

employment of persons in a civil capacity in connexion with the Defence Force which are based on the length or nature of his employment in that capacity, be included as if that period were part of his period of employment in a civil capacity.

(2.) The period during which a person, who has been employed under this Act in a civil capacity in connexion with the Defence Force, and becomes a member of the Permanent Military Forces, has been so employed shall, for the purpose of determining any rights to which he is entitled as a member of those Forces which are based on the length or nature of his service as a member, be included as if that period were part of his service as a member.

INCOME TAX ASSESSMENT.

No. 18 of 1918.

An Act to amend the *Income Tax Assessment Act* 1915-1916.

[Assented to 19th June, 1918.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Income Tax Assessment Act* 1918.

Short title and citation.

(2.) The *Income Tax Assessment Act* 1915-1916 is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Income Tax Assessment Act* 1915-1918.

2. Section three of the Principal Act is amended—

- (a) by inserting after the parenthesis in the definition of "Agent" the words "holds or";
- (b) by omitting from the definition of "Agent" the word "income" and inserting in its stead the word "money";
- (c) by adding at the end of the definition of "Business" the words "and any office or employment from which salary, wages, or emolument is derived";
- (d) by adding at the end of the definition of "Company" the words "but does not include partnerships";
- (e) by omitting the definition of "Income" and inserting in its stead the following definition:—

Amendment of Section 3.

" 'Income' includes—

- (a) interest upon money secured by mortgage of any property in Australia; and

- (b) in the case of a co-operative company or society all sums received from members in payment for commodities supplied or animals or land sold to them or received in respect of commodities animals or land sold by the company or society whether on its own account or on account of its members.”;
- (f) by inserting in the definition of “Income from personal exertion”, after the word “derived”, the words “from sources”;
- (g) by adding at the end of the definition of “Income from personal exertion” the words :—
 “and any income from any property where the income forms part of the emoluments of any office or employment of profit held by the individual”;
- (h) by inserting in the definition of “Income from property”, after the words “all income derived”, the words “from sources”;
- (i) by omitting the definition of “Partners” and inserting in its stead the following definition :—
 “‘Partnership’ means an association of persons carrying on business as partners or in receipt of income jointly, but does not include a company.”; and
- (j) by inserting at the end thereof the following definition :—
 “‘Value,’ in relation to live stock, means the value as prescribed.”.

3. After section eight of the Principal Act the following section is inserted :—

Governor-General may make arrangements with Governor of State.

“8A.—(1.) The Governor-General may make arrangements with the Governor in Council of a State for the collection by the Commonwealth on behalf of the State of income tax at rates to be fixed by the Parliament of the State on a taxable income ascertained in accordance with this Act or an Act of that State.

“(2.) The Governor-General may make regulations for carrying into effect any arrangement made under the provisions of this section.”

Amendment of Section 9.

4. Section nine of the Principal Act is amended—

- (a) by inserting in sub-section (2.) thereof after the word “declaration” (second occurring) the words “makes a record of or”;
- (b) by omitting from sub-section (2.) thereof the word “taxpayer” and inserting in its stead the word “person”;
- (c) by adding at the end of sub-section (3.) thereof the following words :—

“or to the Commissioner of Pensions for the purpose of the administration of any law of the Commonwealth relating to pensions”; and

(d) by adding at the end thereof the following sub-section :—

“(4.) An officer shall not be required to produce in any Court any return, assessment, or notice of assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act, except as may be necessary for the purpose of carrying into effect the provisions of this Act.”

5. Section ten of the Principal Act is amended by omitting therefrom the words “in and” (wherever occurring). Amendment of Section 10.

6. Section eleven of the Principal Act is amended—

(a) by omitting from paragraph (e) of sub-section (1.) thereof the words “authorized up to the first day of January one thousand nine hundred and seventeen” and inserting in their stead the words “the interest on which is declared by the prospectus to be free from Commonwealth Income Tax”.

Amendment of Section 11.

(b) by inserting in paragraph (f) of sub-section (1.) thereof after the word “business” the words “or class of business”;

(c) by omitting from paragraph (g) of sub-section (1.) thereof the word “and” (second occurring); and

(d) by adding at the end of sub-section (1.) thereof the following paragraphs :—

“(i) pensions paid under the *War Pensions Act 1914-1916*; and

(j) the income of any society or association not carried on for the purposes of the profit or gain to the individual members thereof, established for the purpose of promoting the development of the agricultural, pastoral, horticultural, viticultural, stock-raising, manufacturing, or industrial resources of Australia.”

