the company is held, or who have by any other means whatsoever control of the company, notwithstanding that there may also be another group of persons not exceeding four in number by whom more than one-half of the shares or more than one-half of the voting power in the company is held, or who have by any other means whatsoever control of the company, or that there may be two or more such other groups.

“(1b) Where a nominee of any person holds any shares or voting power in a company or has by any other means whatsoever any power of control in the company, then, for the purposes of this section, those shares or that voting power or that power of control shall be deemed to be held by that person, and in every such case that person and his nominee or that person and all his nominees shall be deemed to be one person.

“(1c) In this section the term ‘person’ includes a company and a local or public authority.”  
“(2) The said section twenty-one is hereby further amended, as from the passing thereof, by omitting from subsection one the words ‘or by whose nominees’;  
4. (1) Section thirteen of the Land and Income Tax Amendment Act, 1939, is hereby amended by repealing subsection five, and substituting the following subsections:—

“(5) In computing for the purposes of an assessment under the last preceding subsection (hereinafter referred to as an aggregate assessment) the taxable income of any taxpayer (being a married man), the Commissioner shall allow, instead of the special exemptions provided for by section seventy-four of the principal

Removing doubt as to definition of “proprietary company” 1939, No. 34

Special exemption in case of aggregation of incomes of husband and wife. 1939, No. 34

Act, section four of the Land and Income Tax Amendment Act, 1932-33, and section two of the Land and Income Tax Amendment Act, 1933, a special exemption of four hundred pounds, of which—

1932-33, No. 40  
1933, No. 43

5     “(a) There shall be allowed against the assessable income an amount equal to the sum of the amounts that would have been allowable by way of special exemption under paragraph (a) of subsection six of this section against the assessable income of the married man and against the assessable income of his wife if separate assessments had been made, and

10     “(b) The balance shall be allowed against the non-assessable income.

15     “(5A) Subject to the last preceding subsection, the Commissioner, in computing the taxable income of any taxpayer for the purposes of an aggregate assessment, shall allow all other special exemptions and all deductions under section eighty-one of the principal Act to which the taxpayer and his wife, or either of them, would have been entitled if they had been assessed for income-tax otherwise than in accordance with this section.”

20     (2) The said section thirteen of the Land and Income Tax Amendment Act, 1939, is hereby further amended by repealing paragraph (a) of subsection six, and substituting the following paragraph:—

1939, No. 34

25     “(a) Instead of the special exemption provided for in the case of a taxpayer (being a married man) by subsection five of this section, the married man and his wife shall each be entitled to a special exemption of two hundred pounds, which in each case shall be allowed against the assessable income so far as that income extends and as to the excess (if any) over the assessable income shall be allowed against the non-assessable income.”

30     (3) The said section thirteen is hereby further amended by omitting from paragraph (b) of subsection six the words “ subsection five ”, and substituting the words “ subsection five A ”.

35     (4) The said section thirteen is hereby further amended by substituting for the words “ subsection five ” the words “ subsection five A ”.

(4) Section ten of the Land and Income Tax Amendment Act, 1945, is hereby consequentialy amended by

repealing paragraphs (b) and (c) of subsection one.

5. (1) Section fifteen of the Land and Income Tax Amendment Act, 1945, (as amended by section fourteen of the Finance Act (No. 2), 1948) is hereby further

amended by omitting from subsection one the words "nineteen hundred and fifty"; and substituting the

words "nineteen hundred and fifty-one";

(2) Section fourteen of the Finance Act (No. 2), 1948, is hereby consequentialy repealed.

6. (1) Notwithstanding anything to the contrary in section eighty of the principal Act, the Commissioner

may, in calculating the assessable income derived by any taxpayer from the business of farming, allow as a

deduction any expenditure incurred by the taxpayer during the income year in planting or maintaining trees

planted to provide shelter or to prevent erosion or otherwise for agricultural or pastoral purposes, or in erecting

or maintaining fences to protect any such trees.

(2) If any question arises as to whether any trees have been planted to provide shelter or to prevent

erosion or otherwise for agricultural or pastoral purposes, a certificate of a duly authorized officer of the

Department of Agriculture or of the New Zealand Forest Service as to the purpose for which the trees

were planted shall be final and conclusive evidence thereof for the purposes of this section and of the next

succeeding section.

