



ANNO VICESIMO SEXTO  
**GEORGII V REGIS.**

**A.D. 1935.**

\*\*\*\*\*

**No. 2233.**

An Act to amend the Taxation Acts, 1927 to 1934.

*[Assented to, 12th December, 1935.]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the " Taxation Act, 1935 ". Short titles.  
(2) The Taxation Acts, 1927 to 1934, and this Act may be cited together as the " Taxation Acts, 1927 to 1935 ".  
(3) The Taxation Act, 1927, is hereinafter called " the principal Act ". No. 1787 of 1927.
2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation.
3. Section 4 of the principal Act is amended as follows :— Amendment of principal Act, s. 4— Interpretation.
  - (a) After the definition of " Co-operative company " the following definition is inserted :—

" Dividend " includes any distribution made by a company to its shareholders, whether in money or other property, out of its profits, and any amount credited to its shareholders, and includes the paid-up value of shares distributed by a company to its shareholders to the extent to which the paid-up value represents a capitalization of profits, but does not include a return of paid-up capital or a reversionary bonus on a policy of life assurance :

*Taxation Act.—1935.*

(b) After the definition of "Dividend" the following definition is inserted :—

"Exempt income" means income which is exempt from income tax :

(c) After the word "interest" in the third line of the definition of "Income consisting of the produce of property" the word "dividends" is inserted :

(d) The definition of "Land tax" is amended by striking out the words "subdivision I. of" therein :

(e) After the definition of "Land tax" the following definition is inserted :—

"Liquidator" means the person who, whether or not appointed as liquidator, is the person required by law to carry out the winding-up of a company :

(f) After the definition of "Owner" the following definition is inserted :—

"Paid" in relation to dividends includes credited or distributed :

(g) After the definition of "Regulation" the following definition is inserted :—

"Relative" means a husband or wife or a relative by blood, marriage, or adoption :

(h) After the definition of "Returns" the following definition is inserted :—

"Shareholder" includes member or stockholder.

Amendment of  
principal Act,  
s. 6—  
Time for  
calculation  
and payment  
of land tax.

4. Section 6 of the principal Act is amended by striking out subsection (1) and inserting in lieu thereof the following subsections :—

(1) Land tax, additional land tax, and absentee land tax levied in aid of the general revenue of the State for the financial year ending on the thirtieth of June, nineteen hundred and thirty-six, shall be calculated as at twelve o'clock noon on the fourteenth day of November, nineteen hundred and thirty-five; and land tax, additional land tax, and absentee land tax levied in aid of the general revenue for any subsequent financial year shall be calculated as at midnight on the thirtieth day of June immediately preceding the financial year for which the tax is levied.

(1a) All land tax, additional land tax, and absentee land tax shall be due and payable thirty days after the service of a particular notice showing the amount payable.

*Taxation Act.—1935.*

**5.** Section 7 of the principal Act is amended by striking out the word "income" in the second line, and by inserting in lieu thereof the word "any".

Amendment of principal Act, s. 7—  
Postponement of time for payment of land tax.

**6.** Section 9 of the principal Act is amended by striking out in the first line the words "before the end of one month" and by inserting in lieu thereof the words "within thirty days".

Amendment of principal Act, s. 9—  
Time when default commences.

**7.** Section 10 of the principal Act is amended by inserting after the words "charitable purposes" in paragraph III. of subsection (1) thereof the words "or used solely for the purposes of a hospital subsidised by the Government of the State".

Amendment of principal Act, s. 10—  
Exemption certain land from tax.

**8.** Subsection (1) of section 18 of the principal Act is further amended by striking out the word "received" in the passage inserted in that subsection by section 4 of the Taxation Act, 1931, and by inserting in lieu thereof the word "derived".

Amendment of principal Act, s. 18—  
Tax on dividends.

**9.** Section 20 of the principal Act (as enacted by section 5 of the Taxation Act, 1931) is amended as follows:—

Amendment of principal Act, s. 20—  
Rates of tax.

