



ANNO DECIMO QUARTO

GEORGII V REGIS.

A.D. 1923.

No. 1583.

An Act to enable the State of South Australia to collect Income Tax for the Commonwealth, to amend the Taxation Acts, and for other purposes.

[Assented to, December 6th, 1923.]

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 alone as the "Taxation Act Further Amendment Act, 1923." Short titles.

(2) The Taxation Acts, 1915 to 1922, and this Act may be cited together as the "Taxation Acts, 1915 to 1923."

(3) The Taxation Act, 1915, is hereinafter referred to as "the principal Act." No. 1200 of 1915.

2. This Act shall be deemed to have commenced on the first day of July, nineteen hundred and twenty-three, and shall apply in respect of tax upon income accrued during the period of twelve months immediately preceding the said first day of July as well as in respect of tax upon income accruing thereafter. Commencement of Act.

3. 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 with other Acts.

Provisions for Joint Collection of Commonwealth and State Income Tax.

4. (1) The State may arrange with the Commonwealth for the collection by the State of the whole or any part of the income tax payable in the State under Commonwealth law. Arrangement with Commonwealth for collection of Commonwealth Income Tax. (2) Any

Taxation Act Further Amendment Act.—1923.

(2) Any agreement relating to any such arrangement may make provision for any other matters necessary or convenient to be provided for carrying out the arrangement, including the transfer of officers from the Public Service of the Commonwealth to the Public Service of the State, and the retransfer of such officers from the Public Service of the State to the Public Service of the Commonwealth, and the rights and obligations of such officers.

(3) Any such provision shall be valid and effectual for all purposes.

Transfer of Commonwealth officers.

5. (1) The Governor may appoint to the Public Service of the State of South Australia all such persons and on such terms and conditions as are necessary in order to give effect to any agreement made pursuant to section 4 of this Act.

(2) Every person so appointed shall, so far as the special terms of his appointment are not inconsistent therewith, be subject to the laws of the State relating to the Public Service.

Power of Minister.

6. Subject to this Act, the Minister may do and execute or cause to be done and executed all such acts, matters, and things as are necessary to carry into effect any agreement made pursuant to section 4 of this Act.

Commissioner of Taxes may hold office under the Commonwealth.

7. The Commissioner of Taxes may hold office under any laws of the Commonwealth relating to the imposition, assessment, and collection of income tax, as Deputy Commissioner of Taxation for the State of South Australia, or as such other officer as may at any time perform the functions of such Deputy Commissioner, and may have and exercise all the powers, functions, duties, and authorities appertaining to such office.

Amendments.

Amendment of principal Act, s. 6—

Income tax to be payable thirty days after notice of assessment.

8. Section 6 of the principal Act is amended—

(a) by striking out the words “ on the next succeeding fourteenth day of May ” at the end of subsection (2) thereof (which subsection was amended by section 3 of the Taxation Act Amendment (Miscellaneous Provisions) Act, 1917), and inserting in lieu of such words, the words “ thirty days after the service by post of the particular notice of assessment required to be given by section 68 of this Act ”; and

(b) by adding the following new subsections:—

(3) Whenever the Commissioner gives particular notice of any alteration of, addition to, or correction of, any assessment of income, the amount of tax payable as shown in such particular notice shall be due and payable thirty days after the service by post of such particular notice.

(4) When the Commissioner has reason to believe that a taxpayer may leave Australia before the tax due on any assessment shall be due and payable, the tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer.

9. Section

*Taxation Act Further Amendment Act.—1923.***9.** Section 7 of the principal Act is amended—

(a) by inserting after the word “any” in the first line thereof the word “land”; and

(b) by inserting at the end of the section (the previous part thereof being read as subsection (1)) the following subsection:—

(2) If any income tax is not paid on or before the day on which according to this Act it becomes due and payable, interest at the rate of Ten Pounds per centum per annum from the time when it falls due until payment thereof, shall be added to the amount of such tax, and shall be paid by the taxpayer: Provided that the Commissioner may remit such interest, in whole or in part, if sufficient reason is shown.

Amendment of principal Act, s. 7—

Fine in default of payment of income tax abolished.

10. Part II. of the principal Act is amended by adding after section 7 the following new section:—

7A. The Commissioner may, if sufficient reason is shown, postpone for such period as he thinks proper the day upon which income tax shall become due and payable.

Amendment of principal Act, Part II.—

Commissioner may extend time for payment.

11. Section 22 of the principal Act is amended—

(a) by inserting after the word “goods” in the third line of subdivision VII. thereof the words “or sustenance”;

(b) by inserting after the word “expenses” in the third line of subdivision X. thereof the words “not being losses or outgoing of capital”;

(c) by striking out the word “Fifteen” in the seventh line of subdivision XIA. thereof (which subdivision was inserted in the said section by section 7 of the Taxation Act Amendment Act, 1918), and inserting in lieu thereof the word “Thirty”; and

(d) by inserting after the word “stepchild” in the thirteenth line of the said subdivision XIA. the words “and an adopted child”.

Amendment of principal Act, s. 22—

Loss of capital not to be deducted.

Deduction for children increased.

Deduction to be allowed for adopted children.