7. Section thirteen of the Principal Act is repealed and the following section inserted in its stead :—

“13. This Act shall not apply to the income derived from personal exertion by any person who is or has been on active service outside Australia during the present war, with the naval or military forces of the Commonwealth or any part of the King's dominions, or of an Ally of Great Britain, from the date of his enlistment in or appointment to those forces until the date of his discharge therefrom or the termination of his appointment.”

Exemption of personal exertion income of persons on active service.

8. Section fourteen of the Principal Act is amended—

(a) by inserting in paragraph (b) thereof after the word “any” the word “depositor”;

(b) by omitting the first proviso to paragraph (b) thereof;

Amendment of Section 14.

- (c) by omitting from the second proviso to paragraph (b) the word "further";
- (d) by omitting the third proviso to paragraph (b) thereof and inserting in its stead the following proviso:—

"Provided further that where a company distributes to its members or shareholders any undistributed income accumulated prior to the first day of July One thousand nine hundred and fourteen the sum so received by the member or shareholder shall not be included as part of his income. For the purposes of this proviso amounts carried forward by a company in its profit and loss account, appropriation account, revenue and expenses account or any other account similar to any of the foregoing accounts shall not be deemed to be accumulated income; but where it is proved to the satisfaction of the Commissioner that an amount standing to the credit of a profit and loss account before the first day of July One thousand nine hundred and fourteen has been appropriated by a company for the purpose of crediting a dividend to the shareholders and the dividend or a part thereof is retained by the company for the purpose of paying for an increase in value or number of shares issued to the shareholders, the shareholders shall not be liable to pay tax on the dividend or part so retained";

- (e) by omitting paragraph (d) and inserting in its stead the following paragraph:—

"(d) money derived by way of royalty or bonuses, and premiums fines or foregifts or consideration in the nature of premiums fines or foregifts demanded and given in connexion with leasehold estates, and the amount of any payment received by a lessee upon the assignment or transfer of a lease to another person after deducting therefrom—

- (i) the part (if any) which, in the opinion of the Commissioner, is properly attributable to the transfer of any assets belonging to the lessee; and
- (ii) so much of any fine premium, or foregift paid by the lessee or any amount paid by the lessee for the assignment or transfer of the lease as, in the opinion of the Commissioner, is properly attributable to the period of the lease unexpired at the time of the assignment or transfer by the lessee." ; and

(f) by inserting at the end of paragraph (e) the following proviso :—

“Provided that when the taxpayer is an employee and premises are occupied by him for purposes of residence in connexion with his employment, the taxpayer's income shall include the annual rental value to him of the premises or part thereof used by him for the purposes of residence.”.

9. After section fourteen of the Principal Act the following section is inserted :—

“15. Income shall be deemed to have been derived by a person within the meaning of this Act, although it is not actually paid over to him, but is re-invested, accumulated, capitalized, carried to any reserve sinking or insurance fund however designated, or otherwise dealt with on his behalf or as he directs.”.

Money credited re-invested, accumulated &c., to be income.

10. Section sixteen of the Principal Act is amended—

Amendment of Section 16.

(a) by omitting sub-section (1A.) and inserting in its stead the following sub-section :—

“(1A.) In addition to any other income tax payable by it, a company shall also pay income tax on—

- (a) so much of the assessable income of the company as is distributed to the members, shareholders or stockholders of the company who are absentees ; and
- (b) the interest paid or credited by the company to any person, who is an absentee, on money raised by debentures of the company and used in Australia or on money lodged at interest in Australia with the company ; and
- (c) so much of the assessable income of the company as is distributed in respect of debentures or share stock payable to bearer as if the total amount so distributed were the income of an individual :

Provided that a company shall be entitled to deduct and retain for the use of the company from the amount payable to any of the persons referred to in paragraphs (a) and (b) of this sub-section such amount as is necessary to pay the tax which becomes due in respect of that amount :

Provided also that a company shall be entitled to deduct and retain for the use of the company from the interest or dividend payable to any person who is a holder of debentures or share stock payable to bearer an amount which bears the same proportion to the amount paid by the company under paragraph (c) of this sub-section as the interest or dividend payable to that person bears to the total interest or dividend payable in respect of those debentures or that share stock :

Provided further that, where the Commissioner is satisfied that the holder of debentures or share stock payable to bearer is a person who is not liable to furnish a return, the Commissioner may refund to that person the amount of the tax paid by the company in respect of the debentures or share stock of that person :

Provided further that where a company pays tax under this sub-section on any dividend or interest, and the member, shareholder or person includes that dividend or interest in his return, the proportionate amount of tax paid by the company in respect of the dividend or interest shall be deducted from the total tax payable by the member, shareholder or person.”;

(b) by omitting sub-section (2.) and inserting in its stead the following sub-sections :—

“(2.) Where, in the opinion of the Commissioner, a company has not in any year distributed to its members or shareholders a reasonable proportion of its taxable income, the taxable income of the company shall be deemed to have been distributed to the members or shareholders in proportion to their interests in the paid-up capital of the company, if the Commissioner is satisfied that the total tax payable on it as distributed income is greater than the tax payable on it by the company :

Provided that where a company dealing with exported butter distributes within twelve months after the export of any consignment any funds held in reserve for the purpose of insuring regularity of price on that consignment, tax shall not be levied on those funds in the hands of the company.