7. (1) Where a taxpayer derives income in any income year from the sale of timber from trees planted

to provide shelter or to prevent erosion or otherwise for agricultural or pastoral purposes on farming land owned

or occupied by the taxpayer, the Commissioner may, upon application made in writing by or on behalf of the tax-

payer not later than twelve months after the end of that income year, apportion that income between that income

year and any number of subsequent years not exceeding four, and in every such case the amount of income so

apportioned to any income year shall be deemed to have been derived in that year.

(2) Any apportionment made under this section may be at any time cancelled by the Commissioner, and in

every such case the whole of the income so apportioned shall be deemed to have been derived in the income year

1945, No. 37

Extending

period for

allowance of

special

depreciation

on buildings

and plant.

1945, No. 37

1948, No. 78

Repeal.

Deduction from

farmer's

assessable

income of

expenditure on

trees planted

for shelter or

to prevent

erosion, &c.

Spreading of

income

derived from

sale of timber

from farms.

immediately preceding the year in which the apportionment is cancelled, except to the extent to which the income has been apportioned to and assessed for any earlier income year.

5 (3) For the purposes of this section the term "timber" shall be deemed to include standing timber, and the term "sale" shall be deemed to include any disposition by way of a licence or easement, or the grant of any right of taking any profits or produce from land.

10 (4) This section shall not apply in any case where the business of the taxpayer includes the sale of timber.

8. (1) This section applies in every case where the Commissioner is satisfied that, upon the sale or other disposition of a substantial part of the live-stock of a farming business from which a taxpayer derives assessable income, the assessable income derived by the taxpayer during the income year in which the sale or other disposition took place is, by reason of the adoption of a standard value in respect of the live-stock that was less than the true value thereof at the date of the sale or other disposition, increased to an amount that substantially exceeds the average assessable income of the taxpayer.

Spreading of excess income derived on sale of live-stock where unduly low standard values adopted.

25 (2) In any case to which this section applies the Commissioner, upon application in that behalf made in writing by or on behalf of the taxpayer not later than twelve months after the date of the sale or other disposition, may—

30 (a) Amend the standard value adopted by the taxpayer in respect of that live-stock as at the commencement of that income year, and as at the end of any number of earlier income years not exceeding three, by such amounts as he deems just and equitable; and

35 (b) At any time, notwithstanding anything to the contrary in section sixteen of the principal Act, amend accordingly any assessment or assessments of the taxpayer.

40 (3) For the purposes of this section the average assessable income of any taxpayer shall be deemed to be the average annual amount of the assessable income derived by the taxpayer from the farming business concerned during the three income years immediately preceding the year in which the sale or other disposition

took place or during the period in which the taxpayer has derived assessable income from that business, which ever period is the shorter.

(4) If any question arises as to whether any sale or other disposition of live-stock is a sale or other disposition of a substantial part of the live-stock of a farming business for the purposes of this section, it shall be determined by the Commissioner, and his decision shall be final.

9. (1) Where any trading stock is sold or otherwise disposed of without consideration in money or money's worth or for a consideration that is less than the market price or the true value thereof on the day of the sale or other disposition, the following provisions shall apply, namely:—

(a) The trading stock shall be deemed for the purposes of the principal Act to have been sold at and to have realized the market price of the day of the sale or other disposition, but where there is no market price, shall be deemed to have been sold at and to have realized such price as the Commissioner determines:

(b) The price which under this section the trading stock is deemed to have realized shall be taken into account in calculating the assessable income of the person selling or otherwise disposing of the trading stock:

(c) The person acquiring the trading stock shall, for the purpose of calculating his assessable income, be deemed to have purchased the trading stock at the price which under this section the trading stock is deemed to have realized.

(2) It shall be grounds for objection to an assessment of income-tax that any determination of the Commissioner made for the purposes of this section is erroneous in fact.

(3) For the purposes of this section the term "trading stock" includes anything produced or manufactured, and anything acquired or purchased for purposes of manufacture, sale, or exchange; and also includes live-stock: but does not include land.

Sale of trading stock for inadequate consideration.

(4) Section sixteen of the Land and Income Tax Amendment Act, 1939, is hereby amended as follows:— 1939. No. 34

5 (a) By inserting in subsection seven, after the words “ section five of the Land and Income Tax Amendment Act, 1926 ”, the words “ or section *nine* of the Land and Income Tax Amendment Act, 1949 ”:

10 (b) By inserting in subsection eight, after the words section five of the Land and Income Tax Amendment Act, 1926 ”, the words “ and of section *nine* of the Land and Income Tax Amendment Act, 1949 ”.