12. Part V. of the principal Act is amended—

(a) by inserting after section 22 therein the following new section:—

22A. In computing the taxable amount of income consisting of the produce of property of a taxpayer there shall be included 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 tangible assets belonging to the lessee;

Amendment of principal Act, Part V.—

Taxable income to include payments received on transfer of leases with certain deductions.

Com. Act, No. 379, 1922, s. 16 (d), altered.

ii. the

Taxation Act Further Amendment Act.—1923.

- II. the cost of any buildings or improvements erected or made by the lessee on the land leased ; and
- III. the part of any fine, premium, foregift, or amount paid by the lessee for the grant, assignment, or transfer of the lease bearing the same proportion to the whole of such fine, premium, foregift, or amount as the period of the lease unexpired at the time of the assignment or transfer by the lessee, bears to the whole term of the lease or the period unexpired at the time of the assignment or transfer of lease to the lessee, as the case may be ;

The provisions of this section shall not apply to the assignment or transfer of any lease of Crown Lands occupied for agricultural, horticultural, viticultural, or pastoral purposes ; and

(b) by inserting after section 23 the following new section :—

Securing payment
of tax on interest on
certain debentures.

23A. (1) In addition to any other income tax payable by it, a company shall also pay income tax at the rate of One Shilling in the Pound (which rate shall include the super-tax imposed by any Act incorporated with the principal Act) on—

- (a) the interest paid or credited by the company to any party who is an absentee, on money raised by debentures of the company and used in South Australia, or on money lodged at interest in South Australia with that company ; and
- (b) interest paid or credited in respect of debentures payable to bearer the names and addresses of the holders of which are not supplied to the Commissioner by the company :

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 parties referred to in paragraph (a) of this 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 payable to any party who is a holder of debentures payable to bearer, an amount which bears the same proportion to the amount paid by the company under paragraph (b) of this section as the interest payable to that party bears to the total interest payable in respect of those debentures :

Provided also that if a company pays tax under this section on any interest, and the party entitled to the interest is a party who by reason of the smallness of his income is not liable to pay tax, the Commissioner may refund to such party the amount of tax paid by the company in respect of such interest :

Provided

Taxation Act Further Amendment Act.—1923.

Provided also that if a company pays tax under this section, and the party entitled to the interest is a party liable to pay tax and includes the amount of the interest in his return, the amount of tax paid by the company in respect of such interest shall be deducted from the total tax payable by such party.

Provided also that where the total tax payable by any party is less than the amount of tax paid by a company under this section in respect of the interest paid or credited by the company to such party, the difference between the amount of such total tax and the amount of tax so paid by the company shall be refunded by the Commissioner to such party.

(2) In this section "Absentee" means a party who does not reside in Australia and includes a party who has been absent from Australia during more than half the financial year in which the income the subject of the assessment was derived, unless he satisfies the Commissioner that he resides in Australia: Provided that no party shall be deemed to be an absentee within the meaning of this section if he is represented in Australia by an attorney or agent to whom the interest mentioned in this section is paid.

13. Section 26 of the principal Act is amended by adding after paragraph III. thereof the following new paragraph:—

Amendment of principal Act, s. 26—

Certain deductions prohibited.

Cf. Com. Act, No. 37 of 1922, s. 25 (i.).

III.A. Any wastage or depreciation of lease or any loss occasioned by the expiration of any lease: Provided that where it is proved to the satisfaction of the Commissioner that any taxpayer (being the lessee under a lease or the assignee or transferee of a lease) has paid any fine, premium, or foregift, or consideration in the nature of a fine, premium, or foregift, for a lease, or a renewal of a lease, or an amount for the assignment or transfer of a lease of premises or machinery used for the production of income, the Commissioner may allow as a deduction, for the purpose of arriving at the income, 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.

14. Section 36 of the principal Act is amended—

Amendment of principal Act, s. 36.

- i. by striking out the word "and" at the end of paragraph (b) thereof;
- ii. by inserting at the end of paragraph (c) thereof the word "and"; and
- iii. by adding the following new paragraph:—
 - (d) the agent for or managing joint-owner of every trading-vessel the shares in which are owned by more than one person.

Taxation Act Further Amendment Act.—1923.

Amendment of
principal Act,
Part VI.—

Provisions when tax
not paid during
lifetime.

Cf. Com. Act, No. 37
of 1922, s. 61.

15. Part VI. of the principal Act is amended by adding after section 37 therein the following new section :—

37A. The following provisions shall apply in any case where, whether intentionally or not, a taxpayer escapes full taxation in his lifetime by reason of not having duly made full, complete, and accurate returns :—

- (a) the Commissioner shall have the same powers and remedies against the executors and administrators of the taxpayer in respect of the taxable income of the taxpayer as he would have had against the taxpayer in his lifetime :
- (b) the executors and administrators shall make such returns as the Commissioner requires for the purpose of an accurate assessment :
- (c) the assessment shall be at the rates payable in respect of the years for which the income tax ought to have been paid and the amount shall (where the taxpayer's default was intentional) be double the amount of the difference between the income tax so assessed and the amount actually paid by the taxpayer, and shall be a first charge on all the taxpayer's estate in the hands of the executors and administrators :
- (d) no lapse of time shall prevent the operation of this section, and the Commissioner may take all such proceedings and exercise all such powers and remedies for the purpose of giving effect to this section and recovering the double tax as in the case of ordinary assessments and taxation.