“(2A.) Where a company has paid income tax on undistributed income and that income is in any year subsequent to that in which it was derived by the company distributed to the members or shareholders of the company, a member or shareholder who is a taxpayer shall be entitled to a rebate in his assessment of the lesser of the two following amounts :—

(a) the part of the tax so paid by the company which bears the same proportion to the total tax so paid by the company as the amount so distributed to the member or shareholder bears to the total amount so distributed to the members or shareholders of the company ; or

(b) the part of the tax payable by the member or shareholder in his individual assessment which bears the same proportion to the tax payable by him on his income from property as the amount so distributed to him bears to his total income from property remaining after allowing all the deductions allowed by this Act from that income, except the deduction under section nineteen.”

11. After section sixteen of the Principal Act the following section is inserted :—

“16A. Where, under the provisions of the *War Precautions Act 1914-1916* or regulations made thereunder, shares have been transferred to or vested in the Public Trustee, the following provisions shall apply :—

Shares transferred to or vested in Public Trustee under *War Precautions Act 1914-1916* or regulations made thereunder.

- (a) The Public Trustee shall notify the Commissioner of the names of the shareholders and the numbers of the shares in each company of those shareholders which have been transferred to or vested in him ;
- (b) Where the person who owned the shares so transferred or vested in the Public Trustee was not an absentee, the Public Trustee shall be assessed and liable to pay tax on the assessable income of the company distributed to him in respect of those shares, as if that income were the only income of a person ;
- (c) In the assessment of the Public Trustee under this section, none of the deductions under this Act shall be allowed ;
- (d) The Public Trustee is hereby authorized to deduct and retain, for the purposes of this section, so much of the assessable income of the company distributed to him in respect of those shares, as is necessary to pay the tax required of him under this section ; and
- (e) Where the person who owned the shares so transferred or vested in the Public Trustee was an absentee, the company shall be assessed and liable to pay tax on the assessable income distributed to the Public Trustee in respect of those shares to the same extent as on the income distributed to the members, shareholders, or stockholders of the Company who are absentees.”

12. Section seventeen of the Principal Act is amended by inserting after paragraph (b) the following paragraph :—

Amendment of Section 17.

“(bb) as an alternative to the deduction allowable by the last preceding paragraph, there shall, at the option of the taxpayer, be deducted so much of the income of the financial year as is expended in that year for development or is appropriated for development (the cost of which is not deductible under section eighteen of this Act) and for new plant :

Provided that any of the money so appropriated which has not been expended for that purpose at the end of the year in which it was appropriated shall be liable to tax as income of that year :

Provided further that no deduction under paragraph (e) of sub-section (1.) of section eighteen of this Act shall be allowed on any new plant to which this paragraph applies.”

13. Section seventeen A of the Principal Act is repealed.

Repeal of Section 17A.

Amendment of
Section 18.

14. Section eighteen of the Principal Act is amended—

- (a) by omitting the proviso to paragraph (a) of sub-section (1.) thereof;
- (b) by inserting in paragraph (c) of sub-section (1.) thereof after the word "other" the word "like";
- (c) by inserting in paragraph (d) of sub-section (1.) thereof after the words "is derived" the words "or is deemed to have been derived";
- (d) by omitting the proviso to paragraph (d) of sub-section (1.) thereof;
- (e) by inserting in paragraph (e) of sub-section (1.) thereof after the words "for the purpose of producing income" the words "such wear and tear not being of a kind that may be made good by repairs";
- (f) by omitting paragraph (h) of sub-section (1.) thereof and inserting in its stead the following paragraph:—

"(h) (i) payments made or gifts purchased and forthwith presented during the continuance of the present war to any patriotic fund established in any part of the King's Dominions or in any country in alliance with Great Britain for any purpose connected with the present war, if the making of the payments or the purchase and presentation of the gifts is verified to the satisfaction of the Commissioner;

- (ii) contributions made to the Department of Repatriation or to any public authority for the purpose of being handed over to the Department of Repatriation:

Provided the value of the contribution if in kind shall be verified to the satisfaction of the Commissioner; and

- (iii) gifts exceeding Five pounds each to public charitable institutions in Australia, if the gifts are verified to the satisfaction of the Commissioner;";

- (g) by omitting from the proviso to paragraph (i) of sub-section (1.) thereof the words "carrying on operations in Australia" and inserting in their stead the words "or syndicate carrying on mining operations in Australia";
- (h) by inserting in the second proviso to paragraph (j) of sub-section (1.) thereof after the word "business" the words "or class of business";
- (i) by omitting from paragraph (l) of sub-section (1.) thereof the word "and", and inserting after paragraph (m) of that sub-section the following paragraph:—

"and (n) the annual sum necessary to recoup the expenditure on improvements made under covenant with the lessor on land by a lessee

who has no tenant rights in the improvements. The deduction under this paragraph shall be ascertained by dividing the amount expended on the improvements by the lessee by the number of years in the unexpired period of the lease at the date the improvements were effected”;

(j) by omitting sub-section (2.) thereof and inserting in its stead the following sub-section :—

“(2.) Where by this Act any sum is allowed to be deducted from any taxpayer’s total income and the total income consists partly of income from personal exertion and partly of income from property, the sum may in the first place, subject to section nineteen of this Act, be deducted—

(a) in the case of the deductions allowed by paragraphs (c), (g), (h) and (k) of sub-section (1.) of this section—from that class of income which is the greater ; and

(b) in the case of the remaining deductions—from the class of income to which it, in the opinion of the Commissioner, relates,

but if the income of the class from which the deduction is in the first place to be made does not amount to the sum to be deducted, the difference shall be deducted from the income of the other class.

15. Section nineteen of the Principal Act is repealed and the following section inserted in its stead :—

“19.—(1.) In the case of a person (other than a company, an absentee, or a person who is not married and has no dependants) there shall be deducted, in addition to the sums set forth in the last preceding section, the sum of One hundred and fifty-six pounds less One pound for every Three pounds by which the income exceeds One hundred and fifty-six pounds.

Special deduction.

“(2.) In the case of a person (not being a company or an absentee) who is not married and has no dependants there shall be deducted, in addition to the sums set forth in the last preceding section, the sum of One hundred pounds less One pound for every Five pounds by which the income exceeds One hundred pounds.

“(3.) When the income consists partly of income from personal exertion and partly of income from property the deduction under this section shall be made in the first place from the income from property, and when the deduction exceeds that income the excess shall be deducted from the income from personal exertion.

“(4.) For the purposes of this section ‘income’ means the income of a taxpayer after allowing the deductions allowed by any other section of this Act.”.

16. Section twenty of the Principal Act is amended—

(a) by omitting from paragraph (f) the words “or alterations”;

Amendment of Section 20.

- (b) by inserting in paragraph (g) after the words "income was derived" (first occurring) the words "but the Commissioner may allow a deduction for bad debts claimed in respect of any year if he is satisfied that the taxpayer has in that or any previous year included those debts as income in his return";
- (c) by omitting the third proviso to paragraph (g);
- (d) by omitting from paragraph (i) the words "or in respect of any improvements on leasehold property";
- (e) by omitting from the proviso to paragraph (i) the words "the sinking fund according to calculations based on the prescribed tables for the calculation of values required to recoup the taxpayer the amount so paid for the lease or renewal of the lease or the assignment or transfer of the lease" and inserting in their stead the words "the amount obtained by dividing the sum so paid by the number of years of the unexpired period of the lease at the date the amount was so paid."; and
- (f) by adding at the end of paragraph (k) the words "unless the Commissioner is satisfied that the payments have been made *bonâ fide* in the course of business and for services rendered".

**Amendment of
Section 21.**

17. Section twenty-one of the Principal Act is amended by adding thereto the following sub-sections:—

"(2.) Where a taxpayer, having an income derived from property, carries on one or more businesses, either alone or otherwise, and makes a net loss thereon, the loss shall be deducted from his income derived from property in calculating his taxable income.

"(3.) Notwithstanding anything contained in section thirteen of this Act, sub-section (2.) of this section shall apply to any taxpayer who is on active service."

**Amendment of
Section 22.**

18. Section twenty-two of the Principal Act is amended by omitting from sub-section (2.) thereof the word "Five" and inserting in its stead the word "Ten".

**Repeal of
Section 23.**

19. Section twenty-three of the Principal Act is repealed.

20. Section twenty-five of the Principal Act is repealed and the following section inserted in its stead:—

Partners.

