

AN ACT to regulate the Assessment of Land and Income for the Purposes of Taxation. Title.  
 [8th September, 1891.]

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

1. The Short Title of this Act is “The Land and Income Assessment Act, 1891.” Short Title.

PRELIMINARY.

2. On such day after the commencement of this Act as the Governor in Council shall by Proclamation determine, “The Property Assessment Act, 1885,” and “The Property Assessment Act 1885 Amendment Act, 1886,” shall be and the same are hereby repealed. Repeal of Acts relating to property-tax.  
 This repeal shall not—

Affect the past operation of the Acts hereby repealed, or the validity or invalidity of anything done or suffered, or the payment or recovery of any duty or property-tax which may have, or may hereafter, become payable to Her Majesty under the said Acts, or any of them, or any Act read and construed therewith; nor

Interfere with the institution or prosecution of any proceeding in respect of any offence committed, or the recovery of any penalty or forfeiture incurred, against or under the said Acts, or any of them :

Provided that in case such Acts shall not be so repealed before the date fixed thereunder for making a general triennial assessment of property, it shall not be lawful to make any such assessment, nor shall any person be required to make statements of property for the purposes of any such triennial assessment under the said Acts; but nothing herein shall exempt any person or company from any other duty or liability imposed by or under the said Acts or either of them. Saving.

3. In this Act, and in any regulations made thereunder, if not inconsistent with the context,— Interpretation.

“Assessment” means an estimate of the value of any land or the interest therein, either with improvements or without



improvements, or the value of such improvements alone, or of any income liable to taxation under this Act, as well as the amount of tax imposed thereon respectively, and includes all matters comprised in any return required by or under this Act :

- “Company” means and includes every corporate body not being a friendly society :
- “Friendly society” includes all societies registered under the Acts relating to friendly societies, industrial and provident societies, and trade unions respectively :
- “Income,” when used alone, means any gains or profits derived or received by any company or person in any year, or by any means, or from any source, which is made the subject of taxation under this Act :
- “Land” means and includes all lands, tenements, buildings, and hereditaments, whether corporeal or incorporeal, and also includes all chattel interests in land :
- “Maori” means an aboriginal inhabitant of New Zealand, and includes any half-caste living as a member of a Native tribe according to their customs and usages :
- “Owner,” in respect of land, means the person or company for the time being who is seised, possessed of, or entitled, at law or in equity, to any land, or the rents and profits thereof, or who, if the land were let to a tenant, would be entitled to receive the rents and profits thereof, whether as trustee, mortgagee in possession, or otherwise :
- “Prescribed” means anything prescribed by regulations :
- “Tax” means the duty upon land, mortgages, or income, or any additional charge in respect thereof, to be assessed, collected, or enforced under the provisions of this Act :
- “This Act” includes any regulations made under the provisions thereof, and also the Schedules to this Act.

New Zealand.

AMENDED: See Act, 1912, No. 10

FURTHER AMENDED: See Act, 1913, No. 13

FURTHER AMENDED: See Act, 1915, No. 39



REPEALED: See Act, 1916, No. 5

## LAND AND INCOME ASSESSMENT.

1908, No. 95.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Assessment of Land and Income for Purposes of Taxation.

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

1. (1.) The Short Title of this Act is "The Land and Income Assessment Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All offices, appointments, regulations, Orders in Council, orders, Savings.

warrants, registers, records, assessments, returns, rolls, requisitions, notifications, records, instruments, official oaths, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(c.) All liabilities incurred under any such enactment in respect of taxation, fines, penalties, or otherwise may be enforced under this Act.

(3.) This Act is divided into Parts, as follows:—

PART I.—Administration of Act. (Sections 3 to 10.)

PART II.—Nature of the Taxation, and General Exemptions.  
(Sections 11 to 15.)

PART III.—Returns, Assessments, and Objections. (Sections  
16 to 36.)

PART IV.—Assessment of Land. (Sections 37 to 48.)

PART V.—Graduated Land-tax. (Sections 49 to 68.)

PART VI.—Assessment of Debentures issued by Companies.  
(Sections 69 and 70.)

PART VII.—Assessment of Income. (Sections 71 to 90.)

PART VIII.—Payment of Taxation and Procedure to enforce  
same. (Sections 91 to 109.)

PART IX.—Miscellaneous. (Sections 110 to 121.)

2. In this Act, if not inconsistent with the context,—

“Agent” includes every person who, in New Zealand, for or  
on behalf of any other person out of New Zealand (in this  
Act called “the principal”),—

(a.) Has the control or disposal of any real or per-  
sonal property belonging to the principal, or the control,  
receipt, or disposal of any rents, issues, or proceeds derived  
from any such property; or

(b.) Directly or indirectly, whether by sample, price-  
list, negotiation, or otherwise howsoever, sells or disposes of  
any such property, or offers or exposes such property for sale  
or disposition, or solicits or procures the sale or disposition  
thereof; or

(c.) Has the control, receipt, or disposal of any income  
belonging to the principal, or directly or indirectly remits  
the same to the principal:

“Assessment” means an estimate of the value of any land,  
either with or without improvements, or of the value of  
such improvements alone, or of any income; and includes  
the amount of tax imposed on such land and income re-  
spectively, and also all matters comprised in any return  
required under this Act:

“Business” includes trade, manufacture, adventure, under-  
taking, and concern; and, in the case of a company, includes  
its business, of whatever nature, as set forth in its articles  
of association:

“Capital value” of land, other than a mortgage, means the  
sum which the owner's estate or interest therein, if unin-  
cumbered by any mortgage or other charge thereon, might  
be expected to realise at the time of valuation if offered for  
sale on such reasonable terms and conditions as a *bona fide*  
seller might be expected to require:

Provided that in estimating the capital value of land held  
in life tenancy the interest of the reversioner shall be deemed  
to form part of that value, and shall be included accordingly:

“Capital value” of a mortgage means the full amount thereof,  
being in no case more than the capital value of the land  
which forms the security:

Interpretation.

