

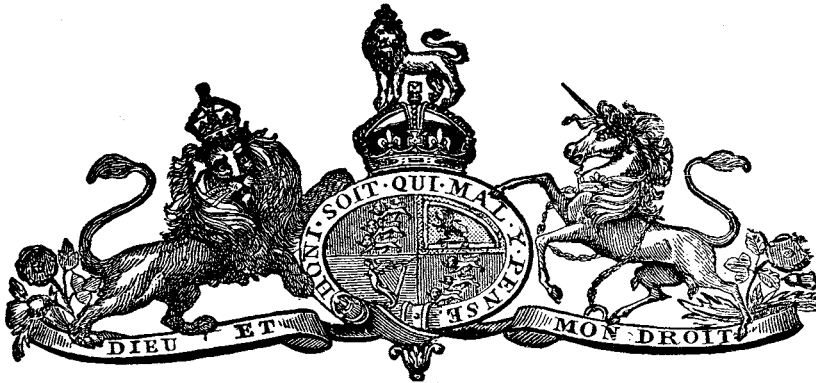
TASMANIA.

 THE LAND AND INCOME TAXATION
 ACT, 1923.

ANALYSIS.

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TASMANIA.



1923.

ANNO QUARTO DECIMO

GEORGII V. REGIS.

No. 13.

AN ACT to amend "The Land and Income Taxation Act, 1910." [23 October, 1923.] A.D. 1923.

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as "The Land and Income Taxation Act, 1923." Short title.

(2) "The Land and Income Taxation Act, 1910," is herein called "the Principal Act." Principal Act. 1 Geo. V. No. 47.

2 Section Four of the Principal Act is hereby amended by inserting after the definition of "taxpayer" in the said section the following definition:—

"Trading stock" means anything produced, manufactured, acquired, or purchased for purposes of manufacture, sale, or exchange. Amendment of Section 4 of the Principal Act. No. 37 of 1922 (Com.), s. 4.

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Amendment of
Subsection (1) of
Section 27 of the
Principal Act.

Amendment of
Section 53 of the
Principal Act.

Inclusions.

Cf. No. 37 of
1922 (Com.),
s. 16 (a).

Owner may elect
to omit from
return value of
natural increase.
Cf. *ibid.*, s.
16 (aa).

3 Subsection (1) of Section Twenty-seven of the Principal Act is hereby amended by deleting the words "earned or derived in or from," occurring in the Seventh line of the said subsection, and substituting the words "received in or derived from" therefor.

4 Section Fifty-three of the Principal Act is hereby amended as follows:—

i. By expunging Subparagraph (a) of Paragraph v. of the said section and inserting the following subparagraph in lieu thereof—

"(a) The profits or moneys derived from any business which have been converted into stock-in-trade or added to the capital of, or in any way invested in, such business ;

Provided that for the purpose of computing such profits the value of all livestock (not being livestock used as beasts of burden or as working beasts), and trading stock (not being livestock), on hand at the beginning and end of the period in which the income was derived shall be taken into account, except where the taxpayer otherwise elects, as provided in Paragraph va. of this section ;

For the purposes of this subparagraph 'Value,' in the case of trading stock (not being livestock), means the actual cost price or market selling value of each article of trading stock, or the price at which each article of trading stock can be replaced, at the option of the taxpayer in respect of each article, and in the case of livestock (not being livestock used as beasts of burden or as working beasts), means the cost price or market selling price at the option of the taxpayer. The cost price in relation to natural increase of livestock shall be the value per head, selected by the taxpayer within the limits prescribed, of such livestock, and the value so selected shall be used for the purposes of the assessment of the income of the year ended on the Thirtieth day of June, One thousand nine hundred and twenty-three, and of all subsequent years";

ii. By inserting the following Paragraph va. after Paragraph v. of the said section:—

va. Notwithstanding anything contained in Subparagraph (a) of Paragraph (v.) of this section, an owner of livestock may elect to omit from the account required by that subparagraph the value of all natural increase of any livestock owned by him and born during the year in which the income is

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derived, and shall not be assessed for income tax in respect of that natural increase except to the extent to which he has disposed of it. The owner of the livestock shall give notice of his election, in writing, in the prescribed form signed by him, and deliver it at the office of the Commissioner on or before the prescribed date. Every notice given by a taxpayer in pursuance of this paragraph shall be irrevocable."

5 Section Ninety-four of the Principal Act is hereby amended as follows:—

Amendment of Section 94 of the Principal Act.