"25. A partnership shall be liable to furnish a return in respect of the income of the partnership but shall not, except as provided in this section, be liable to pay tax, but each partner shall be assessed in his individual capacity in respect of—

- (a) his individual interest in the income of the partnership, which, if the partnership were liable to pay tax, would have been the income of the partnership remaining after allowing all the deductions under this Act, except the deduction under section nineteen, together with

- (b) any other income derived by him separately, and
- (c) his individual interests in the income derived by any other partnership :

“Provided that where in a partnership formed after the commencement of this Act, any partner is not a taxpayer and the Commissioner is not satisfied that that partner is in receipt and full control of his share of the income, the partnership shall be assessed and liable, on behalf of that partner, for income tax on his individual interest in the income of the partnership under paragraph (a) of this section, at the rate which would be applicable to a taxable income equal to the income of the partnership remaining after allowing all the deductions allowed under this Act”.

21. Section twenty-six of the Principal Act is repealed and the following section inserted in its stead:—

“26.—(1.) A trustee shall not be liable to pay tax as trustee, Trustees. except as provided by this Act, but each beneficiary who is not under a legal disability and who is presently entitled to a share of the income of the trust estate shall be assessed in his individual capacity in respect of—

- (a) his individual interest in the income of the trust estate, which if the trustee were liable to pay the tax in respect of the income of the trust estate, would have been the income of the trust estate remaining after allowing all the deductions under this Act, except the deduction under section nineteen, together with
- (b) any other income derived by him separately, and
- (c) his individual interests in the income derived from any other source.

“(2.) A trustee shall be separately assessed and liable to pay tax in respect of that part of the income of the trust estate which if the trustee were liable to pay tax in respect of the income of the trust estate, would have been the income of the trust estate remaining after allowing all the deductions under this Act, except the deduction under section nineteen, and

- (a) which is proportionate to the interest in the trust estate of any beneficiary who is under a legal disability ; or
- (b) to which no other person is presently entitled and in actual receipt thereof and liable as a taxpayer in respect thereof.”

“(3.) A beneficiary who is under a legal disability, and who is a beneficiary in more than one trust estate, or derives income from any other source, shall be assessed in his individual capacity in respect of—

- (a) his individual interest, upon which the trustee is liable to be assessed under sub-section (2.) of this section, in the income of each trust estate ;

- (b) any other income derived by him separately; and
- (c) his individual interests in the income derived from any other source:

Provided that there shall be deducted from the tax assessed against the beneficiary the tax paid by any trustee in respect of the beneficiary's interest in the income of a trust estate."

Repeal of
Section 27.

22. Section twenty-seven of the Principal Act is repealed.

Amendment of
Section 23.

23. Section twenty-eight of the Principal Act is amended by omitting sub-section (1.) thereof and inserting in its stead the following sub-section:—

"(1.) For the purpose of assessment and levy of income tax, every person shall, when called upon by the Commissioner by notice published in the *Gazette*, furnish to the Commissioner in the prescribed manner a return setting forth a full and complete statement of the income derived by him from sources in Australia during the financial year ending on the preceding thirtieth day of June if—

- (a) in the case of a person, not an absentee, the total income from all sources in Australia amounts to the sum of One hundred pounds or upwards;
- (b) in the case of a company or an absentee, the total income from all sources in Australia exceeds the sum of One pound".

Amendment of
Section 33.

24. Section thirty-three of the Principal Act is amended by adding at the end of sub-section (2.) thereof the following proviso:—

"Provided that where the alteration in the assessment is due to an application by the taxpayer no refund shall be given if the application has not been made within three years after the payment of the tax."

Amendment of
Section 35.

25. Section thirty-five of the Principal Act is amended—

- (a) by inserting in sub-section (1.) thereof after the words "the production of any" the words "notice of";
- (b) by inserting in sub-section (1.) thereof after the word "Commissioner" the words "Assistant Commissioner or a Deputy Commissioner";
- (c) by omitting from sub-section (1.) thereof the words "copy of an assessment" and inserting in their stead the words "copy of a notice of assessment";
- (d) by inserting in sub-section (2.) thereof after the word "Commissioner" the words "Assistant Commissioner or a Deputy Commissioner"; and
- (e) by inserting in sub-section (2.) thereof after the words "from any return or" the words "notice of".

26. Section forty-one of the Principal Act is amended by adding thereto the following sub-section :— Amendment of Section 41.

“(3.) Whenever the Commissioner has reason to believe that any taxpayer establishing or carrying on business in Australia intends to carry on such business for a short time only he may at any time and from time to time require the taxpayer to give security by way of bond or deposit or otherwise to the satisfaction of the Commissioner for the due return of and payment of income tax on the income derived from the business.”