1900, No. 49, sec. 3  
1907, No. 18, sec. 19  
(3)

*Amended*  
*Sec. 2(a) 1912*

AMENDED: See Act, 1912,  
No. 10 Section 2

*amended*  
*Sec 2(b) 1912*

*Ibid.*

*Repealed*  
*Sec. 2(c) 1912*

REPEALED: See Act, 1912,  
No. 10 Section 2

REPEALED, and substitution therefor;  
See Act, 1912, No. 10 Section 2

*Amended*  
*Sec. 2(d) 1912*

“Company” includes every corporate body and also every association of more than ten persons carrying on any business for pecuniary profit; but does not include a local authority, nor any other local governing or statutory public body:

“District” means any district or subdivision of a district as defined by “The Rating Act, 1908”:

“Friendly society” includes every society registered under any Act relating to friendly societies, industrial and provident societies, unclassified societies, industrial unions, industrial associations, or trade-unions:

“Improvements” on land means all work actually done or material used thereon by the expenditure of capital or labour by any owner or occupier of the land (nevertheless in so far only as the effect of such work or material used is to increase the value of the land and the benefit thereof is unexhausted at the time of valuation); but does not include work done or material used on or for the benefit of land by the Crown, or by any statutory public body, unless such work has been paid for by the contribution of the owner or occupier for that purpose:

Provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition:

“Income,” when used alone, means any profit derived or received by any person in any year by any means or from any source which is made the subject of taxation under this Act:

“Land” includes all lands, tenements, and hereditaments, whether corporeal or incorporeal, in New Zealand, and also includes all mortgages thereof, all chattel and other interests therein, and all timber or flax growing or standing thereon:

“Maori” means an aboriginal inhabitant of New Zealand, but does not include half-castes or their descendants:

“Maori land” means land owned by or held in trust for any Maori:

“Mortgage” includes every charge whatsoever upon land, howsoever created, if such charge is registered under any Act relating to the registration of deeds or instruments affecting title to land; and includes all unpaid purchase-money in respect of land purchased, although no registered charge exists in respect thereof; but (except as aforesaid) does not include any charge not so registered:

“Mortgagee” includes every person entitled at law or in equity to a mortgage or any part thereof, or to the interest or any part of the interest payable thereunder:

“Non-resident agent” includes every person who acts as agent without having a fixed and permanent place of business or abode in New Zealand:

“Non-resident trader” includes every person who carries on business in New Zealand without having a fixed and permanent place of business in New Zealand:

“Occupier,” in respect of Maori land, includes every person having or enjoying in any way or for any purpose whatsoever the use thereof:

*Amended*  
*Sec. 2(e) 1912*

AMENDED: See Act, 1912,  
No. 70 Section

*Amended*  
*Sec. 2(f) 1912*

AMENDED: See Act, 1912,  
No. 10 Section 2

“Owner,” in respect of land, means the person who, whether beneficially or as trustee or mortgagee or otherwise, and whether jointly or separately,—

(a.) Is seized of or entitled to land for any estate, whether freehold, leasehold, or otherwise, in possession; or

(b.) Actually receives or is entitled to receive, or, if the land were let, would be entitled to receive, the rents or profits thereof; or

(c.) Actually receives or is entitled to the whole or any part of the principal or interest moneys covered by a mortgage, or to the benefit of the security:

Provided that for the purpose of allowing any exemption or deduction hereinafter provided for, “owner” means the beneficial owner as distinguished from the trustee or agent:

“Person” includes a body of persons, whether corporate or unincorporate:

“Prescribed” means prescribed by this Act or by regulations under this Act:

“Profit” includes gain:

“Tax” or “taxation” means the duty upon land or income, and includes any additional charge in respect thereof to be assessed, collected, or enforced under this Act:

“Taxpayer” means any person who is the owner of land, or who derives or receives income; and includes every person who, whether liable to taxation or not, is by this Act required to make any return relating to land or income or to the assessment thereof; but does not include a local authority or any other local governing or statutory public body:

“Trustee” includes trustee, executor, administrator, guardian, committee, receiver, liquidator, the Public Trustee, and any person having or taking upon himself the possession, administration, or control of land, income, or other property of any description affected by any express or implied trust, or having the possession, control, or management of the land, income, or other property of any description of a person under any legal or other disability:

“Unimproved value” of any piece of land means the sum which the owner’s estate or interest therein, if unincumbered by any mortgage or other charge thereon, and if no improvements existed on that particular piece of land, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require:

“Value of improvements” means the sum by which the improvements upon land increase its value:

Provided that the value of improvements shall in no case be deemed to be more than the cost of such improvements estimated at the time of valuation, exclusive of the cost of repairs and maintenance.

REPEALED: See Act, 1912,  
No. 10 Section 2

*Repealed*  
*Sec. 2(g) 1912*

1915, No. 39.

Title.

AN ACT to grant certain Duties of Customs and Excise, to alter certain Stamp Duties, to fix the Rates of Land-tax and Income-tax for the Year, to amend the Law relating to the Assessment of Land and Income Tax, to amend the Law relating to Death Duties, and to authorize the Raising of Money in Aid of certain Public Works and Purposes.