(a) Subsection (4) is struck out, and the following subsection is inserted in lieu thereof:—

(4) Income tax on income derived by a company shall be at the rate of two shillings on each pound of the taxable amount of that income:

(b) Subsection (6a) (which subsection was enacted by section 6 of the Taxation Act, 1934) is amended by striking out the words "in all circumstances be less by sixpence in the pound than the rates fixed by subsection (6) of this section" and inserting in lieu thereof "be those enacted by subsection (1) of this section".

(c) Subsections (7) and (8) are repealed.

**10.** The rates of income tax on income accrued during the period of twelve months ended on the thirtieth day of June nineteen hundred and thirty-five, and on any other income taxable at the same rates as that income, shall be the rates declared by section 20 of the principal Act, as enacted by section 5 of the Taxation Act, 1931, and amended by this or any other Act.

Rates of tax on income for year 1934-35.

**11.** (1) Subdivision XI. of section 22 of the principal Act (which subdivision was enacted by section 15 of the Taxation Act, 1930, and amended by section 8 of the Taxation Act, 1931) is amended by inserting at the end thereof the following:—

Amendment of principal Act, s. 22 XI.—  
Statutory exemption.

(d) The deduction under this subdivision shall be made successively from the income consisting of the

*Taxation Act.—1935.*

produce of property other than dividends, from the income from dividends, and from the income derived from personal exertion.

(2) Subdivision XII.*b* of section 22 of the principal Act (which subdivision was enacted by section 17 of the Taxation Act, 1930) is repealed.

Enactment of  
s. 22c—

**12.** The following section is enacted and inserted in the principal Act after section 22b thereof :—

Medical  
expenses.

22c. (1) If—

(a) the net amount of the income (before making the deduction provided for by subdivision XI. of section 22) does not exceed six hundred and fifty pounds, or if the income is computed in respect of a period less than a financial year, a proportionate part of six hundred and fifty pounds ; and

(b) the account is the account of the taxpayer in his sole individual right ; and

(c) the taxpayer is resident in Australia,

there shall also be deducted from the net amount of the income payments not exceeding fifty pounds made by the taxpayer during the period for which the income is calculated, to any legally qualified medical practitioner, nurse, chemist, or public or private hospital in respect of any illness of or operation upon the taxpayer, the spouse of the taxpayer, or any child of the taxpayer under the age of twenty-one years, if the spouse or child is a resident of Australia, or to any person or institution in respect of any therapeutic treatment administered, by direction of any legally qualified medical practitioner, to the taxpayer or the spouse, father, mother, or any child of the taxpayer.

(2) Where the assessment is made in respect of the income of a deceased person from the first of July preceding his death up to his death, there shall be deducted from the net amount of the income payments made by the personal representatives of the deceased person which, if made by the deceased person in his lifetime, would have been deductible under subsection (1).

Deduction of  
Federal  
income tax.

**13.** In computing the net amount of income there shall be deducted such amount of Federal income tax paid by the

*Taxation Act.—1935.*

taxpayer on his own behalf during the period for which the income is calculated, as is attributable to income of the taxpayer (other than interest on Commonwealth loans) arising or accruing in or derived from the State: Provided that if the taxpayer receives a refund of the whole or any part of any Federal income tax for which a deduction has been allowed under this section the amount of the refund shall be brought into account as income of the year in which it is received.

**14.** The following sections are enacted and inserted in the principal Act after section 23 thereof :—

Enactment of  
ss. 23A-23F—

23A. In computing the taxable amount of income of a shareholder in a company (whether the company is incorporated in the State or not), there shall, if the shareholder is ordinarily resident in the State, be included dividends paid to him by the company out of profits derived by it from any source :

Dividends.

Provided that the following dividends shall not be included in the gross amount of the income of the shareholder :—

(a) Dividends paid wholly and exclusively from—

- (i.) profits arising from the sale or compulsory resumption for public purposes of assets not acquired for the purpose of resale at a profit ;
- (ii.) profits arising from the re-valuation of assets not acquired for the purpose of resale at a profit or from the issue of shares at a premium if the dividends paid from such profits are satisfied by the issue of shares of the company declaring the dividend ; or
- (iii.) undistributed income accumulated before the commencement of this section if the dividends are paid in the form of shares not later than the thirty-first day of December, nineteen hundred and thirty-six ; or

(b) Dividends paid before the first day of July, nineteen hundred and thirty-nine, to the extent to which they are paid out of exempt income derived by a company from the working of a mining property in the State.