27. Section forty-three of the Principal Act is amended by omitting from the proviso thereto the words “The Commissioner shall furnish to the Treasurer annually, for presentation to Parliament, a report of all such remissions with a statement of the reasons therefor.”. Amendment of Section 43.

28. After section forty-five of the Principal Act the following sections are inserted :—

“45A.—(1.) Where a company is being wound up the liquidator of the company shall give notice to the Commissioner within fourteen days after the approval of the shareholders for the winding up has been given, or the order for the winding up has been made, and shall set aside such sum out of the assets of the company as appears to the Commissioner to be sufficient to provide for any income tax that becomes payable. Liquidator to give notice.

“(2.) A liquidator who fails to give notice to the Commissioner or fails to provide for payment of the tax as required by this section shall be personally liable for any income tax that becomes payable in respect of the company.

“45B.—(1.) Where an agent for an absentee principal has been required by his principal to wind up the business of his principal, he shall, before taking any steps to wind up the business, notify the Commissioner of his intention so to do, and shall set aside such sum out of the assets of the principal as appears to the Commissioner to be sufficient to provide for any income tax that becomes payable. Agent for absentee principal winding up business.

“(2.) An agent who fails to give notice to the Commissioner or fails to provide for payment of the tax as required by this section shall be personally liable for any income tax that becomes payable in respect of the business of the principal.”

29. Section forty-six of the Principal Act is amended— Amendment of Section 46.

- (a) by omitting the word “and” (first occurring) and inserting after the word “complete” the words “and accurate”;
- (b) by omitting from paragraph (b) thereof the words “a full” and inserting in their stead the words “an accurate” ; and
- (c) by omitting the word “treble” (wherever occurring) and inserting in its stead the word “double”.

Amendment of
Section 46A.

30. Section forty-six A of the Principal Act is amended—

- (a) by omitting the word "taxpayer" (wherever occurring) and inserting in its stead the word "person"; and
- (b) by omitting from sub-section (2.) thereof the words "of which" and inserting in their stead the words "on which".

31. After section forty-six A of the Principal Act the following sections are inserted:—

Person dying
after furnishing
return.

"46B. Where a person dies after the first day of July in any year, and after furnishing a return of his income for the preceding year, the Commissioner shall have the same powers and remedies for the assessment and recovery of the tax from the executors or administrators as he would have had against the deceased person, if that person were alive.

Person dying
during the
financial year.

"46C. Where a person dies during a financial year, and his estate is not liable to duty under the *Estate Duty Assessment Act* 1914, the executors or administrators of that person shall furnish a return of the income derived by that person during the financial year up to the date of his death, and shall be liable for tax in respect of that income."

32. After section fifty of the Principal Act the following section is inserted:—

Persons whose
whereabouts
are unknown.

"50A.—(1.) Where the Commissioner is of opinion that it is difficult to ascertain the whereabouts of a taxpayer or to collect the tax from him, the Commissioner may by notice in writing (a copy of which shall be posted to the last known place of address of the taxpayer) declare any person, local authority, corporation, board, commission or body making payments or owing money to the taxpayer to be his agent and may require the agent—

- (a) to deduct from any payment which is or will become due to the taxpayer such an amount as will be sufficient to pay the tax which the Commissioner may assess to be paid by the taxpayer; and
- (b) to pay the amount to the Commissioner forthwith, and for any default in so doing the agent shall be liable, in addition to the tax, to a penalty not exceeding Five pounds.

(2.) For the purpose of this section 'tax' includes 'additional tax' required to be paid in accordance with this Act."

Amendment of
Section 51.

33. Section fifty-one of the Principal Act is amended by omitting paragraph (a) and inserting in its stead the following paragraph:—

- (a) Such person shall be called the public officer of the company for the purposes of this Act and shall, if not already appointed, be appointed within three months after the commencement of this paragraph or after the company commences to carry on business in Australia."

34. Section fifty-two of the Principal Act is amended by inserting in paragraph (a) thereof after the word "capacity" the words "or derived by the principal by virtue of his agency."

Amendment of
Section 52.

35. After section fifty-two of the Principal Act the following sections are inserted:—

"52A. With respect to every person who has the receipt control or disposal of money belonging to a person resident out of Australia, who derives income from a source in Australia or who is a shareholder, stock holder, debenture holder, or depositor in a company carrying on business in Australia, the following provisions shall, subject to this Act, apply:—

Person in
receipt or
control of
money for
absentee.