[1st October, 1915.]

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

Short Title.

1. This Act may be cited as the Finance Act, 1915.

## LAND AND INCOME TAX.

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### PRELIMINARY NOTE.

THE enactments relating to Land-tax and Income-tax in force as at the end of the year nineteen hundred and forty have been collected in this publication. The principal Act is the Land and Income Tax Act, 1923, and the amending enactments have been included therein at appropriate places, but under their own statutory references. The Act, with amendments so shown, is followed by a summary of the various amending enactments, &c., in chronological order, showing the place of the subsisting portions thereof, together with a general index and an index to sections of the principal Act. Section numbers of the principal Act are also shown at the top of each page as an alternative guide. The Land and Income Tax (Annual) Acts, which prescribe the rates of tax for each year, have, for obvious reasons, been omitted. The Excess Profits Tax Act, 1940, has also been omitted.

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*An Act to consolidate and amend the Law relating to Land-tax and Income-tax.*  
[28th August, 1923.]

**1. Short Title.**—This Act may be cited as the Land and Income Tax Act, 1923.

**2. Interpretation.**—In this Act, except where a contrary intention appears,—

“Agent” means any person declared by this Act to be an agent for the purposes of land-tax or of income-tax, as the case may be :

“Annual rates” : *As to annual rates of income-tax, see s. 2 of the Land and Income Tax Amendment Act, 1940, p. 53, post.*

“Annual taxing Act” means an Act by which the rates of land-tax or income-tax are determined for any year :

“Assessable income” means income of any kind which is not exempted from income-tax otherwise than by way of a “special exemption” expressly authorized as such by this Act :

“Basic rates” : *As to basic rates of income-tax, see s. 2 of the Land and Income Tax Amendment Act, 1940, p. 53, post.*

“Business” includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit :

*Definition Repealed.  
Ref. Sec. 4(7) Amend.  
Act, 1944*

“Charity” means the relief (otherwise than for private pecuniary profit) of poverty, sickness, blindness, old age, or any other form of physical or mental disability, and “charitable” has a corresponding meaning :

“Company” means any body corporate, whether incorporated in New Zealand or elsewhere, but does not include a local or public authority :

“Control” : *Defining when a company is under the control of any persons ; see s. 21 of the Land and Income Tax Amendment Act, 1939, p. 16, post.*

“Cook Islands” : *See s. 30 of the Land and Income Tax Amendment Act, 1939, p. 16, post.*

“Debentures” includes debenture-stock, and “debenture-holder” includes the owner of debenture-stock :

“Dividends” : *Extended meaning of expression “dividends” ; see s. 22 of the Land and Income Tax Amendment Act, 1939, p. 58, post.*

“Encumbrance” means in respect of an estate or interest in land any trust, contract, easement, condition, or contingency affecting the same, and any restriction, howsoever imposed, on the owner’s power of user, alienation, or disposition :

“Estate” or “interest” means any estate or interest in land, whether legal or equitable, and whether vested or contingent, in possession, reversion, or remainder, and includes any right to the possession of land or to the receipt of the rents or profits thereof, or to the proceeds of the sale or other disposition thereof, whether immediate or through a trustee, or otherwise howsoever, but does not include a mortgage :

“European” means any person other than a Native, and includes a body corporate :

“Foreign company” means any company other than one incorporated in New Zealand :

“Friendly society” means any society registered or incorporated in New Zealand under any Act relating to friendly societies, . . . industrial unions, industrial associations, or trade-unions :

“Income year” means, in respect of the income of any person, the year in which that income has been derived by him :

“Land owned” means an estate or interest owned in land, or deemed to be so owned by virtue of the provisions of this Act :

“Lease” means any disposition whatever by which a leasehold estate is created :

“Leasehold estate” includes any estate, howsoever created, other than a freehold estate :

“Local authority” means a borough, county, and other body corporate possessing rating-powers in New Zealand, and any Harbour Board, [Hospital Board], Education Board, or other incorporated instrument of local government in New Zealand, whether possessing rating-powers or not :

“Minerals” includes all minerals, metals, coal, oil, kauri-gum, clay, stone, gravel, sand, and precious stones :

“Mortgage” means any mortgage, charge, or other security whether legal or equitable, and includes any rent charge or annuity, and for the purposes of this definition all unpaid purchase-money in respect of any estate or interest in land shall be deemed to be charged thereon :

“Mortgagee” means the owner of a mortgage :

“Native” : *Rep. by s. 2 (2) of the Land and Income Tax Amendment Act, 1936. For new definition, see s. 2 (1) of that Act, p. 16, post.*

“Native land” means Native freehold land within the meaning and for the purposes of the Native Land Act, [1909] :

“New Zealand” : *As to inclusion of Cook Islands, see s. 30 of the Land and Income Tax Amendment Act, 1939, p. 16, post.*

“New Zealand company” means a company incorporated in New Zealand :

“Non-resident agent” means an agent within the meaning of this Act who, being in New Zealand, has no fixed and permanent place of business or abode there :

“Non-resident trader” means any person who, being in New Zealand, carries on business there without having any fixed and permanent place of business or abode there :

“Notice” means a notice in writing given by causing the same to be delivered to any person, or to be left at his usual or last known place of abode or business in New Zealand or elsewhere, or to be sent by post addressed to such usual or last known place of abode or business, or if there are several such places of business, then to any of them :

“Owner of land” means a person who is the owner, or is deemed by virtue of this Act to be the owner, of any estate or interest in land, whether separately or jointly or in common with any other person ; and “to own land” means to be an owner of land as so defined :