*Taxation Act.—1935.*

Rebate of  
dividends.

23B. (1) A shareholder shall be entitled to a rebate in his assessment of the amount obtained by applying to that part of the dividends which is included in the taxable amount of his income a rate equivalent to—

(a) the rate of tax payable by him on income consisting of the produce of property ; or

(b) the rate of tax payable by companies,

for the year during which the shareholder is liable to be assessed, whichever is the less.

(2) The part of the dividends so included in the taxable amount of the income of the shareholder shall be the amount remaining after deducting from the amount of dividends included in the gross amount of his income the deductions allowable to him under this Act from income from dividends.

(3) No rebate shall be allowed under this section in respect of any sum received by a shareholder in a co-operative company or building society, as a rebate, or as interest or dividends on shares in such company or society.

Distribution  
by a  
liquidator.

23C. (1) Amounts distributed to shareholders of a company by a liquidator in the course of winding up the company to the extent to which they represent income derived by the company (whether before or during liquidation) other than income which has been applied to replace a loss of paid up capital shall, for the purposes of this Act, be deemed to be dividends paid to the shareholders by the company.

(2) This section shall apply only to amounts distributed by companies which go into liquidation after the enactment of this section.

Loans to  
shareholders.

23D. (1) If any amounts are advanced or any assets distributed by a company to any of its shareholders by way of advances or loans or any payment is made by the company on behalf of or for the individual benefit of any of its shareholders, so much, if any, of those advances, loans, or payment as in the opinion of the Commissioner represents distributions of income shall, for all purposes of this Act, be deemed to be dividends paid by the company to those shareholders out of profits derived by it.

(2) Where the amount of any advance, loan, or payment is deemed under the last preceding subsection to be a dividend paid by a company to its shareholders, and in

*Taxation Act.—1935.*

any year subsequent to that in which the dividend is so deemed to be paid, the company sets off any dividend distributed by it in that subsequent year in satisfaction in whole or in part of the amount of that advance, loan, or payment that dividend shall to the extent to which it is so set off, be deemed not to be a dividend for any purpose of this Act.

23E. So much of any sum paid or credited by a company and being or purporting to be—

Payments to shareholders and directors.

- (a) remuneration for services rendered by any person being a shareholder or director of the company or being a relative of any such shareholder or director ; or
- (b) an allowance, gratuity, or compensation upon the retirement of that person from any office or employment held by him in that company or upon the termination of that office or employment,

as exceeds an amount which, in the opinion of the Commissioner, is reasonable, shall not be allowable as a deduction under this Act, and the excess shall for all purposes of this Act be deemed to be a dividend paid to the recipient out of profits derived by the company and received by him as a shareholder of the company.

23F. Nothing in the Taxation Act, 1935, shall render any distribution made by a co-operative company or a building society taxable in the hands of the recipient if similar distributions were not so taxable before the passing of that Act.

Exemption of certain distributions.

15. Section 27 of the principal Act is repealed and the following section enacted in lieu thereof :—

Repeal of section 27 and substitution of new section—

27 (1) Where by this Act it is provided that any deduction shall be made successively from more than one class of income the deduction shall be set off against the income of the first of those classes, and if it exceeds the income of that class, the excess shall be set off against the income of the second class, and so on, until either the deduction or the income of the last of those classes is exhausted.

Income from which deductions are to be made.

(2) Where the gross income is derived from more than one of the following classes of income, that is to say, income derived from personal exertion, income consisting of the produce of property other than dividends and income from

*Taxation Act.—1935.*

dividends, the following provisions shall apply to all deductions allowable under this Act, except deductions allowable under subdivision XI. of section 22 :—

- (a) Where a deduction relates directly to the income from dividends, it shall be made successively from that income, from the other income consisting of the produce of property, and from the income derived from personal exertion :
- (b) Where a deduction relates directly to the income consisting of the produce of property other than dividends, it shall be made successively from that income, from the income from dividends, and from the income derived from personal exertion :
- (c) In all other cases the deduction shall be made successively from the income derived from personal exertion, from the income consisting of the produce of property other than dividends, and from the income from dividends.