- (a) He shall when required by the Commissioner pay the income tax due and payable by the person on whose behalf he has the control receipt or disposal of money.
- (b) Where he pays income tax in accordance with the preceding paragraph he is hereby authorized to recover the amount so paid from the person on whose behalf he paid it or to deduct it from any money in his hands belonging to that person.
- (c) He is hereby authorized and required to retain from time to time out of any money which comes to him on behalf of the person resident out of Australia so much as is sufficient to pay the income tax which is or will become due by that person.
- (d) He is hereby made personally liable for the income tax payable by him on behalf of the person resident out of Australia if after the Commissioner has required him to pay the tax he disposes of or parts with any fund or money then in his possession or which comes to him from or out of which the income tax could legally be paid, but he shall not be otherwise personally liable for the tax:

Provided that the Commissioner may upon application permit disposal of such fund or money or part thereof as he considers necessary.

- (e) He is hereby indemnified for all payments which he makes in pursuance of this Act or by requirements of the Commissioner.

"52B. In the case of cash prizes in lotteries, the Commissioner may, if he considers it necessary for the protection of the revenue so to do, appoint the person liable to pay a cash prize in a lottery as agent for the person entitled to receive the prize and may call upon the agent to pay income tax at such rate as is declared by the Parliament:

Payment of tax
in respect of
lotteries.

Provided that the agent shall not be entitled to any of the deductions allowed under this Act.

"52c. Where any income of any person outside Australia is paid into the account of that person with a banker, the banker shall be

deemed the person's agent in respect of the money so paid so long as he is indebted in respect thereof, and shall be subject to the provisions of section fifty-two of this Act and entitled to the benefits conferred by that section."

Amendment of
Section 55.

36. Section fifty-five of the Principal Act is amended by omitting therefrom the words "the purpose of ascertaining the taxable income of any person" and inserting in their stead the words "any of the purposes of this Act".

37. Section fifty-six of the Principal Act is repealed, and the following section inserted in its stead:—

Department
to obtain
information and
evidence.

"56.—(1.) The Commissioner may by notice in writing require any person, whether a taxpayer or not—

- (a) to furnish him with such information as he may require; and
- (b) to attend and give evidence before him or before any officer authorized by him in that behalf concerning his or any other person's income or assessment, and may require him to produce all books, documents and other papers whatever in his custody or under his control relating thereto.

"(2.) The Commissioner may require the information or evidence to be given on oath and either verbally or in writing and for that purpose he or the officer so authorized by him may administer an oath.

"(3.) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend."

Amendment of
Section 57.

38. Section fifty-seven of the Principal Act is amended by inserting before the word "Fifty" the words "Not less than One pound nor more than".

Amendment of
Section 58.

39. Section fifty-eight of the Principal Act is amended—

- (a) by inserting in paragraph (a) of sub-section (1.) thereof after the word "return" the words "or information or give the security required by sub-section (3.) of section forty-one of this Act or to comply with any requirement of the Commissioner under section fifty of this Act";
- (b) by omitting paragraph (c) of sub-section (1.) thereof and inserting in its stead the following paragraph:—

"(c) makes or delivers a return which is false in any particular or makes any false answer whether verbally or in writing,";

- (c) by inserting in sub-section (1.) before the words "One hundred pounds" the words "Not less than Two pounds nor more than";
- (d) by inserting in sub-section (2.) after the words "paragraph (a)" the words "or (c)"; and

(e) by adding thereto the following sub-sections :—

“(3.) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements of this Act, or the regulations, or the Commissioner, in respect of which he was convicted, shall be guilty of an offence and punishable as provided in section sixty-one of this Act.

“(4.) It shall be a defence to a prosecution for an offence against paragraph (c) of sub-section (1.) of this section if the defendant proves that the false particulars were given or the false statement was made through ignorance or inadvertence.”.

40. Section fifty-nine of the Principal Act is amended by omitting sub-sections (1.) and (2.) thereof and inserting in their stead the following sub-section :—

Amendment of
Section 59.

“(1.) Notwithstanding anything contained in the last preceding section, any person who—

(a) fails or neglects to duly furnish any return or information as and when required by this Act or the regulations or by the Commissioner ; or

(b) fails to include any assessable income in any return ; or

(c) includes in any return as a deduction an amount which is in excess of that actually expended or incurred by him,

shall, if a taxpayer, be liable, except as provided in this section, to pay by way of additional tax an amount of One pound or ten per centum of the amount of tax assessable to him, whichever is the greater, in any case coming under paragraph (a) hereof, or, if the case comes under paragraph (b) or (c) hereof, shall be liable to pay by way of additional tax the amount of One pound or double the tax which would have been evaded if the assessment had been based on the return lodged, whichever is the greater, in addition to any additional tax which may become payable by him in accordance with section forty-three of this Act:

Provided that the Commissioner may, in any particular case, for reasons which he thinks sufficient remit the additional tax or any part thereof.”.