“Person” includes a company and a local or public authority :

“Possession” includes any use which is in fact or effect substantially exclusive, whether by virtue of a right of exclusive occupation or not :

“Prescribed” means prescribed by regulations under this Act *or by the Commissioner (Sec 9 h - J. Tax Amend Act 1944)*

“Public authority” means the Public Trustee, the Native Trustee, . . . and every other . . . Department or instrument of the Executive Government of New Zealand :

*Land and Income Tax Act, 1923.*

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“Shareholder” includes any member of a company, whether the capital of that company is divided into shares or not; and “share” includes any interest in the capital of a company :

“Superannuation fund” means the Public Service Superannuation Fund, the Teachers’ Superannuation Fund, the Government Railways Superannuation Fund, and any superannuation fund established under the Local Authorities Superannuation Act, 1908, and includes any superannuation fund established for the benefit of the employees of any employer and approved for the time being by the Commissioner for the purposes of this Act :

“Tax” means land-tax or income-tax :

“Taxable income” means the residue of assessable income after deducting the amount of all special exemptions to which the taxpayer is entitled :

“Taxpayer” means a person chargeable with land-tax or income-tax, as the case may be, whether on his own account or as the agent or trustee of any other person, and includes the executor or administrator of a deceased taxpayer :

“Trustee” includes an executor and administrator, and also includes the Public Trustee and the Native Trustee :

“Year” means a year commencing on the first day of April and ending on the thirty-first day of March, both of these days being included :

“Year of assessment” means the year for which land-tax or income-tax is payable.

1976, No. 65

**An Act to consolidate the law relating to income tax**

[9 December 1976]

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

**1. Short Title, commencement, etc.**—(1) This Act may be cited as the Income Tax Act 1976.

(2) This Act shall come into force on the 1st day of April 1977, and shall, except where otherwise provided herein, apply with respect to the tax on income derived in the income year commencing on that date and in every subsequent year.

(3) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1974, and the First Schedule to that Act is hereby amended by omitting the reference to the Land and Income Tax Act 1954, and substituting a reference to this Act.

## PART I

### INTERPRETATION

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Additional tax” means additional tax charged under section 398 of this Act:

“Agent” means any person declared by this Act to be an agent for the purposes of income tax:

“Annual rates” means the rates of income tax fixed for any year of assessment by the annual taxing Act for that year:

“Annual taxing Act” means an Act by which the rates of income tax are determined for any year:

“Assessable income” means income of any kind which is not exempted from income tax otherwise than by way of a special exemption expressly authorised as such by this Act:

“Banking company” means any person carrying on in New Zealand the business of banking:

“Basic rates” means the rates of income tax, excess retention tax, and bonus issue tax specified in the First Schedule to this Act:

“Basic tax deductions” means the amounts of tax deductions specified in the Second Schedule to this Act:

“Business” includes any profession, trade, manufacture, or undertaking carried on for pecuniary profit:

“Casual agricultural employee” means a person employed as a casual seasonal worker for the exclusive purpose of doing seasonal agricultural, horticultural, orchard, tobacco farming, market gardening, or nursery work, or other seasonal work which, in the opinion of the Commissioner, is work of a like nature to those classes of work:

“Charitable purpose” includes every charitable purpose, whether it relates to the relief of poverty, the advancement of education or religion, or any other matter beneficial to the community:

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1974; and “District Commissioner” means a District Commissioner of Inland Revenue as defined in that Act:

“Commonwealth” means the British Commonwealth of Nations; and includes every territory for whose international relations the Government of any country of the Commonwealth is responsible:

“Company” means any body corporate, whether incorporated in New Zealand or elsewhere; but does not include a local or public authority:

“Debentures” includes debenture stock; and “debenture holder” includes the owner of debenture stock:

“Dependant”, in relation to an employee, means a person who is a dependant of the employee under section 345 of this Act:

“Employee” means a person who receives or is entitled to receive a source deduction payment:

“Employer” means a person who pays or is liable to pay a source deduction payment; and includes—

(a) The manager or other principal officer in the case of an unincorporated body of persons other than a partnership:

(b) Each partner in the case of a partnership:

(c) Each person in whom the property has become vested or to whom the control of the property has passed in the case of the estate of a deceased person, a trust, a company in liquidation, or an assigned estate, or in any other case where property is vested or controlled in a fiduciary capacity:

(d) In relation to payments of national superannuation under Part I of the Social Security Act 1964, the Director-General of Social Welfare:

“Encumbrance”, in respect of an estate or interest in land, means any trust, contract, easement, condition, or contingency affecting the same, and any restriction, howsoever imposed, on the owner’s power of user, alienation, or disposition:

“Estate” or “interest” means any estate or interest in land, whether legal or equitable, and whether vested

or contingent, in possession, reversion, or remainder; and includes any right to the possession of land or to the receipt of the rents or profits thereof, or to the proceeds of the sale or other disposition thereof, whether immediate or through a trustee, or otherwise howsoever; but does not include a mortgage:

“Estimated taxable income” means estimated taxable income as shown in a statement under section 387 of this Act:

“European” means any person other than a Maori; and includes a body corporate:

“Export-market development grant” means an advance or grant made under the Services Export Development Grants Act 1973:

“Extra emolument”, in relation to any person, means a payment in a lump sum (whether paid in one sum or in 2 or more instalments) made to that person in respect of or in relation to the employment of that person (whether for a period of time or not), being a payment which is not regularly included in salary or wages payable to that person for a pay period, but not being overtime pay; and includes any such payment made—

(a) By way of bonus, gratuity, or share of profits:

(b) By way of a retrospective increase in salary or wages, to the extent that the payment accrues from the commencement of the increase until the beginning of the first pay period for which the increase is incorporated in salary or wages, and to the extent that in respect of any week ending with a Saturday in that time the total of the increase for that week, and of the salary or wages for that week exclusive of the increase, and of any other salary or wages earned by that person for that week, is in excess of \$4:

(c) On the occasion of that person’s retirement from employment, to the extent that the payment is deemed by section 68 (2) of this Act to be assessable income;—

but does not include a payment of exempt income or a lump sum payment made on the occasion of that person’s retirement from employment to the extent that the payment is not deemed by section 68 (2) of this Act to be assessable income:

“Fixed establishment”, in relation to any person, means a fixed place of business in which substantial business is carried on by that person; and includes—

(a) A branch, factory, shop, or workshop in which in each case substantial business is carried on; and

(b) A mine, quarry, oil well, or other place of natural resources subject to exploitation; and

(c) An agricultural, pastoral, or forestry property;—

but does not include—

(d) The use of facilities solely for the purpose of the storage, display, or delivery of goods or merchandise belonging to a business; or

(e) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information or for advertising for a business:

“Friendly society” means any society registered or incorporated in New Zealand under any Act relating to friendly societies, industrial unions, industrial associations, or trade unions:

“Gross”, in relation to an amount, means without any deduction whatsoever from that amount:

“Group of companies” has the meaning assigned to that term by section 191 (3) of this Act:

“Income from employment” means salary or wages or an extra emolument:

“Income tax” means income tax imposed under this Act:

“Income year”, in respect of the income of any person, means the year in which that income has been derived by him:

“Investment society dividends” means dividends declared by any society registered or incorporated under the Building Societies Act 1965, the Industrial and Provident Societies Act 1908, or the Friendly Societies Act 1909:

“Land owned” means an estate or interest owned in land, or deemed to be so owned by virtue of this Act:

“Land tax” means land tax imposed under the Land Tax Act 1976 or the land tax provisions of any former Act:

“Lease” means any disposition whatever by which a leasehold estate is created:

“Leasehold estate” includes any estate, howsoever created, other than a freehold estate:

"Local authority" means a borough, county, and other body corporate possessing rating powers in New Zealand, and any Harbour Board, Hospital Board, Education Board, or other incorporated instrument of local government in New Zealand, whether possessing rating powers or not:

"Maori" means a person who is a Maori within the meaning of the Maori Affairs Act 1953:

"Maori authority" has the meaning assigned to that term by section 234 (1) of this Act:

"Maori land" means Maori freehold land within the meaning and for the purposes of the Maori Affairs Act 1953:

"Minerals" includes all minerals, metals, coal, oil, kauri gum, clay, stone, gravel, sand, and precious stones:

"Mining company" means a company to which section 216 of this Act applies:

"Mining holding company" means any New Zealand company which, in the opinion of the Commissioner, is engaged exclusively or principally in the holding of shares in, or the investment of money in, or the making of loans to, any mining company:

"Minister" means the Minister of Finance:

"Monthly remittance certificate" means a monthly remittance certificate under section 353 of this Act:

"Mortgage" means any mortgage, charge, or other security whether legal or equitable; and includes any rentcharge or annuity; and for the purposes of this definition all unpaid purchase money in respect of any estate or interest in land shall be deemed to be charged thereon:

"Mortgagee" means the owner of a mortgage:

"New Zealand" includes the continental shelf as defined in section 2 of the Continental Shelf Act 1964:

"New Zealand company" means a company incorporated in New Zealand:

"Non-assessable income" means income derived from securities (other than Development Bonds issued pursuant to section 3 of the Finance Act 1960) issued by the Government of New Zealand subject to the condition that the income derived therefrom shall be exempt from income tax:

"Non-resident agent" means an agent who, being in New Zealand, has no fixed and permanent place of business or abode there:

"Non-resident trader" means any person who, being in New Zealand, carries on business there without having any fixed and permanent place of business or abode there:

"Non-resident withholding income" means income to which section 310 of this Act applies:

"Non-resident withholding tax" means non-resident withholding tax payable in accordance with section 311 of this Act:

"Notice" means a notice in writing given by causing the same to be delivered to any person, or to be left at his usual or last known place of abode or business in New Zealand or elsewhere, or to be sent by post addressed to that usual or last known place of abode or business, or if there are several such places of business, then to any of them:

"Overseas company" means any company other than one incorporated in New Zealand:

"Owner of land" means a person who is the owner, or is deemed by virtue of this Act to be the owner, of any estate or interest in land, whether separately or jointly or in common with any other person; and "to own land" means to be the owner of land as so defined:

"Patent rights" means the right to do or authorise the doing of anything which would, but for that right, be an infringement of a patent:

"Pay period", in relation to an employee receiving regular payments of salary or wages, means the period for which any such payment is made or payable:

"Pay period taxpayer" means a pay period taxpayer under section 356 (1) of this Act:

"Penal tax" means penal tax charged under section 420 of this Act:

"Person" includes a company and a local or public authority; and also includes an unincorporated body of persons:

"Possession" includes any use which is in fact or effect substantially exclusive, whether by virtue of a right of exclusive occupation or not:

"Prescribed" means prescribed by regulations under this Act or by the Commissioner:

"Private domestic worker" means a person employed by any other person where—



(a) The employer is the occupier or one of the occupiers of a dwellinghouse or other premises used exclusively for residential purposes; and

(b) The employment is for the performance of work in or about the dwellinghouse or premises or the garden or grounds appurtenant thereto; and