- i. By inserting "(1)" immediately before the word "Land" in the First line of the said section
- ii. By deleting the words "and income" in the said First line: and
- iii. By inserting the following subsections as Subsections (2), (3), and 4, of the said section respectively:—

"(2) Income tax shall be due and payable Thirty days after the service by post of a notice of assessment.

Cf. No. 37 of 1922 (Com.), s. 54.

(3) Where an assessment is amended in accordance with this Act and additional income tax is thereby payable by the taxpayer, the additional income tax shall be due and payable Thirty days after the service by post of the notice of amended assessment upon the taxpayer.

(4) When the Commissioner has reason to believe that a taxpayer may leave Tasmania before the income tax on an assessment, or the additional income tax on an amended assessment, becomes due and payable, such tax or additional tax shall be due and payable on such date as the Commissioner fixes and notifies to the taxpayer."

6 Section Ninety-seven of the Principal Act is hereby amended by inserting the words "objection or" before the word "appeal" wherever the last-mentioned word occurs in the said section.

Amendment of Section 97 of the Principal Act.

7 The following words are hereby inserted at the end of Section One hundred and one of the Principal Act:—

Amendment of Section 101 of the Principal Act.

"Provided, however, that the Commissioner may in such cases as he thinks fit—

Proviso.

- i. Extend the time for payment as he considers the circumstances warrant: or
- ii. Permit the payment of tax to be made by instalments within such time as he considers the circumstances warrant."

Cf. No. 37 of 1922 (Com.), s. 55.

8 After Section One hundred and one of the Principal Act the following new Section **101a** is hereby inserted:—

Insertion in the Principal Act of new Section 101a.

"**101a** If the income tax or additional income tax payable on an amended assessment is not paid before the expiration of the time specified in Subsection (2) of Section Ninety-four of this Act, or such further time as may be allowed by the Commissioner under the proviso

Penal tax.
Cf. No. 37 of 1922 (Com.), s. 56.

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to Section One hundred and one of this Act, additional income tax shall be payable at the rate of Ten Pounds per centum per annum, upon the amount of income tax unpaid, to be computed from the expiration of the time so specified, or where further time has been allowed, from the expiration of the time so allowed.

Provided, however, that the Commissioner may in any particular case, for reasons which in his discretion he thinks sufficient, remit the additional income tax or any part thereof."

Amendment of Sections 103, 104, and 107 of the Principal Act.

9 Sections One hundred and three, One hundred and four, and One hundred and seven of the Principal Act are hereby amended by inserting after the words "Thirty days," wherever those words occur in the said sections, the words "or such further period as may be allowed by the Commissioner under the proviso to Section One hundred and one of this Act."

Repeal of Section 114 of the Principal Act (as inserted by 12 Geo. V. No. 46), and substitution of new section.

10 Section One hundred and fourteen of the Principal Act (as inserted by Section Five of "The Land and Income Taxation Act, 1921") is hereby repealed, and the following section substituted therefor:—

Amount of income tax paid elsewhere may be deducted.

"**114**—(1) Where any taxpayer residing in this State derives any income from any source out of this State, such taxpayer shall be entitled to deduct from the amount of income tax payable by him under this Act, upon the income so derived, such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him upon such income by way of income tax in the State, dominion, or country from which such income is derived, or in which such business is carried on.

"Provided, however, that no deduction shall be allowed under this subsection in respect of any income tax paid by any such taxpayer as aforesaid under any law of the Commonwealth of Australia.

"Provided, further, that the income tax payable in this State for any year by a taxpayer who is—

- i. Resident in this State: and
- ii. Carries on any manufacturing business in this State: and
- iii. Sells in places outside of this State during any year ending on the Thirtieth day of June preceding the year of assessment, any portion of the products manufactured by him in this State, being not less in value than Sixty per centum of the total value of the products so manufactured—

shall not, by virtue of the provisions of this subsection, be reduced to an amount less than one-third of the amount of income tax which would have been payable by such taxpayer in this State for that year if the whole of his profits had been derived from the sale in this State of articles and goods manufactured by him in this State.

Land tax paid in respect of mortgages in other countries may be deducted.

"(2) Where any taxpayer residing in this State derives any income from mortgages upon land situate outside this State, and land tax is levied upon or in respect of the amount of such mortgages under the law of the State, dominion, or country in which the land comprised

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in such mortgages is situate, such taxpayer shall be entitled to deduct from the amount of income tax payable by him under this Act upon the income so derived, such sum as he shall prove to the satisfaction of the Commissioner to have been paid by him during the year immediately preceding the year of assessment upon or in respect of the amount of such mortgages by way of land tax in such State, dominion, or country.' A.D. 1923

11 After Section One hundred and twenty-one of the Principal Act the following new Section **121a** is hereby inserted:— Insertion in the Principal Act of new Section 121a.