41. Section sixty of the Principal Act is amended—

Amendment of
Section 60.

(a) by inserting before the words “ Five hundred pounds ” the words “ Not less than Fifty pounds nor more than ” ; and

(b) by inserting after the word “ and ” the words “ in addition ”.

42. Section sixty-one of the Principal Act is amended—

Amendment of
Section 61.

(a) by inserting after the word “ Penalty : ” the words “ Not less than Fifty pounds nor more than ” ; and

(b) by inserting after the word “ and ” the words “ in addition ”.

43. After section sixty-one of the Principal Act the following section is inserted :—

Time for commencing prosecutions.

“61A. A prosecution in respect of an offence against either of the two last preceding sections may be commenced at any time within three years after the commission of the offence.”

Amendment of Section 64.

44. Section sixty-four of the Principal Act is amended—

(a) by omitting sub-section (1.) thereof and inserting in its stead the following sub-section :—

“(1.) In any case where it is shown to the satisfaction of a Board consisting of the Commissioner, the Secretary to the Treasury, and the Comptroller-General of Customs—

(a) that a taxpayer liable to pay income tax has become bankrupt or insolvent ; or

(b) that a taxpayer has suffered such a loss, or is in such circumstances, or, owing to the death of a person, who, if he had lived, would have paid tax, the dependants of that person are in such circumstances, that the exaction of the full amount of tax will entail serious hardship,

the Board may release the taxpayer or the executor or administrator of the deceased person (as the case may be) wholly or in part from his liability, and the Commissioner may make such entries and alterations in the assessment as are necessary for that purpose.” ; and

(b) by omitting sub-section (3.) thereof.

Amendment of Section 65.

45. Section sixty-five of the Principal Act is amended by adding at the end thereof the words “and for prescribing penalties not less than One pound nor more than Twenty pounds for any breach of the Regulations”.

Refund of tax paid by agent under provisions now repealed.

46. Where it is shown to the satisfaction of the Commissioner that any person who was assessed to pay income tax under sub-section (2.) of section fifteen of the *Income Tax Assessment Act 1915* has paid the tax out of his own moneys, and has not been able to recover the amount of the tax from his principal, the Commissioner may refund to the person assessed the amount of the tax so paid.

Validation of deductions.

47. Notwithstanding any construction which may be placed upon section nineteen of the *Income Tax Assessment Act 1915*, or of the *Income Tax Assessment Acts 1915*, or of the *Income Tax Assessment Act 1915-1916*, all deductions calculated under that section by or under the authority of the Commissioner of Taxation in respect of assessments for the financial

years ending on the thirtieth day of June, One thousand nine hundred and sixteen, and the thirtieth day of June, One thousand nine hundred and seventeen, shall be deemed to be the correct deductions, in so far as those deductions were calculated on the basis of the income being the income remaining after allowing all the deductions under any other sections of those Acts.

48.—(1.) The amendments of the Principal Act made by paragraphs (e) and (h) of section two, section five, paragraph (d) of section eight, and paragraph (b) of section ten of this Act shall be deemed to have come into operation on the date of the commencement of the *Income Tax Assessment Act 1915*. Application of Act.

(2.) The amendments of the Principal Act made by paragraph (d) of section six and by section eleven shall apply to assessments for the financial year beginning on the first day of July One thousand nine hundred and seventeen and all subsequent years.

(3.) The amendments of the Principal Act made by paragraphs (c), (d), (f) and (g) of section two, paragraphs (a) and (b) of section six, section seven, paragraphs (a), (e) and (f) of section eight, paragraph (a) of section ten, and by sections fourteen to twenty-three (both inclusive) and by section thirty-four shall apply to assessments for the financial year beginning on the first day of July One thousand nine hundred and eighteen and all subsequent years.

SUPPLY (No. 1) 1918-19.

No. 19 of 1918.

An Act to grant and apply a sum out of the Consolidated Revenue Fund for the service of the year ending the thirtieth day of June One thousand nine hundred and nineteen.

[Assented to 19th June, 1918.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, for the purpose of appropriating the grant originated in the House of Representatives, as follows:— Preamble.

1. This Act may be cited as the *Supply Act (No. 1) 1918-19*. Short title.

2. There shall and may be issued and applied for or towards making good the supply hereby granted to His Majesty for the service of the year ending the thirtieth day of June One thousand nine hundred and nineteen the sum of Five million five hundred and seventy-four thousand four hundred and forty pounds out Issue and application of £5,574,440.