(c) The employment is not in relation to any business carried on by the employer or to any occupation or calling of the employer; and

(d) The employment is not regular full-time employment:

“Proprietary company”, in relation to any income year, means a company which at the end of that year is under the control of not more than 4 persons, or a company which at the end of that year is being or has been wound up and was at the commencement of the winding up under the control of not more than 4 persons; and for the purposes of this definition—

(a) All the members of any partnership shall be deemed to be one person:

(b) All trustees or beneficiaries of the estate of any deceased person shall be deemed to be one person:

“Provisional income” means provisional income under section 378 of this Act:

“Provisional tax” means an amount payable as provisional tax under Part XII of this Act:

“Provisional taxpayer” means a provisional taxpayer under Part XII of this Act:

“Public authority” means the Public Trustee, the Maori Trustee, and every other department or instrument of the Executive Government of New Zealand; and includes the Christmas Island Phosphate Commission, incorporated in Australia by the Christmas Island Agreement Act 1949 of the Parliament of Australia:

“Reconciliation statement” means a reconciliation statement under section 353 of this Act:

“Reduced deduction”, in relation to an employee, means a tax deduction the amount of which is fixed at less than the maximum amount, in accordance with the employee’s tax code:

“Relative”, in relation to any person, means any other person connected with the first-mentioned person by blood relationship, marriage, or adoption; and includes a trustee for a relative; and for the purposes of this definition—

(a) Persons are connected by blood relationship if within the fourth degree of relationship:

(b) Persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other:

(c) Persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other:

“Salary or wages”, in relation to any person, means salary, wages, or allowances (whether in cash or otherwise), including all sums received or receivable by way of overtime pay, bonus, gratuity, extra salary, commission, or remuneration of any kind, in respect of or in relation to the employment of that person; and includes—

(a) The value of any benefits to which section 72 of this Act applies, determined in case of dispute as provided in that section; and

(b) A periodic payment by way of superannuation, pension, retiring allowance, or other allowance or annuity in respect of or in relation to the past employment of that person or of any person of whom that person is or has been the wife or husband or a child or dependant; and

(c) All payments of national superannuation under Part I of the Social Security Act 1964; and

(d) All payments of earnings related compensation (as defined in section 2 of the Accident Compensation Act 1972) and of compensation under section 121 (4) of that Act, not being payments on account made under section 134 of that Act where, at the time those payments on account are made, the nature of the compensation on account of which they are so made has not been determined;—

but does not include—

(e) A payment of exempt income, or an extra emolument, or a withholding payment; or

(f) Any salary, wages, or other income to which section 6 (2) of this Act applies; or

(g) Any payment which is declared by regulations under this Act not to be salary or wages:

“Shareholder” includes any member of a company, whether the capital of that company is divided into

shares or not; and "share" includes any interest in the capital of a company:

"Shearer" means a person employed as a shearer or shearing-shed hand otherwise than as a wool classer:

"Special tax code certificate" means a special tax code certificate under section 351 of this Act:

"Specified mineral" has the meaning assigned to that term by section 215 (1) of this Act:

"Specified trust" has the meaning assigned to that term by section 226 of this Act:

"Superannuation fund" means—

(a) The Government Superannuation Fund:

(b) Any superannuation fund or scheme which is approved or deemed to be approved for the time being by the Government Actuary under Part II of the Superannuation Schemes Act 1976:

"Tax" means income tax:

"Taxable income" means the residue of assessable income after deducting the amount of all special exemptions to which the taxpayer is entitled:

"Taxation Review Authority" or "Authority" means a Taxation Review Authority established under the Inland Revenue Department Act 1974:

"Tax code", in relation to an employee, means his tax code under section 344 of this Act:

"Tax code certificate" means a tax code certificate under section 344 of this Act; and includes a special tax code certificate:

"Tax code declaration" means a tax code declaration under section 344 of this Act:

"Tax deduction" means a tax deduction made or required to be made under Part XI of this Act:

"Tax deduction certificate" means a tax deduction certificate under section 353 of this Act:

"Taxpayer" means a person chargeable with income tax, whether on his own account or as the agent or trustee of any other person; and includes the executor or administrator of a deceased taxpayer:

"Temporary building" means any building which—

(a) Has been erected pursuant to a permit issued by a local authority or a public authority subject to its demolition or removal at the pleasure of the local authority or the public authority; or

(b) Has been erected at a construction site, and is to be demolished or removed on or before the completion of the construction; or

(c) In the opinion of the Commissioner—

(i) Was erected, and is used, for the purpose of housing specific plant or machinery; and

(ii) Will necessarily require to be demolished in effecting the removal or replacement of that plant or machinery:

"Terminating date", in relation to any provision of this Act, means the date specified in the Third Schedule to this Act:

"Trustee" includes an executor and administrator; and also includes the Public Trustee and the Maori Trustee:

"Withholding payment" means a payment which is declared by regulations under this Act to be a withholding payment for the purposes of Part XI of this Act:

"Year" means a year commencing on the 1st day of April and ending with the 31st day of March, both of these days being included:

"Year of assessment" means the year for which income tax is payable.