“**121a** Notwithstanding any law to the contrary, any form of return to be prescribed by the Governor may require particulars to be furnished to the Commissioner by a taxpayer of— Certain particulars may be required in return.

- i. All property owned, occupied, used, or enjoyed by him, the value of any such property, and the purpose for which the same is used or occupied: and
- ii. All purchases, sales, and other transactions effected or carried out by him of, or in connection with, any property.”

12 Section One hundred and twenty-three of the Principal Act is hereby repealed, and the following section substituted therefor:— Repeal of Section 123 of the Principal Act, and substitution of new section.

“**123**—(1) Any person who—

- i. Fails or neglects to duly furnish any return or information, or give the security required by Section Fifty-two of this Act, or to comply with any requirement of the Commissioner as and when required by this Act, or by the Commissioner; or
- ii. Without just cause shown by him, refuses or neglects to duly attend and give evidence when required by the Commissioner or any officer duly authorised by him, or to truly and fully answer any questions put to him, or to produce any book or papers required of him by the Commissioner or any such officer; or
- iii. Makes or delivers a return which is false in any particular, or makes any false answer whether verbally or in writing—

shall be guilty of an offence.

Penalty: Not less than Two Pounds nor more than One hundred Pounds.

(2) A prosecution in respect of an offence against Paragraph i. or iii. of Subsection (1) of this section may be commenced at any time.

(3) Any person who, after conviction for an offence against this section, continues to fail to comply with the requirements of this Act, or of the Commissioner, in respect of which he was convicted, shall be guilty of an offence and punishable as provided in Section **123c** of this Act.

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(4) It shall be a defence to a prosecution for an offence against Paragraph III. of Subsection (1) of this Section if the defendant proves that the false particulars were given or the false statement was made through ignorance or inadvertence."

Insertion in the Principal Act of new sections after Section 123.

Additional tax in certain cases. Cf. No. 37 of 1922 (Com.); s. 67.

13 After Section One hundred and twenty-three of the Principal Act the following new Sections **123a**, **123b**, **123c**, and **123d** are hereby inserted :—

"**123a**—(1) Notwithstanding anything contained in the last preceding section, any person who—

- i. Fails or neglects to duly furnish any return or information as and when required by this Act or by the Commissioner; or
- ii. Fails to include any assessable income in any return; or
- iii. 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 by this section, to pay by way of additional tax the sum of One Pound, in any case coming under Paragraph i. hereof, or, if the case comes under Paragraph ii. or iii. 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 **101a** 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.

(2) If the Commissioner considers that the circumstances of any case warrant action being taken to recover the penalty provided by the last preceding section or by the next succeeding section, such action may be taken by the Commissioner, and in that case the additional tax payable under this section shall not be charged.

Under-statement of income. *Ibid.*, s. 68.

123b If in any prosecution under Paragraph III. of Subsection (1) of Section One hundred and twenty-three it is proved that the taxpayer has wilfully made or delivered a false return with intent to defraud the amount by which his actual income for the year in respect of which such return was made, exceeds the amount of income shown in such return, shall be deemed to be income tax payable by the taxpayer, and may be recovered accordingly.

Avoiding taxation. *Ibid.*, s. 69.

123c Any person who, by any wilful act, default or neglect, or by any fraud, art, or contrivance whatever, avoids, or attempts to avoid, assessment or taxation, shall be guilty of an offence.

Penalty: Not less than Fifty Pounds nor more than Five hundred Pounds, and in addition treble the amount of tax payment whereof he has avoided or attempted to avoid.

Penalties not to relieve from tax. *Ibid.*, s. 71.

"**123d** Payment of penalties under this Act shall not relieve any person from liability to assessment and payment of any tax for which he would otherwise be liable."

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14 Section One hundred and twenty-five of the Principal Act is hereby repealed, and the following section substituted therefor:—

“**125** Any person who obstructs or hinders any officer acting in the discharge of his duties under this Act, shall be guilty of an offence.

Penalty: Not less than One Pound nor more than Fifty Pounds.”

15 The amendments made by this Act shall apply to assessments of the income for the year ended the Thirtieth day of June, One thousand nine hundred and twenty-three, and in all subsequent years.

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Repeal of Section 125 of the Principal Act, and substitution of new section.

Obstructing officers.
No. 37 of 1922
(Com.), s. 72.

Application of Act.