(3) Where the deductions from the total income of a trust from all sources exceed such total income the excess deductions shall not be carried into the assessments of the beneficiaries unless such beneficiaries are absolutely entitled to both corpus and income, or unless such excess deductions are properly payable out of or chargeable against income of previous years, which has been properly retained by the trustee, and to which the beneficiaries, but for the power of retainer, would have been immediately entitled in possession, in which last-mentioned case the excess deductions shall be carried into the assessments of the beneficiaries to the extent to which they are so payable or chargeable.

Deduction of  
certain losses

**16.** (1) If a taxpayer derived income during the taxation year nineteen hundred and thirty-four, from agricultural or pastoral pursuits carried on by the taxpayer in the State, and incurred a net loss on those pursuits, which was not fully allowed as a deduction from the taxpayer's income for that year, that net loss to the extent to which it was not so deducted may be carried forward and allowed to the extent possible as a deduction from the taxpayer's income derived from the same pursuits during the taxation year nineteen hundred and thirty-five, but from no other income.

(2) In this section—

“ net loss ” means any sum remaining after deducting the income derived from agricultural or pastoral pursuits from the expenses incurred in earning such income :



*Taxation Act.—1935.*

“ agricultural pursuits ” includes horticulture, viticulture, dairy and bee farming, pig and poultry raising, and the growing of fruit, vegetables, and other like products, but does not include the buying and selling of livestock :

“ taxation year nineteen hundred and thirty-four ” means period of twelve months ending on the thirtieth day of June, nineteen hundred and thirty-four, or on any other day approved by the Commissioner under section 6 of the principal Act, and “ taxation year nineteen hundred and thirty-five ” has a corresponding meaning.

**17.** (1) Subsection (1) of section 68 of the principal Act is amended by—

Amendment of principal Act, s. 68—  
Assessments for land tax.

- (a) striking out the word “ August ” in the first line, and by inserting in lieu thereof the word “ July ” :
- (b) striking out the word “ thirty ” in the second line, and by inserting in lieu thereof the word “ forty ” :
- (c) striking out the word “ August ” in the second line, and by inserting in lieu thereof the word “ July ”.

(2) Nothing in the amendments made by this section shall affect the assessment made as of the first day of August, nineteen hundred and thirty-five, or any consequences of or matter or thing incidental to that assessment.

**18.** Section 69 of the principal Act is amended—

Amendment of principal Act, s. 69—  
Contents of assessment book.

- (a) by striking out in the fifth line the passage “ III. The amount of the land tax ” ; and
- (b) by striking out the words “ and descriptions ” where they occur in the sixth and seventh lines.

**19.** Section 74 of the principal Act is amended—

Amendment of principal Act, s. 74—

- (a) by striking out in the fifth and sixth lines of paragraph (1) “ and of the amount of the tax which is payable in respect of such land ” ; and
- (b) by striking out in the first line of paragraph (2) the word “ subsequent ”.

Notices of land tax assessment.

**20.** Section 98G of the principal Act (as enacted by section 17 of the Taxation Act, 1934) is amended by striking out the word “ thirty ” in the second line of subsection (1) and in the second line of subsection (4) and inserting in lieu thereof in each case the word “ sixty ”.

Amendment of principal Act, s. 98G—  
Time for objecting to assessments for land tax.

---

*Taxation Act.—1935.*

---

Amendment of  
principal Act,  
s. 107b—  
Deductions in  
respect of  
income tax.

**21.** Section 107b of the principal Act (as enacted by section 12 of the Taxation Act, 1931) is amended by striking out “One pound” in the fourth line thereof and inserting in lieu thereof “Thirty shillings”.

Operation of  
the Act.

**22.** The amendments made by the preceding sections of this Act (other than sections 4, 17, 18, and 19), shall be deemed to have come into operation on the first day of July, nineteen hundred and thirty-five, and so far as they relate to taxes upon income, shall apply in respect of income and taxes upon income accrued during the period of twelve months immediately preceding that day as well as to income and taxes upon income accrued thereafter.

In the name and on behalf of His Majesty, I hereby  
assent to this Bill.

W. DUGAN, Governor.