Cf. 1954, No. 67, s. 2; 1957, No. 93, s. 2; 1958, No. 5, s. 3 (1); 1960, No. 144, s. 3 (2); 1964, No. 122, s. 3; 1965, No. 18, s. 8 (2); 1967, No. 19, s. 3; 1968, No. 4, ss. 3 (1), 9 (3); 1968, No. 48, ss. 21 (2), 27 (3), 34 (1); 1968, No. 49, s. 3 (1), (2); 1969, No. 28, s. 3; 1969, No. 136, s. 3 (1); 1971, No. 146, ss. 6 (1), 28 (1), (6) (a); 1972, No. 43, s. 183 (2); 1973, No. 30, s. 3 (1); 1973, No. 108, s. 14; 1976, No. 43, ss. 11 (1), 17 (9), (10), 43 (3)

**3. Meaning of term "bonus issue"**—(1) For the purposes of this Act the term "bonus issue", in relation to a company, means a capitalisation of the whole or part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the company's profit and loss account or of the whole or part of any amount otherwise available for capitalisation, being in any such case a capitalisation by way of—

(a) The allotment on or after the 11th day of June 1965 of fully paid-up or partly paid-up shares in the company; or

- (a) A reference in this Act to a particular Part, Subpart, or section is to be construed as a reference to a Part, Subpart, or section of this Act; and
- (b) A reference in this Act to some other particular element is to be construed as a reference to that element in its immediate context.

For example, a reference to “paragraph (f)” is to be construed as a reference to paragraph (f) of the section, subsection, definition, or clause in which that reference is made.

## PART A

### PURPOSE AND CONSTRUCTION

**AA 1. Purpose of Act**—(1) The purpose of this Act is to re-enact the law, excluding certain administrative provisions, contained in the Income Tax Act 1976 in a reorganised form within soundly based and coherent structures of Parts and Subparts.

(2) The reorganisation of the provisions and the changes of style and language carried out by this Act in relation to the provisions of the Income Tax Act 1976 are not intended to affect the interpretation or effect of those provisions as they are included in this Act.

**AA 2. Interpretation**—(1) Definitions of words and terms that are defined for the purposes of this Act, and general provisions relating to the interpretation and construction of this Act, appear in Part O.

(2) References in this Act to the definition or meaning of a particular word or term are references to the definition or meaning of that word or term as it appears or is referred to in section OB 1, unless the context otherwise requires.

**AA 3. References to “this Act”**—A reference to “this Act” is to be taken to include a reference to those provisions of the Tax Administration Act 1994 which substantially correspond to provisions of the Income Tax Act 1976, unless the context otherwise requires.

**AA 4. References to particular provisions**—Except where there is express provision to the contrary,—

# Foreword

The *Income Tax Act 2004* was repealed by the *Income Tax Act 2007* (No 97 of 2007, s ZA 1 and sch 48), effective 1 April 2008, with application to the tax on income derived in the 2008/09 and later income years.

The *Income Tax Act 2004* came into force on 1 April 2005 and applies to income derived in the 2005/06 and later tax years. The 2004 Act rewrote Parts A to E and Y of the *Income Tax Act 1994*. It re-enacted, but did not rewrite, the remainder of the 1994 Act.

The two volumes in this set together contain the full text of the *Income Tax Act 2004*. Volume 1 contains the Parts A–I. A summary of 2007 amendments commences at p 500,105 of vol 1 and a list of amending Acts can be found on p 500,501. Volume 2 contains Parts K–Y and schedules and indexes.

A comprehensive index to the *Income Tax Act 2004*, making all provisions readily available by subject, is located at the back of vol 2. Volume 2 also contains a separate index to the definitions in the *Income Tax Act*.

The volumes incorporate all enactments and amendments made before 1 January 2008.

Amendments to the *Income Tax Act 2004* have been consolidated into, and form part of, the text of the appropriate principal Act. To enable the position in prior years to be ascertained, CCH has inserted history notes after each amendment. The history notes indicate the nature of the amendments and their operative dates.

The publisher advises that the Act is not the authorised official version. In its preparation, the greatest care has been exercised to provide exact conformity with the wording of the official legislation. Some changes in printing style have been adopted, however, for convenience and to improve readability. In no case is it intended that the substance of the provisions be affected.

- **History notes.** History notes are located throughout the legislation at the foot of each section or subsection as appropriate. These set out the amendments that have been made to the various provisions of the Act. The history notes set out either the former wording of the amended provisions or the effect of the amendment. The operative date of the amendment is included in each history note where necessary.
- **Section headings.** The marginal notes appearing in the official Act have been reproduced as section headings in large bold type. Under s 5 of the *Interpretation Act 1999*, effective on 1 November 1999, the marginal notes and other indications may be considered in ascertaining the meaning of an enactment, unless the enactment, or the context of the enactment, requires otherwise.

# Income Tax Act 2004

## (repealed)

### 2004 No 35

#### History

No 35 of 2004 repealed by No 97 of 2007, s ZA 1 and sch 48, effective 1 April 2008, with application to the tax on income derived in the 2008–09 income year and later

**income years.** See also cl ZA 1 and sch 48 of the *Income Tax Bill* (No 91-2).

[7 May 2004]

The Parliament of New Zealand enacts as follows:

#### A 1 TITLE

A 1 This Act is the Income Tax Act 2004.

Compare: 1994 No 164 s A 1(1)

#### A 2 COMMENCEMENT

A 2(1) 1 APRIL 2005 This Act comes into force on 1 April 2005.

A 2(2) ACT EFFECTIVE FOR 2005–06 TAX YEAR AND LATER However, except when the context requires otherwise, this Act applies only—

- (a) with respect to the tax on income derived in the 2005–06 tax year and later tax years, in the case of a person whose income year is the same as the tax year; and
- (b) with respect to the tax on income derived in the corresponding income years, in the case of a person whose income year is not the same as the tax year.