Amendment of
principal Act, s. 49—

Secrets may be
communicated to
Commonwealth
officers.

16. Section 49 of the principal Act is amended by adding at the end thereof the following subsection :—

(3) Notwithstanding anything contained in this section, the Commissioner or any other person authorised by him so to do may communicate any matter that comes to the knowledge of the Commissioner in the course of his duty or employment whether as an officer of the State or of the Commonwealth, or to the knowledge of any such other person, to any Commissioner, Assistant Commissioner, or Deputy Commissioner of Taxation appointed under any law of the Commonwealth, or any person authorised by them or any of them to acquire information concerning such matters.

Repeal of s. 100 of
principal Act.

17. Section 100 of the principal Act is hereby repealed.

Provisions affecting Incidence of Tax.

Amendment of Act
1411 of 1919, s. 4—

Super-tax continued
for year 1922-23.

18. Section 4 of the Taxation Act Further Amendment Act, 1919 (as amended by section 5 of the Taxation Act Further Amendment Act, 1920, section 2 of the Taxation Act Further Amendment Act, 1921, and section 4 of the Taxation Act Further Amendment Act,

Act,

Taxation Act Further Amendment Act.—1923.

Act, 1922), is further amended by adding at the end of subsection (2) thereof the passage “and in respect of income tax on income for the period of twelve months ended on the thirtieth day of June, nineteen hundred and twenty-three”.

19. (1) Notwithstanding any provision of any other Act, interest derived from any bonds, inscribed stock, Treasury bills, or other securities whatsoever of the Government of the State or of any authority constituted by or under any law of the State, issued in respect of any loan raised by the State or such authority as aforesaid after the date of the commencement of this subsection, shall be included in the taxable amount of the income of every taxpayer.

Interest on State
and Commonwealth
loans to be taxable.

(2) Subsection (1) of this section shall not commence until a day to be fixed by proclamation.

(3) A proclamation fixing the day for the commencement of subsection (1) of this section shall not be made until the Governor is satisfied that there is, or will be on the day to be fixed by the proclamation, a provision in force in every other State of Australia rendering interest on all loans raised by that State or by any authority constituted under or by any law of that State after that day, liable to taxation by that State.

(4) Interest received by any party resident in the State and derived from any bonds, inscribed stock, Treasury bills, or other securities whatsoever of the Commonwealth or of any authority constituted by or under any law of the Commonwealth, issued in respect of any loan raised by the Commonwealth or such authority as aforesaid after the date fixed by proclamation for the commencement of section 4 of the Act of the Commonwealth Parliament No. 30 of 1923, being the Taxation of Loans Act, 1923, shall be deemed to be income accruing in the State, and shall be included in the taxable amount of the income of the party receiving the same.

(5) A party, being a natural person, shall be resident in the State for the purpose of subsection (4) of this section if his ordinary residence at the time when he received the interest is in the State.

(6) In this section loan includes a conversion loan and a loan raised for the redemption or repayment of an existing loan.

(7) The tax payable by any absentee on any interest derived as mentioned in subsection (1) of this section shall in all cases be at the rate of One Shilling in the Pound (which rate shall include the super-tax imposed by any Act incorporated with the principal Act), and may be deducted by the Treasurer of the State from the amount of the interest payable to the absentee.

(8) In this section “Absentee” means any party who does not reside in Australia, and includes a party who has been absent from Australia during more than half the financial year in respect of which the interest was payable, unless he satisfies the Commissioner that he
resides

Taxation Act Further Amendment Act.—1923.

resides in Australia : Provided that no party shall be deemed to be an absentee within the meaning of this section if he is represented in Australia by an attorney or agent to whom the interest mentioned in subsection (1) of this section is paid.

Miscellaneous Provisions.

Prosecution may be commenced within three years.

20. A prosecution for any offence against the principal Act or any Act incorporated therewith may be commenced at any time within three years after the happening of the circumstances alleged to constitute such offence.

Regulations.

21. In addition to the power to make regulations conferred upon the Governor by the principal Act or any Act incorporated therewith, the Governor may make regulations prescribing any matters which are necessary or convenient to be prescribed for giving effect to any Agreement entered into pursuant to section 4 of this Act.

Joint forms may be prescribed.

22. Any return or form prescribed by regulations under the principal Act or any Act incorporated therewith may contain such matters as are required by the Commissioner for the purpose of the administration of the laws of the Commonwealth relating to the imposition, assessment, and collection of income tax.

Omitted amounts of income may be included in subsequent assessment.

23. (1) If the whole or any portion of the taxable amount of the income of any taxpayer is not included in an assessment in any year, the Commissioner may include such whole or portion in the assessment of the taxable amount of the income of such taxpayer for a subsequent year.

(2) This section shall not affect any penalty or liability incurred by such taxpayer by reason of any such omission.

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

TOM BRIDGES, Governor.