**Defined in this Act:** corresponding income year, income, income year, tax, tax year

Compare: 1994 No 164 s A 1(2), (3)

## PART A — PURPOSE AND INTERPRETATION

### Contents

AA 1	Purpose of Act
AA 2	Interpretation
AA 3	Definitions

#### AA 1 PURPOSE OF ACT

AA 1 The main purposes of this Act are—

- (a) to define, and impose tax on, net income:
- (b) to impose obligations concerning tax:
- (c) to set out rules for calculating tax and for satisfying the obligations imposed.

505,012

[Next page is 510,001]

**Defined in this Act:** net income, tax

Compare: 1994 No 164 s AA 1

**History**

S AA 1 amended by No 111 of 2004, s 270 and sch, by replacing in para (a) and (b) “; and” with “;”; **effective 21 December 2004**. See also cl 236 (refer SOP 287 (2

November 2004)) and schedule of the *Taxation (Annual Rates, Venture Capital and Miscellaneous Provisions) Bill 2004* (No 110-2).

**AA 2 INTERPRETATION**

**AA 2(1) AIDS TO INTERPRETATION** Diagrams, flowcharts, readers' notes, and the lists of defined terms following sections are included in this Act only as interpretational aids. If there is conflict between an interpretational aid and a provision of this Act, the provision prevails.

**AA 2(2) DEFINED TERMS** If a defined term is used in a section and is not included in the list of defined terms following the section, the term is nevertheless used in the section as defined.

Compare: 1994 No 164 s AA 3(2)

**AA 3 DEFINITIONS**

**AA 3(1) REFERENCES TO THIS ACT** Except in this Part and Parts B to E, a reference to **this Act** includes a reference to the Tax Administration Act 1994 unless the context requires that it not be included.

**AA 3(2) SIGNIFICANCE OF PART O** Definitions of terms that apply generally for the purposes of this Act, and general provisions on the interpretation and construction of this Act, appear in Part O (Definitions and related matters).

Compare: 1994 No 164 s AA 4

# Foreword

The *Income Tax Act 2007* (No 97 of 2007) was assented to on 1 November 2007. It repealed the *Income Tax Act 2004* from 1 April 2008 and applies to the tax on income derived in the 2008/09 and later income years. The Act is the fourth and final stage in a project to rewrite New Zealand's income tax legislation. The objective of the rewrite project was to make the legislation clearer so that taxpayers can more easily determine and observe their income tax obligations. The Act clarifies the relationships between provisions and adopts the plain-language drafting style established in the *Taxation (Core Provisions) Act 1996* and the *Income Tax Act 2004*.

Volumes 1 and 2 together contain the full text of the *Income Tax Act 2007*, consolidated to 1 January 2010. Changes made or proposed after that date can be found in the publisher's *New Zealand Income Tax Legislation*, available in online, loose-leaf and DVD formats.

Volume 1 contains Parts A–H, a List of Amending Acts and a Summary of 2009 Amendments. Volume 2 contains Parts I–Z, Schedules, a comprehensive index to the *Income Tax Act 2007*, making all provisions readily accessible by subject, and a separate index listing and locating all the definitions in the Income Tax Act.

CCH advises that the Act in these books is not the authorised official version, but the greatest care has been exercised in its preparation to provide exact conformity with the wording of the official legislation. Some changes in printing style have been adopted for convenience and to improve readability, but these are not intended to affect the substance of the provisions.

Amendments to the *Income Tax Act 2007* have been consolidated into, and form part of, the text of the principal Act. So that the position in previous years can be ascertained, CCH has inserted history notes after each amendment. The history notes indicate the nature of the amendments and their operative dates.

- **History notes.** CCH's history notes enable users to see at a glance what amendments have been made. A history note under each amended provision records how the provision was amended, the number of the amending Act, the date the amendment came into force and also the pre-amendment wording of that provision.
- **Section headings.** The marginal notes appearing in the official Act have been reproduced as section headings in large bold type. Under s 5 of the *Interpretation Act 1999*, effective on 1 November 1999, the marginal notes and other indications may be considered in ascertaining the meaning of an enactment, unless the enactment, or the context of the enactment, requires otherwise.

## PART A — PURPOSE AND INTERPRETATION

### Contents

AA 1	Purpose of Act
AA 2	Interpretation
AA 3	Definitions
AA 4	Crown bound

### AA 1 PURPOSE OF ACT

AA 1 The main purposes of this Act are—

- (a) to define, and impose tax on, net income:
- (b) to impose obligations concerning tax:
- (c) to set out rules for calculating tax and for satisfying the obligations imposed.

**Defined in this Act:** net income, tax

Compare: 2004 No 35 s AA 1

### AA 2 INTERPRETATION

AA 2(1) **AIDS TO INTERPRETATION** Diagrams, flowcharts, readers' notes, and the lists of defined terms following sections are included in this Act only as interpretational aids. If there is conflict between an interpretational aid and a provision of this Act, the provision prevails.

AA 2(2) **DEFINED TERMS** If a defined term is used in a section and is not included in the list of defined terms following the section, the term is nevertheless used in the section as defined.

Compare: 1994 No 164 s AA 2

### AA 3 DEFINITIONS

AA 3(1) **ROLE OF PART Y** Definitions of terms that apply generally for the purposes of this Act, and general provisions on the interpretation and construction of this Act, appear in Part Y (Definitions and related matters).

AA 3(2) **ROLE OF INTERPRETATION ACT** The Interpretation Act 1999 also contains definitions of terms, including in particular the term "person", and other provisions that apply to the interpretation and construction of this Act.

Compare: 2004 No 35 s AA 3(2)

### AA 4 CROWN BOUND

AA 4 This Act binds the Crown.